

**WARREN COUNTY, INDIANA
CODE OF ORDINANCES
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TITLE I: GENERAL PROVISIONS

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

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§ 10.01 TITLE

The Ordinances and Resolutions contained in the following chapters, articles, divisions, and sections shall constitute and be designated as the "WARREN COUNTY CODE", and may be cited as the "COUNTY CODE", or in the provisions which follow, as "this Code" It is intended to codify, revise, or rearrange prior ordinances and resolutions into a complete and simplified code.

§ 10.02 EFFECTIVE DATE OF CODE, REPEAL OF GENERAL ORDINANCES; SAVINGS CLAUSE

(A) All of the provisions of this Code shall be in full force and effect from the date of passage and the filing of this Code in the offices of the County Auditor, and all other ordinances of a general and permanent nature in force at that time are hereby repealed from and after said date.

(B) Such repeal shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or occurring before said effective date; nor shall it affect any ordinance accepting gifts and dedications or real estate; nor any ordinance or resolution promising or guaranteeing the payment of money by the County or authorizing the issue of bonds of the County; of other evidence of the County's indebtedness, or any contract or obligation assumed by the County; nor shall said repeal affect the administration's ordinances or resolutions of this Code; nor shall it affect transfer and appropriation ordinances; nor shall it affect any ordinance concerning annexation or dis-annexation of territories to or from the County, or any ordinances changing or concerning names of streets, or opening and closing streets, or ordinances commonly known as zoning map amendments; nor shall it affect any right, easement or franchise, conferred by any person or corporation; nor shall it affect any prosecution, suit or proceeding pending on said date, except that the proceeding thereof shall conform as far as possible to the provisions of this Code.

§ 10.03 DEFINITIONS

(A) In the construction of this Code and of all ordinances, the following definitions shall be applied:

1. "Board" means the Board of the County Commissioners.
2. "Bond" means any evidence of indebtedness, whether payable from property taxes, revenues, or any other source, but does not include notes or warrants representing temporary loans that are payable out of taxes levied and in the cause of collection.
3. "Clerk" means the County Auditor for a Board of County Commissioners or County Council.
4. "Code" means the Warren County Code.
5. "Commissioners" or "all of its members" means the three (3) members of the Board elected by the County's voters.
6. "Computation of time" means the time within which an act is required to be done and is to be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded.
7. "County" means the County of Warren, Indiana, and such territory outside of the County over which it has jurisdiction by virtue of any constitutional or statutory provisions.
8. "County Council" is the County's fiscal body made up of seven (7) elected members.
9. "et seq." is a Latin abbreviation for "and the following".
10. "Executive" means the Board of Commissioners for a County not having a consolidated city.
11. "Fiscal Body" means the County Council.
12. "Fiscal Officer" means the County Auditor.
13. "Gender" means the Words used in the masculine gender shall include feminine and neutral.
14. "I.C." shall refer to Indiana State Law found in the Indiana Code.
15. "Law" includes the Constitution of Indiana, statutes, and ordinances.
16. "Legislative Body" means the County Council for a County subject to I.C. 36-2-3.5-5 et seq.
17. "May" is permissive.
18. "Month" means a calendar month.
19. "Must" and "shall" are each mandatory.
20. "Oath" includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the word "affirm" and "affirmed".
21. "Owner", applies to a building or land, includes any part owner, joint owner, tenant in cannon, joint tenant, tenant by the entirety, of the whole or a part of such building or land.
22. "Person" means any individual, firm, corporation, association, fiduciary, or governmental entity.
23. "Personal Property" includes every kind of property except real property.
24. "Preceding" and "following" mean next before and next after, respectively.
25. "Property" includes real and personal property.

26. "Public Place" means any road, street or highway, alley, sidewalk, park, cemetery, or other public land under the control of the County.
27. "Real Property" includes lands, tenements and hereditaments.
28. "Reasonable Time" means in all cases where any provision shall require any act to be done in a reasonable time or that reasonable notice be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary in the prompt execution of such duty or compliance with such notice.
29. "Regulate" means to license, inspect, or prohibit.
30. "Sidewalk" means that portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians.
31. "State" means the State of Indiana.
32. "Street" includes all roads, streets, highways, avenues, lanes, alleys, courts, squares, or other public ways in the County which have been or may hereafter be dedicated and open to public use.
33. "Substantial Property Interest" means any right in real property that may be affected in a substantial way by actions authorized by Planning and Development laws of the State of Indiana, including a fee interest, a life estate, a future interest, a present possessory interest, or an equitable interest of a contract purchaser.
34. "Tenant" and "Occupant", applied to a building or land, whether alone or with others.
35. "Tenses" shall include words used in the present tense and the past and future tenses and vice versa, except where such application would be inapplicable.
36. "Unit" means any county, municipality, or township.
37. "Works Board" means the Board of Commissioners, for a County not having a consolidated City.
38. "Written" includes printed, typewritten, or otherwise reproduced in permanent visible form.
39. "Year" means a calendar year.

§ 10.04 CODE APPLICATION

This Code shall refer only to the commission or commission of acts within the territorial limits of Warren County and to that territory outside this County over which the County has jurisdiction or control by virtue of any constitutional provision or law.

§ 10.05 CONSTRUCTION

(A) Each section of this Code shall be numbered consecutively by chapter. The number shall consist of two (2) component parts separated by a period, the figure before the period referring to the chapter number and the figure after the period referring to the position of the section within the chapter.

(B) The decimal system shall be used for all additions or amendments to this Code. When a chapter or section is to be added, the new addition shall be given a decimal character.

(C) Information found in the parentheses immediately after each main section will list the original ordinance or resolution number (when available), the date of passage, and the page and book number in the Board of Commissioner's Record Book where the original can be found.

§ **10.06 REPEAL SHALL NOT REVIVE ORDINANCES**

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinances which have been repealed thereby.

§ **10.07 EFFECTIVE DATE OF ORDINANCES**

Unless otherwise expressly provided, an Ordinance shall take effect when passed according to I.C. 36-2-4-8.

§ **10.08 SEVERABILITY**

If any article, division, section, subsection, sentence, clause or phrase of this Code is for any reason declared unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of it.

§ **10.98 REIMBURSEMENT RATES**

The following rates are established as the reasonable costs to the County and the basis for any billing for reimbursement:

(A) Rates:

1. Supervisor rate: \$50/hour.
2. Laborer rate: \$25/hour.
3. Backhoe rate: \$100/hour.
4. Large equipment: \$100/hour.
5. Small equipment: \$50/hour.
6. Research fee: \$25/hour.
7. If hiring an outside contractor to clean up property then the charge will be 125% of the contractor's fee.
8. Copy fee: \$.10/page
9. Fax fee \$.10/page.

(B) For cleanup of property there will be a one-hour-minimum charge for each person involved in the cleanup. The charge will be billed in one-half hour increments after that.

(C) For research, there will be a one-hour minimum charge for each person involved in the research.

§ 10.99 GENERAL PENALTIES

(A) Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Code shall be guilty of an ordinance violation.

(B) Each day a violation of this Code is committed or permitted to continue shall constitute a separate offense.

(C) Except in cases where a different punishment is prescribed by a specific section of this Code, any person convicted of an ordinance violation shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500.00).

(D) The County may bring a civil action to enjoin any person from:

1. Violating any ordinance, regulation or prohibiting a condition or use of property;
2. Engaging in conduct without a license if an ordinance requires a license to engage in the conduct.

(E) The Court may suspend all or any part of a penalty imposed for an ordinance violation and may require as a condition of such suspension that the defendant shall perform uncompensated work that benefits the community.

TITLE III: ADMINISTRATION

- 30. COUNTY EXECUTIVE**
- 31. COUNTY FISCAL BODY**
- 32. OFFICERS AND EMPLOYEES**
- 33. DEPARTMENTS, COMMISSIONS
AND BOARDS**
- 34. COUNTY MEMBERSHIP AND
INTERLOCAL COOPERATION**
- 35. INTERNAL CONTROLS**
- 36. ESTABLISHMENT OF FUNDS**
- 37. PUBLIC RECORDS**

CHAPTER 30: THE COUNTY EXECUTIVE

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- 30.01 Warren County Designation
- 30.02 Board of Commissioners
- 30.03 Meetings
- 30.04 Commissioner Districts
- 30.05 Liaison Duties of Commissioners

§ 30.01 WARREN COUNTY DESIGNATION

Pursuant to I.C. 36-2-1-1, Warren County is one of the ninety-two (92) counties of the State of Indiana.

§ 30.02 BOARD OF COMMISSIONERS

(A) The three (3) member Board of Commissioners duly elected pursuant to applicable State law, shall be the County Executive and shall transact the business of the County.

(B) The term of office for each Commissioner is four (4) years beginning January 1st following after his or her election and continuing until a successor is elected and qualified.

§ 30.03 MEETINGS

(A) Regular meetings of the Warren County Commissioners shall be at least twice each month with the specific day and time established by Resolution at the last meeting of each year prior.

(B) The Board of Commissioners shall meet in the Commissioner's Meeting Room, Warren County Courthouse, Williamsport, Indiana, at a time designated in the Resolution.

(C) Special meetings of the Board of Commissioners shall be called pursuant to the applicable State Law.

§ 30.04 COMMISSIONER DISTRICTS

There are three (3) single-member County Commissioner Districts, namely:

- (A) District 1: Pike and Washington Townships
- (B) District 2: Jordan, Kent, Mound, Prairie and Steuben Townships
- (C) District 3: Adams, Liberty, Medina, Pine and Warren Townships

(Ordinance No. 1991-6, passed December 2, 1991)

§ 30.05 LIAISON DUITES OF COMMISSIONERS

At the last meeting of the Board of Commissioners each calendar year, the Board may determine over which departments they shall have liaison duties.

CHAPTER 31: COUNTY FISCAL BODY

Section

- 31.01 County Council
- 31.02 Duties of County Council
- 31.03 Meetings
- 31.04 Council Districts

§ 31.01 COUNTY COUNCIL

(A) The seven (7) member County Council duly elected pursuant to applicable State law, shall be the fiscal body of the County.

(B) The term of office for each Council member is four (4) years, beginning January 1st after his/her election and continuing until his successor is elected and qualified.

§ 31.02 DUTIES OF COUNTY COUNCIL

The County Council shall carry out all duties assigned to it by applicable State law.

§ 31.03 MEETINGS

(A) Regular meetings of the Warren County Council shall be at least once each month with the specific day and time established by Resolution at the last meeting of each year prior.

(B) The Board of Commissioners shall meet in the Commissioner's Meeting Room, Warren County Courthouse, Williamsport, Indiana, at a time designated in the Resolution.

(C) Special meetings of the Board of Commissioners shall be called pursuant to the applicable State Law.

§ 31.04 COUNTY COUNCIL DISTRICTS

There are four (4) single-member County Council districts and three (3) at large Council seats, namely:

- (A) District 1: Jordan, Kent, Mound, Prairie and Steuben Townships
- (B) District 2: Liberty and Pike Townships
- (C) District 3: Washington Township
- (D) District 4: Adams, Medina, Pine and Warren Townships

CHAPTER 32: COUNTY OFFICERS AND EMPLOYEES

Section

- 32.01 County Auditor
- 32.02 Other Elected and Appointed County Officials
- 32.03 Appointments Made by Commissioners
- 32.04 Appointments Made by Council
- 32.05 Bonding of County Officials
- 32.06 Travel Reimbursement
- 32.07 Holidays
- 32.08 Compensation
- 32.09 Personnel Policy
- 32.10 Drug Free Workplace

§ 32.01 COUNTY AUDITOR

- (A) The County Auditor is the fiscal officer of the County.
- (B) The Auditor's term is for four (4) years and continues until his or her successor is elected and qualified.
- (C) The Auditor or his or her designee is charged with recording in writing the official proceedings of the Board of Commissioners and County Council meetings.
- (D) The Auditor shall exercise and perform the duties prescribed by law which pertain to this office.

§ 32.02 OTHER ELECTED AND APPOINTED COUNTY OFFICIALS

The following Officials are recognized by position and applicable State law:

- 1. County Assessor, I.C. 36-2-15
- 2. County Attorney, I.C. 36-2-2-30
- 3. County Auditor, I.C. 36-2-9
- 4. County Clerk, I.C. 33-32-2
- 5. County Coroner, I.C. 36-2-14
- 6. County Prosecutor, I.C. 33-39-1
- 7. County Recorder, I.C. 36-2-11
- 8. County Sheriff, I.C. 36-2-13
- 9. County Surveyor, I.C. 36-2-12 et seq.
- 10. County Treasurer, I.C. 36-2-10
- 11. County Judge,

§ 32.03 APPOINTMENTS MADE BY COMMISSIONERS

(A) Deputies and employees of the County are governed by I.C. 36-2-16-1, as it may be amended from time to time.

(B) The Warren County Commissioners shall make appointments to the following different County positions:

1. Highway Superintendent
2. E.M.S.
3. County Attorney
4. Fair Ground Custodian
5. Veteran's Officer
6. Building Commissioner
7. Fountain and Warren Health Department
8. Court House Custodian
9. Plan Commission Representative
10. Board of Zoning Appeals
11. Ambulance Advisory Board Representative
12. Community Action Board of Directors
13. Williamsport-Washington Township Library Board
14. Kankakee-Iroquois Regional Planning Commission (KIRPC)
15. Warren County Redevelopment Commission
16. Warren County-Cicott Park Board
17. Wabash River Corridor Commission
18. District 4 Planning Committee
19. 911 Board
20. Property Tax Assessment Board of Appeals (PTABOA)
21. Warren County Solid Waste Board
22. Alcohol and Tobacco Commission

§ 32.04 APPOINTMENTS MADE BY COUNCIL

(A) The Warren County Council shall make appointments to the following County positions:

1. Kankakee-Iroquois Regional Planning Commission
2. Warren County Redevelopment Commission
3. Warren County-Cicott Park Board
4. West Lebanon Public Library
5. Area Plan Commission
6. Property Tax Assessment Board of Appeals (PTABOA)
7. Warren County Solid Waste Board

§ 32.05 BONDING OF COUNTY OFFICIALS

(A) The County Council authorizes the Auditor to purchase a blanket bond for the non-elected employees of each department that:

1. is endorsed to include the faithful performance of; and
2. includes aggregate coverage sufficient to provide amounts specified for all employees, commission members, and persons acting on behalf of the local governmental unit, including the officers, employees, and contractors described in IC 5-4-1-18(a) who are required to file a bond thereunder.

(B) The Auditor shall purchase an individual bond for the deputy Treasurer, in addition to the elected officials.

(C) The minimum bond amount for public officials set forth under IC 5-4-1-18 (d)(1)(2) including that for county treasurers, county sheriffs, circuit court clerks, township trustees, and conservancy district financial clerks as well as those employees directed to file an individual bond by the fiscal body, is fixed as follows:

1. The amount must equal thirty thousand dollars (\$30,000.00) for each one million dollars (\$1,000,000.00) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond, subject to subdivision.
2. The amount may not be less than thirty thousand dollars (\$30,000.00) nor more than three hundred thousand dollars (\$300,000.00) unless the County Council approves a greater amount for the offices. County auditors shall file bonds in amounts of not less than thirty thousand dollars (\$30,000.00) as set by the County Council.

(Ordinance No. 2016-2, passed January 25, 2016)

§ 32.06 TRAVEL REIMBURSEMENT

(A) The County will reimburse employees for reasonable business expenses incurred while on assignments over fifty (50) miles from the normal work location. Business Expenses are defined and will be reimbursed as follows:

1. Lodging at the tax-exempt single room rate of the host hotel;
2. Meals up to twenty-six dollars (\$26.00) per day (based on detailed receipts).
No reimbursement will be given for purchases of alcohol.
3. Parking.

When travel is complete, employees must submit receipts within seven (7) days. When paying by credit card, the summary receipt is not sufficient for reimbursement. A detailed receipt must be provided.

(B) County employees who use their personal vehicles while conducting County business shall be paid a mileage fee of fifty-eight (58) cents per mile traveled. This mileage reimbursement rate shall automatically increase or decrease to the amount authorized by IRS regulations in every subsequent year hereafter. When requesting reimbursement for mileage, the employee must submit SBOA Claim Form 1010 that lists where the employee went, the date the

employee went, and the nature of the business conducted. It must be accompanied by a printed map (e.g. MapQuest or Google Maps).

(Ordinance No. 2020-1102, passed November 2, 2020)

§ 32.07 HOLIDAYS

The holiday schedule shall be set forth each year in a Resolution passed by the Board of Commissioners at the end of the calendar year, at the last meeting of the year.

§ 32.08 COMPENSATION

The payment of salaries and wages to County officers and employees shall be done pursuant to I.C. 36-2-8-1 through 30-2-8-6, as it may be amended from time to time.

§ 32.09 PERSONNEL POLICY

The rules and regulations set forth in the Warren County Employee Handbook are adopted by reference and incorporated herein in their entirety. At least two (2) copies of the handbook, together with amendments and supplements thereto, shall be kept in the office of the County Auditor for public inspection.

§ 32.10 DRUG FREE WORKPLACE

(A) Policy. Warren County requires all employees to report for work in a condition that allows them to perform their duties in a safe and efficient manner. Employees will not be permitted to work under the influence of alcohol or with prohibited drugs in their systems thereby affecting job performance.

Violation of any provision of this Section will be considered just cause for disciplinary action up to and including discharge, even for a first offense. In addition, refusal to adhere to any part of the policy may be considered an act of insubordination and also may lead to disciplinary action up to and including discharge.

This Section and related procedures may be modified by the County at any time in order to comply with any applicable federal, state or local laws or to better serve the needs of the County.

(B) Prohibited Drugs. Prohibited drugs are defined as illegal substances, including controlled substances as defined in the Controlled Substance Act (21 U.S.C. 8120 and the Code of Federal Regulations (21 C.F.R. 1308.11-1308.15) and prescription controlled substance which have not been prescribed by a licensed physician or dentist for specific treatment purposes for the employee. Abuse of prescription or over-the-counter drugs will also be treated as a substance abuse problem under this Section.

This Section prohibits the illegal use, sale, transfer, distribution, possession, or unlawful

manufacture of narcotics, drugs, or other controlled substances while on the job or on County premises (including vehicles used for County business). These include but are not limited to marijuana, cocaine, crack, PCP, heroin, LSD, amphetamines, hallucinogens, and barbiturates. Any illegal substances found on such premises will be turned over to the state police and may lead to criminal prosecution.

(C) Alcohol. The use of alcohol on the job or on County premises is prohibited, unless such use is non-abusive and is part of an authorized official event held off County premises. The use of alcohol in vehicles used for County business is strictly prohibited.

Alcohol possession applies to all open or unsealed alcoholic beverage containers. Such containers are not allowed on the job or on County premises, unless their possession is part of an authorized official event. Possession of such containers in vehicles used for County business is never authorized.

(D) Reporting Violations. Employees must as a condition of employment, abide by the terms of this Section and report any conviction to the County under a criminal drug statute for violations occurring on or off County premises when conducting County business. Report of a conviction must be made to the County within five (5) business days after the conviction. The County will then notify the appropriate contracting officer within ten (10) days after receiving notice from either the employee or from another source. (These requirements are mandated by the Drug-Free Workplace Act of 1988.)

An employee who is involved with off the job illegal drug activity may be considered in violation of this Section. In determining whether disciplinary action will be imposed for this activity, the County will consider the circumstance of each incident, including but not limited to any adverse effect the employee's actions may have on its customers, other employees, the public, or the County's reputation and image.

Any questions regarding the reporting of violations should be directed to the County Human Resources Officer.

(E) Employee Rehabilitation. Health maintenance is primarily a personal responsibility, and it is the individual's responsibility to correct unsatisfactory job performance or behavioral problems caused by alcohol or drug abuse. In an effort to assist employees, the County will provide various means for employees and their family members to remain aware of the dangers of substance abuse in the workplace and to overcome drug and alcohol related problems.

Employees with a personal alcohol or drug related problem are encouraged to volunteer to participate in an approved rehabilitation program upon referral from the Employee and Family Assistance Program, before work performance becomes affected.

Participation in a rehabilitation program will not be considered a barrier to employment nor a cause for disciplinary action. Employees will not be disciplined merely because of participation in a rehabilitation program or excused from the disciplinary consequences of conduct which is in violation of this Section or any other County policies or job requirements.

Any employee identified through a County investigation as having a substance abuse problem also may not avoid disciplinary action by requesting to participate in an approved rehabilitation program.

Circumstances in each case will be evaluated to determine the course of action to be taken (i.e., whether the employee will be offered the opportunity to participate in a rehabilitation program

and/or will be subject to discipline.)

(F) Testing. The County will not ask employees to submit to random alcohol or drug tests.

Alcohol or drug tests may be required for employees in the following circumstances:

1. When unsatisfactory job performance or other employee behavior is reasonably indicative of substance abuse.
2. During and after participation in a drug or alcohol rehabilitation program for a reasonable period of time as determined by the County.
3. When required by law.

If a supervisor identifies an employee with a behavior pattern and/or job performance reasonably indicative of substance abuse, the supervisor (with the concurrence of the next level of supervision) may recommend that the employee have a fitness for duty examination by a physician designated by the County. The physician will determine whether a fitness for duty examination is necessary and whether alcohol or drug tests will be required.

Pre-employment drug testing is part of the pre-employment physical. The method of testing will be determined by the County. Applicants who test positive for prohibited drugs in their systems will not be offered employment. Any questions regarding reapplication opportunities should be directed to the County Human Resources Officer.

(Ordinance No. 2020-1119A, passed November 19, 2020)

CHAPTER 33: DEPARTMENTS, COMMISSIONS AND BOARDS

Section

- 33.01 County Drainage Board
- 33.02 Emergency Medical Service
- 33.03 County Highway Department
- 33.04 Economic Development Commission
- 33.05 Redevelopment Commission
- 33.06 Area Plan Commission
- 33.07 Board of Zoning Appeals
- 33.08 Solid Waste District
- 33.09 Department of Parks and Recreation

§ 33.01 COUNTY DRAINAGE BOARD

The County Drainage Board shall perform all applicable duties and responsibilities as set forth in I.C. 36-9-27.

§ 33.02 EMERGENCY MEDICAL SERVICE

(A) The Warren County Commissioners hereby resolve to form the Warren County Emergency Medical Service.

(B) The purpose of this service is to comply with State and Federal requirements prior to obtaining state and federal grants for the institution of an emergency medical service for residents of and visitors to Warren County, Indiana.

§ 33.03 COUNTY HIGHWAY DEPARTMENT

(A) The County Highway Department shall be headed by the County Highway Superintendent appointed by the Board of Commissioners pursuant to Sec. 32.03 of this Code.

(B) A written declaration of administration policies including work rules and regulations of the Department shall be entered into and approved by Resolution of the Board of Commissioners. Two (2) copies shall be available for public inspection during regular business hours in the office of the County Auditor, pursuant to I.C. 36-1-5-4.

§ 33.04 ECONOMIC DEVELOPMENT COMMISSION

Pursuant to authority granted by I.C. 36-7-12, et seq., there is created the Warren County Economic Development Commission, which shall be in addition to existing executive departments of the County.

§ 33.05 REDEVELOPMENT COMMISSION

Pursuant to I.C. 36-7-14-3, the Board of Commissioners hereby establishes the Warren County Department of Redevelopment (the "Department"), for the purposes and to exercise the powers set forth in the Act or otherwise granted by law. The Department will be controlled by a board of five (5) members to be known as the Warren County Redevelopment Commission (the "Redevelopment Commission"), each of whom shall be appointed by the Board of Commissioners.

(Ordinance No. 2008-1, passed March 17, 2008)

§ 33.06 PLAN COMMISSION

The Warren County Area Plan Commission established pursuant to I.C. 36-7-4, et seq. has its powers, duties, and functions set forth in Article XI, the Zoning Chapter of this Code.

§ 33.07 BOARD OF ZONING APPEALS

The Board of Zoning Appeals established pursuant to I.C. 36-7-4- et seq. has its powers, duties, and functions set forth in Article XI, the Zoning Chapter of this Code.

§ 33.08 SOLID WASTE DISTRICT

(A) Pursuant to I.C. 13-21-3-5, the Warren County Solid Waste Management District shall consist of the following persons:

1. 3 County Commissioners
2. 2 Town Council Members from the Town of Williamsport
3. 1 County Council Member
4. 1 Town Council Member from a town other than Williamsport

(B) The Auditor is directed to notify each of the affected participants as to the method of their selection, pursuant to I.C. 13-21-3-5, and report such appointments as soon as the same are made.

(Ordinance No. 1991-2, passed June 3, 1991, amended by Ordinance No. 2021-)

§ 33.09 DEPARTMENT OF PARKS AND RECREATION

(A) Under the provisions of I.C. 36-10-3 there is hereby created a County Department of Parks and Recreation.

(B) A park and recreation board shall be composed of:

1. Two members appointed by the judge of the Circuit Court.
2. One member appointed by the county executive.
3. Two members appointed by the county fiscal body.

(C) Upon establishment of the board, the terms of its members shall be as follows:

1. The appointments by the Circuit Court judge shall be one- and three-year terms, respectively.
2. The appointment by the county commissioner shall be for a two-year term.
3. The appointments by the county council shall be for two- and four-year terms, respectively.

(D) As a term expires, each new appointment shall be for a four-year term. All terms shall expire on the first Monday in January, but a member shall continue in office until his or her successor is appointed. The appointing authorities shall make initial appointments within ninety days after the creation of the department. If an appointment for any new term is not made by the first Monday in April, the incumbent shall serve another term. If a vacancy on the board occurs, the appointing authority shall appoint a person to serve for the remainder of the unexpired term.

(E) At its first regular meeting in each year, the Board shall elect a president and a vice-president. The vice-president shall have authority to act as the president of the board during the absence or disability of the president. The board may select a secretary either from within or without its own membership.

(F) The Board shall have the power to perform all acts necessary to acquire and develop sites and facilities and to conduct such programs as are generally understood to be park and recreation functions. In addition, the board shall have all the powers and duties listed in I.C. 36-10-3-11.

(G) The Board shall prepare and submit an annual budget in the same manner as other departments of County government as prescribed by the State Board of Accounts. The Board may accept gifts, donations, and subsidies for park and recreation purposes.

(Ordinance No. 1990-3, passed November 23, 1990)

CHAPTER 34: COUNTY MEMBERSHIPS AND INTERLOCAL COOPERATION

Section

- 34.01 Membership Dues
- 34.02 Interlocal Cooperation

§ 34.01 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, council, departments or agencies in local, regional, state and national associations of a civic, educational or governmental nature, which have as their purpose the betterment an improvement of County government operations.

(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.

§ 34.02 INTERLOCAL COOPERATION

The County is authorized pursuant to I.C. 36-1-7-1 through I.C. 36-1-7-12, as it may be amended from time to time, to enter into joint agreements for the purchase or exchange of property and services with other governmental entities.

CHAPTER 35: INTERNAL CONTROLS

Section

- 35.01 Minimum Internal Controls
- 35.02 Authorization to Pay Certain Claims
- 35.03 Purchasing Rules
- 35.04 Fixed Assets
- 35.05 Credit Card Policy
- 35.06 Conflict of Interest
- 35.07 Contracting with a Relative Unit

§ 35.01 MINIMUM INTERNAL CONTROLS

(A) The acceptable minimum level of internal control standards and procedures developed under I.C. 5-11-1-27(e) by the SBOA contained in the Uniform Internal Control Standards for Indiana Political Subdivisions manual, are hereby adopted by the County and that all non-judicial county personnel receive training concerning the internal control standards and procedures hereby adopted.

(B) Warren County establishes the following Materiality Policy under IC 5-11-1-10, 5-11-1-21, and 5-11-1-27:

1. Materiality, in the County Government, is defined as \$500.00 per occurrence. That is, if one occurrence of a loss or shortage or other irregularity is equal or greater than \$500.00, it must be reported to the State Board of Accounts.
2. The materiality definition is not limited to defalcations or suspicious activity involving only cash or cash transactions.
3. If supplies, equipment or other fixed assets belonging to the County are suspected of being misappropriated or stolen or used in a manner not authorized by County officials and the value of those supplies, equipment or fixed assets are \$500.00, that misuse or series of misuse should be reported. That is not to say that if a loss or shortage is less than \$1500.00 it should be ignored.
4. If there is a series of events, within the same office or department that appears to be a structuring event to defraud or misappropriate County funds or property, that event or series of events should be reported.

(C) When an incident involving any variance, loss, shortage, or suspected theft of funds or property has been discovered by or brought to the attention of an employee of the County by any means or by any other person, such incident shall be reported the employee's Department Head who, shall in turn, report the incident to the County Auditor. All documentation relevant to the incident shall be maintained on file by the Auditor for the period required by the statute for record retention, regardless of whether or not the incident is determined to be material.

(D) Pursuant to I.C. 5-11-1-27(j), if the Auditor determines that an incident involving erroneous or irregular material variances, losses, shortages, or thefts of political subdivision funds or property, then it shall be reported immediately to the State Board of Accounts. For all

material variances, losses, shortages, or thefts, the State Board of Accounts shall:

1. determine the amount of funds involved and report the amount to the appropriate government and law enforcement officials;
2. determine the internal control weakness that contributed to or caused the condition; and
3. make written recommendations to the appropriate legislative body or appropriate official overseeing the internal control system addressing:
 - a. the method of correcting the condition; and
 - b. the necessary internal control policies and internal control procedures that must be modified to prevent occurrence of the condition.

(E) Pursuant to IC 5-11-1-27(1), if any County employee knows or suspects that other County employees are engaged in fiscal misconduct, it is his/her responsibility to immediately notify the State Board of Accounts and local prosecuting attorney in writing.

(F) The County government shall investigate all erroneous or irregular variances, losses, shortages, or thefts, regardless of whether they meet the materiality threshold established by this policy. Upon conclusion of such investigation the County shall:

1. Implement procedures designed to prevent the recurrence of such incidents; and
2. Take appropriate disciplinary action against the employee responsible for the incident.

(Ordinance No. 2019-1021A, passed October 21, 2019)

§ 35.02 AUTHORIZATION TO PAY CERTAIN CLAIMS

(A) The Commissioners hereby authorizes the Auditor to make claim payments in advance of the Commissioners allowance for the following types of expenses:

1. Property or services purchased or leased from:
 - a. the United States government; or
 - b. an agency or a political subdivision of the United States government.
2. License fees or permit fees.
3. Insurance premiums.
4. Utility payments or utility connection charges.
5. Federal grant programs if:
 - a. advance funding is not prohibited; and
 - b. the contracting party provides sufficient security for the amount advanced.
6. Grants of state funds authorized by statute.
7. Maintenance agreements or service agreements.
8. Lease agreements or rental agreements.
9. Principal and interest payments on bonds.
10. Payroll.

11. State, federal, or county taxes.
12. Expenses that must be paid because of emergency circumstances.
13. Expenses described in an ordinance.

(B) By virtue of this Section and in accordance with Indiana Code §36-2-6-4.5(b)(13), the Auditor is further authorized to pay the following reoccurring payments:

1. Court Ordered Garnishments, including child support, directed to the County by an order of any court or tribunal; or, which is voluntarily requested by an employee of the County for her/his obligation under an order.
2. Employee retirement contributions and the County's match thereof, in the manner approved by the Commissioners.
3. A claim paid pursuant to a specific motion of the Commissioners, approved in a public meeting.
4. Postage to the United States Post Office relating to the mailing of tax statements.
5. An expense, under Paragraph (A)(12) above is an "emergency circumstance" if (a) waiting to pay the claim until after the next regular meeting of the Commissions would cause the County to incur a late fee, penalty, default interest rate, or place the County in default, pursuant to the terms and conditions of an agreement with a creditor, contractor, or provider of goods or services to the County, and (b) the Auditor did not receive an invoice in sufficient time to obtain Commissioner approval and pay the Claim before the due date on the obligation.

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

(D) The Commissioners or the board having jurisdiction over the allowance of the claim shall review and allow the claim at the Commissioners' or board's next regular or special meeting following the preapproved payment of the expense.

(Ordinance No. 2019-1118C, passed November 18, 2019)

§ 35.03 PURCHASING RULES

(A) Supplies manufactured in the United States shall be specified for all County purchases and shall be purchased unless the County determines that:

1. the supplies are not manufactured in the United States in reasonably available quantities;
2. the prices of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured elsewhere;
3. the quality of the supplies manufactured in the United States is substantially less than the quality of comparably priced available supplies manufactured elsewhere: or
4. the purchase of supplies manufactured in the United States is not in the public interest.

(B) Protection of Offers: Status of Documents as Public Records.

1. The purchasing agent shall retain all offers received in a secure location prior to the date and time at which offers will be opened in order to prevent disclosure of the contents prior to the opening of the offers.

2. After offers have been opened, the purchasing agent shall be responsible for maintaining the offers in such a manner as to permit evaluation of the offers by the persons responsible for evaluating the offers.

3. Bids submitted in response to an invitation for bids must be available for public inspection and copying after the time of the bid opening.

4. The purchasing agent shall prepare a register of proposals for each request for proposals issued which shall contain information concerning the proposals available for public inspection and copying. Proposals may not be disclosed.

(C) The purchasing agent may conduct discussions with, and best and final offers may be obtained from responsible offerors who submit proposals determined to be reasonably susceptible of being selected for a contract award.

(D) When the Board of Commissioners makes a written determination that it is in the county's best interests, offers may be opened after the time stated in the solicitation. The date, time and place of the rescheduled opening must be announced at the time and place of the originally scheduled opening.

(E) Evidence of Financial Responsibility

1. The purchasing agent may not require evidence of financial responsibility when the estimated cost of a purchase is less than \$25,000.

2. Purchases between \$25,000 and \$100,000. The solicitation may include a requirement that an offeror provide evidence of financial responsibility. If evidence of financial responsibility is required, the solicitation must indicate the kind of evidence that will be acceptable. If a bond or certified check is required, it may not exceed ten percent (10%) of the estimated cost of the purchase.

3. Purchases Over \$100,000. The solicitation shall include a requirement that an offeror provide evidence of financial responsibility and must indicate the kind of evidence that will be acceptable. If a bond or certified check is required, it may not exceed ten percent (10%) of the estimated cost of the purchase.

4. The purchasing agent may determine that no evidence of financial responsibility shall be required for a small business set-aside purchase.

(F) Use of RFP for Purchases of Designated Types of Supplies. The County may use RFPs for purchases of designated types of supplies when the County determines that:

1. It is either not practicable or not advantageous to purchase certain types of supplies by sealed competitive bidding; and

2. Receiving proposals is the preferred method for purchasing the following types of supplies: (those supplies as are designated in writing by the purchasing agents)

(G) Modification and Termination of Contracts.

1. The purchasing agent may include provisions to permit price adjustments in a purchase contract. The following provisions for price adjustments may be included:
 - a. Price adjustments must be computed by agreement on a fixed price adjustment before the beginning of the pertinent performance or as soon after the beginning of performance as possible;
 - b. Price adjustments must be computed by unit prices specified in the contract or subsequently agreed upon;
 - c. Price adjustments must be computed by costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;
 - d. Price adjustments must be computed in such other manner as the contracting parties may mutually agree upon; or
 - e. In the absence of agreement by the parties, price adjustments must be computed by a unilateral determination by the governmental body of the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as computed by the governmental body in accordance with applicable rules adopted by the governmental body.
2. The purchasing agent may include provisions in a purchase contract concerning adjustments for time of performance under the contract.
3. The purchasing agent may include in a purchase contract provisions dealing with the unilateral right of the County to order changes in the work within the scope of the contract or to order temporary work stoppage or delays in time of performance.
4. The purchasing agent may include in a purchase contract provisions dealing with variations between the estimated quantities of work in a contract and the actual quantity delivered.

(H) The County determines that each County agency, department and office and elected County official may purchase services in whatever manner the purchaser determines to be reasonable.

(I) The County purchasing agency may not require any County agency, department or office, or any County elected official, to purchase services in any particular manner.

(J) The Board of Commissioners hereby determines that it is the purchasing agency for the County.

(K) 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. the County highway superintendent; and
4. such county employees as are designated from time to time, in writing.

(Ordinance No. 1998-7, passed June 29, 1998; Ordinance No. 1998-06, passed June 29, 1998; Ordinance No. 1998-5, passed June 29, 1998)

§ **35.04 FIXED ASSETS**

All equipment purchased for use by county employees in the amount of \$5000 or more shall be recorded in the fixed asset ledger.

(Ordinance No. 2017-8, passed September 18, 2017; amending Ordinance No. 1999-2, amended by Ordinance No. 2017-9)

§ **35.05 CREDIT CARD POLICY**

(A) The Auditor shall implement and maintain a system for the distribution, authorization and control of credit cards issued to or for the benefit of the County and used by County officials and employees:

1. Credit cards may be distributed to those County officials and employees who, in the opinion of the Auditor, have job responsibilities which would cause their job performance to benefit by use of a credit card (use of the term "Credit Card" shall include either the credit card or the credit card number).

2. The Auditor shall develop and implement guidelines and accounting controls subject to the approval of the Board of County Commissioners to ensure the proper usage of credit cards and credit card funds. Including designation those employees or officials, who will be authorized to use a credit card "Authorized User" and maintain a log of the cards assigned to each.

3. The Auditor shall set credit limits on each credit card issued; provided, that in no event shall such credit limit exceed \$2,500.00 for any individual credit card nor shall the aggregate credit limits for all credit cards issued to or authorized for use to exceed \$7,500.00.

4. The Auditor shall establish and implement a written procedure or policies for the payment of all credit card bills subject to the approval of the Board of Commissioners, which shall cause the credit card purchases to be paid in full on a monthly basis, prior to the end of the grace period, so to avoid late fees or finance charges.

5. The following uses are expressly prohibited and unauthorized:

- a. Personal charges or charges not for official County business;
- b. Cash advances;
- c. Use of another Authorized User's credit card;
- d. Obtaining or attempting to obtain a new line of credit, using the credit card issued to the Authorized User;
- e. Use of a credit card, which has been revoked, cancelled, or after the authorization to use the credit card has been terminated by the County;
- f. Uses in excess of the credit limit or, in light of charges incurred during the billing cycle by the Authorized User, would cause the credit card's limits to be exceeded;
- g. Authorized users shall not use a credit card, otherwise consistent with this Section, in such a manner that would likely bring about embarrassment or disgrace to the County or appear immoral or unprofessional to the citizens of the County.
- h. Use of a credit card after the Authorized User's employment ended or elected term in office has concluded; or

i. In any manner inconsistent with other County Ordinances or Policies, federal, state, or local laws.

6. An Authorized User shall obtain and retain itemized receipts for each and every purchase made using a County credit card and shall submit clear and legible copies of said receipts to the Auditor on or before the last business day of each month for that month. Any charges, which cannot be properly identified, or which are not properly allowed, shall be paid promptly by the Authorized User by check, together with interest and all other charges assessed by the credit card company, and shall constitute a prior lien against all amounts owed by the County to the card user until paid in full. Upon receipt of a credit card, each Authorized User shall execute an agreement to be personally liable for any charges, which are unauthorized, not documented or cannot be properly identified, as set forth herein, to the satisfaction of the State Board of Accounts or the Board of Commissioners.

7. Each Authorized User shall be responsible for contacting the issuing financial institution and the Auditor, immediately upon discovering that a credit card has been lost, stolen, or is otherwise unaccounted for. Authorized users shall maintain in a safe location, the telephone number for reported cards lost or stolen. The employee in violation of this provision, may be held responsible for charges incurred, using the card. Each employee shall be required to submit a lost/stolen card affidavit to the Auditor, attesting to the date the loss was discovered and the last charge used.

8. No Authorized User shall knowingly use or attempt to use a credit card beyond the scope of the authority permitted by this Section, or the policies established by the Auditor.

(B) The Auditor is authorized, to adopt any additional procedures and policies necessary to implement the provisions of this policy.

(Ordinance No. 2019-1104A, passed November 4, 2019)

CHAPTER 36: ESTABLISHMENT OF FUNDS

Section

- 36.01 Allocation of Funds
- 36.02 Law Enforcement Fund
- 36.03 Rainy Day Fund
- 36.04 Plat Book Maintenance Fund
- 36.05 Electronic Map Generation Fund
- 36.06 Investment of Public Funds

§ 36.01 ALLOCATION OF FUNDS

(A) If the proper officers of a county department, which term shall be defined as any office or unit of county government having a budget which requires the approval of the county council, desires to reallocate or transfer funds within a major budget classification, they shall follow the procedures set forth in this ordinance.

(B) The proper officers of such unit may transfer money within a major budget classification if:

1. They determine that the transfer is necessary;
2. The transfer does not require the expenditure of more money than the total amount set out in such major budget classification;
3. The transfer is certified to the County Auditor;
4. The transfer is approved by the County Council.

(Ordinance No. 1991-4, passed)

§ 36.02 LAW ENFORCEMENT FUND

(A) There is hereby created a "Law Enforcement Fund". The fund shall consist of deposits in the form of voluntary surrender fees, reimbursement for restitution, seizure of assets, and other law enforcement related fees recovered by the Office of the County Prosecutor which are not required to be deposited in the County General Fund.

(B) The Law Enforcement Fund shall be appropriated for funding activities recovered by I.C. 34-24-1 and I.C. 34-24-2 and liquidation of personal or real property obtained from criminal defendants.

(C) Monies from this fund shall be subject to appropriation in accordance with I.C. 36-2-5-2. All money collected under this section shall be transferred to the County Treasurer who shall deposit said funds and disburse as the Prosecuting Attorney directs. Any money remaining in the fund at the end of the year does not revert to any other fund but continues in the Law Enforcement Fund.

(Ordinance No. 1990-2, passed August 28, 1990)

§ 36.03 RAINY DAY FUND

(A) There is hereby established a Warren County Rainy Day Fund to receive transfers of unused and unencumbered funds under I.C. 36-1-8.5.

(B) Not more than ten percent (10%) of any fiscal year's total budget shall be transferred into the Rainy Day Fund.

(C) The Rainy Day Fund shall be subject to the same appropriation process as other funds that receive tax money.

(D) The County Council hereby intends to utilize its decision-making power regarding fiscal affairs and set priorities for allocation and expenditure of the Rainy Day Fund as deemed necessary to best serve the residents of Warren County which could include appropriation for enhancement of computers and communications systems, programs for the benefit of the County, financing any initiative designed to improve the economic growth of the County, or to supplement spending in any other area, which would benefit the community of County Government.

(Ordinance No. 2013-5, passed May 20, 2013, amended by Ordinance No. 2020-0928, passed September 28, 2020)

§ 36.04 PLAT BOOK MAINTENANCE FUND

(A) The County Auditor shall establish a fund entitled "Plat Book Maintenance Fund" and deposit all real property endorsement amounts into the County Auditor Plat Book Maintenance Fund.

(B) The purpose of the County Auditor Plat Book Maintenance Fund shall be to provide funds for the costs associated with the annual maintenance of the grantor/grantee records in the County Auditor's Office, including any hardware, software, supplies, training, and other employment expenses related to the County Auditor Plat Book Maintenance Fund.

(C) The County Auditor Plat Book Maintenance Fund shall require appropriation by the County Council and shall be spent in accordance with the general rules as to which other County funds are subject.

(D) All payments placed into the County Auditor Plat Book Maintenance Fund shall be invested and reinvested pursuant to standard procedures followed by the County, and said funds and interest derived therefrom shall not revert to the County's general operating fund at the end of each year, but shall instead remain within the County Auditor Plat Book Maintenance Fund.

(Ordinance No. 2019-1104B, passed November 4, 2019)

§ 36.05 ELECTRONIC MAP GENERATION FUND

(A) The Electronic Map Generation Fund shall consist of fees charged for providing electronic map data to person(s) in accordance with Indiana Code 5-14-3-8(j) and be subject to the appropriation by the County Council. In accordance with Indiana Code 5-14-3-8.5(b), all funds collected in the Electronic Map Generation Fund shall be specifically dedicated to the following purposes:

1. The maintenance, upgrading, and enhancement of the electronic map.
2. The reimbursement of expenses incurred by a public agency in supplying an electronic map in the form requested by the person(s).

(B) Any person who has a dispute or seeks relief from the terms of this Section may seek resolution of that dispute or relief from the Board of Commissioners.

(C) Fee Schedule

1. Complete Map Data Layers:
 - a. An annual fee of \$1,500, paid in advance, for the continuous transmission of available and disclosable countywide non-photo electronic map data layers.
 - b. A fee of \$750, paid in advance for a one time delivery of available and disclosable countywide non-photo electronic map data layers delivered on a CD or FTP Site.
 - c. A fee of \$750, paid in advance, for a one time delivery of a County's most recent aerial photo layer delivered on CD's.
2. Subsets of Map Data Layers (for less than countywide areas). A fee of \$150 per hour for the preparation of one subset of map data.
3. Separating Disclosable and Nondisclosable Data. A fee of \$150.00 per hour for computer programming required to separate disclosable and nondisclosable electronic map data if this is required as part of a one-time map data request.

(Ordinance No. 2014-2, passed March 31, 2014)

§ 36.06 INVESTMENT OF PUBLIC FUNDS

(A) The fiscal body of the County shall first adopt an investment policy authorizing the investment of public funds of the County for more than two (2) years and not more than five (5) years in accordance with IC 5-13-9-5.7(a) and (b).

(B) The power to make an investment having a stated final maturity that is more than two (2) years, but not more than five (5) years after the date of purchase expire on the date on which the investment policy expires, which may not exceed four (4) years.

(C) At the time an investment of public funds of the County is made having a stated final maturity that is more than two (2) years, but not more than five (5) years, the total of such investments of the County may not exceed twenty-five percent (25%) of the total portfolio of public funds invested by the County, including balances in transaction accounts.

(D) An investing officer may contract with a federally regulated investment advisor or other institutional money manager to make such investments.

(Ordinance No. 2019-1, passed January 29, 2019; amending Ordinance No. 2014-5, passed)

CHAPTER 37: PUBLIC RECORDS

Section

- 37.01 Electronic Format of Records
- 37.02 Filing of Surveys
- 37.03 Electronic Map Data
- 37.04 Bulk Copy Fees
- 37.05 Access to Public Records

§ 37.01 ELECTRONIC FORMAT OF RECORDS

(A) A person who receives information on disk or tape or in any electronic format under IC 5-14-3-3(d) may not use the information for commercial purposes;

(B) Specifically, a person who receives information on a disk or tape or in any electronic format under IC 5-14-3-3(d) is prohibited from: (a) selling that information; (b) advertising that information; (c) soliciting the purchase of merchandise, goods, or services with that information; or (d) selling, loaning, giving away or otherwise delivering the information obtained by the request to any other person for these purposes;

(C) Use of information received under IC 5-14-3-3(d) in connection with the preparation or publication of news, for non-profit activities, or for academic research is not prohibited;

(D) A person who uses information in a manner contrary to this ordinance may be prohibited by the County Board of Commissioners from obtaining a copy of any further data under subsection (d) and may be subject to a fine of up to \$25,000.00.

(E) This Section does not apply to electronic formatted map data, the release of which is governed by a specific Section.

(Ordinance No. 2018-2, passed March 19, 2018; amending Ordinance No. 2007- 1, passed April 2, 2007)

§ 37.02 FILING OF SURVEYS

Pursuant to Indiana Code 36-2-19-1 et seq., any plat of survey recorded in the Recorder's Office pursuant to such statute must be provided to the County Surveyor who shall thereupon transmit copies of such plats of survey to the appropriate county offices.

(Ordinance No. 1991-5, passed October 21, 1991)

§ 37.03 ELECTRONIC MAP DATA

(A) In accordance with I.C. 5-14-3-2, "person" as used in this Agreement is defined as an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity, and "electronic map data" as used in this Agreement is defined as copyrighted data created and provided by a public agency from an electronic geographic information system.

(B) Pursuant to I.C. 5-14-3-80 the County may charge a fee, uniform to all persons for providing electronic map data that is based upon a reasonable percentage of the County's direct cost of maintaining upgrading and enhancing the electronic map and for the direct cost of supplying the electronic map in the form requested by the person(s).

In the case where disclosable and nondisclosable electronic map data are combined, I.C. 5-14-3-6 provides that the County may charge a reasonable fee for the County's direct cost of computer programming to separate disclosable from nondisclosable electronic map data.

It is hereby established by the County Commissioners and County Council that the initial fee schedule for the transmission of electronic map data is as set forth in an attached Fee Schedule that is incorporated by reference herein.

If the County contracts with a third-party contractor to handle the transmission of County electronic map data, the third-party contractor shall receive 2/3, and the County 1/3 of the fees charged the person for electronic map data. This fee schedule shall be reviewed on an annual basis and may be changed on an annual basis to reflect the change in the cost in providing the electronic map data.

(C) Pursuant to I.C. 5-14-3-8(k) any Public Agency, as defined by I.C. 5-14-3-2, located within the County or within adjacent counties that agrees to share with the County any electronic map information that that Public Agency might have, if any, that is of the same type as is being shared by the County, the County will agree to automatically approve a Data Sharing Application with that Public Agency and waive that portion of the electronic map fee that would otherwise be retained by the County.

Pursuant to I.C. 5-14-3-8(k) the County's retained portion of the electronic map fee shall be waived at the County's discretion if the use of the electronic map data will be used for a noncommercial purpose, including the following: Public Agencies that do not agree to share with County the same type of electronic map data being provided by the County, Nonprofit activities, Journalism, and/or Academic research.

(D) In accordance with I.C. 5-14-3-3.6, electronic map information may be provided to person(s) through the County's own computer gateway, or by agreement through a computer gateway of a third-party contractor. I.C. 5-14-3-3.6(e) provides that a contract entered into under this section may require the payment of a reasonable fee to either the third-party contractor, the County, or both.

In accordance with I.C. 5-14-3-4, neither the County nor the third-party contractor shall disclose electronic map data that is specifically excepted from disclosure requirements.

(E) Where the County is using its own computer gateway for the provision to person(s) of electronic map data, payment shall be made by the person(s) at the time of delivery.

Where the County has entered into an agreement with a third-party contractor to provide electronic map data through the third-party contractor's computer gateway, the third party contractor shall handle the billing and invoicing of the fees charged and shall agree to send by U.S. mail that portion of the fee due the County to the County's Electronic Map Generation Fund within 10 business days of the receipt of payment of fees to the third party contractor by the person(s) making the purchase.

(F) Nothing herein shall compel any office or their contracted third-party contractor to charge a fee for copies if the fee imposed by this Section is contrary to state law. In the event the fees in this Section are contrary to any charges established by State statute, the State statute shall apply.

(G) Pursuant to the provisions of I.C. 5-14-3-3(e), no person, other than those authorized in writing by the Board of Commissioners, may use the electronic map data provided by the County for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by request to any other person for these purposes. This includes the repackaging or assimilation of electronic map data for a commercial purpose in paper or electronic media. The electronic map data may be used as a reference for determining the accuracy of maps developed independently from the County's electronic map data.

A person who uses information in a manner contrary to this Section or a rule or ordinance adopted under I.C. 5-14-3-3 may be prohibited by the County from obtaining any electronic map data. The following notice regarding data ownership, restrictions, and qualifications shall be provided to every person that receives a copy of the County's electronic map data.

"Warren County electronic map data is the property of Warren County, Indiana. All electronic map data supplied by Warren County has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The County does not guarantee the positional or thematic accuracy of the data. The cartographic digital file server is not a legal representation of any of the features depicted, and the County disclaims any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be and/or expressly excluded. The data represents an actual reproduction of data contained in the County's computer files. This data may be incomplete or inaccurate and is subject to modifications and changes. Therefore, the County cannot be held liable for errors or omissions in the data. The recipient's uses and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify Warren County and its employees and officers. This indemnity covers reasonable attorney's fees and all court costs associated with the defense of Warren County arising out of this disclaimer. The recipient may copy this data into computer memory or onto computer storage devices and prepare derivative works from it for the recipient's own use."

Pursuant to the provisions of I.C. 5-14-3-3(e), no person, other than those authorized in writing by the Board of Commissioners may use the electronic map data provided by the County

for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services; or sell, loan, give away, or otherwise deliver the information obtained by request to any other person for these purposes. A person who uses information in a manner contrary to a rule or ordinance adopted under I.C. 5-14-3-3(e) may be prohibited by the Board of Commissioners from obtaining any electronic map data.

A copy of the language contained in this section shall be conspicuously posted in all offices where electronic map data is sold in the County, and shall be provided to any person(s) (as defined by I.C. 5-14-3-2) who desires to purchase electronic map data from the County.

(H) Any person(s) who violates the terms and conditions of this Section by failing to pay for purchased electronic map data shall be liable for total fee charged for the electronic map data plus attorney's fees and the cost of collection. Any person(s) who violates the restrictions on the use of electronic map data as set forth in Section 7 of this Ordinance shall be guilty of an ordinance violation and may be fined by the County up to Two Thousand Five Hundred (\$2,500), and each violation shall be deemed a separate offence. Also, in the event that there is an improper use of electronic map data as set forth in Section 7 of this Ordinance or in violation of State or Federal Law, the County may prohibit the person(s) (as defined by I.C. 5-14-3-2) from obtaining any electronic map data and seek injunctive relief from any misuse of electronic map data by the person(s) who originally purchased the electronic map data or any other person(s) who has received a copy of the electronic map data.

(Ordinance No. 2014-2, passed March 31, 2014)

§ 37.04 BULK COPY FEES

- (A) The following definitions shall apply throughout this Section:
1. "Bulk form copy" means an aggregation of:
 - a. copies of all recorded documents received by the County Recorder for recording in a calendar day, week, month, or year;
 - b. the indices for finding, retrieving, and viewing all recorded documents received by the county recorder for recording in a calendar day, week, month, or year; or
 - c. both clauses (1) and (2).
 2. "Bulk user" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association that receives bulk form copies under a contract with the County Recorder.
 3. "Copy" means a reproduction, including an image of a recorded document or indices created by:
 - a. duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage; or
 - b. reproducing on microfilm.
 4. "Indices" means all of the indexing information used by the county recorder for finding, retrieving, and viewing a recorded document.

5. “Recorded document” means a writing, a paper, a document, a plat, a map, a survey, or anything else received at any time for recording or filing in the public records maintained by the County Recorder or the County Recorder’s designee.

(B) It is hereby established that the County Recorder through Fidlar shall provide bulk form copies to a bulk user only by electronically transmitting the copies using an electronic transfer process.

(C) A bulk user must submit a written request to the County Recorder that identifies the requested bulk form copies with reasonable particularity. Unless the request is refused under Section VI, upon receipt of a valid written request the County Recorder or the County Recorder’s designee shall provide the bulk form copies to the bulk user by the method or methods established by Ordinance. The bulk form copies shall be provided within a reasonable time after the later of the following events:

1. The Recorder’s archival process is completed and bulk form copies become available in the County Recorder’s Office.
2. The bulk form user executes a contract that meets the requirements of Section (E) with:
 - a. the County Recorder; and
 - b. if the County Recorder uses a third party to provide bulk copy services, the County Recorder’s designee.

The County Recorder or the County Recorder’s designee shall work with reasonable diligence to ensure that bulk form copies are timely produced to the bulk user.

(D) Fees Charged for Bulk Form Copies.

1. The Board of Commissioners finds and determines that the costs incurred by the County Recorder of producing bulk form copies (including applying a watermark or other protective feature) substantially exceed both the standard fee of ten cents (\$0.10) per page or per recorded document fixed by subsection (d) of IC 36-2-7-10.1, and the fee hereafter fixed. Accordingly the following fee schedule is hereby adopted:

- a. Fifteen cents (\$0.15) per page for a copy of a recorded document, including the instrument’s book and page, if applicable.
- b. Fifteen cents (\$0.15) per recorded document for a copy of the indices used by the County Recorder for finding, retrieving, and viewing a recorded document.

2. The fees charged by the County Recorder are subject to the following requirements:

a. The County Recorder shall pay the fees into the County Treasury at the end of each calendar month.

b. The fees prescribed and collected under this section supersede all other fees for bulk form copies required by law to be charged for services rendered by the County Recorder to bulk users.

c. All revenue generated by the County Recorder under this section shall be deposited in the County Recorder’s records perpetuation fund and used by the Recorder in accordance with IC 36-2-7-10(f).

(E) Bulk User Contract—Termination.

1. A bulk user must enter into a contract with the County Recorder and if the County Recorder uses a third party to provide bulk copy services, the County Recorder's designee, in order to receive bulk form copies. The contract must be in writing and must require that the bulk user agree not to do any of the following:

- a. Except as provided in Section (F), provide, transfer, or allow the transfer of any copy of a recorded document obtained by the bulk user under this section to a third party.
- b. Engage in unauthorized access to recorded documents.
- c. Engage in unauthorized alteration of recorded documents.

A contract required under this subsection may not include any restrictions on a bulk form user's use of the bulk form copies other than those contained in this section.

2. If a bulk user does not comply with a contract, the County Recorder may terminate the contract, immediately stop providing bulk form copies to the bulk user, and refuse to provide the bulk form copies required by the bulk user if all termination provisions and procedures in the contract have been met by the County Recorder. The County Recorder may refuse subsequent requests from a bulk user for bulk form copies in the following circumstances:

- a. The bulk user is a person that has had a previous bulk form copy contract terminated by the County Recorder because the Recorder determined that the bulk user failed to comply with the contract

- b. The bulk user is a corporation or limited liability company in which a person has a majority or controlling interest and:

- A. the person requested bulk form copies under a previous contract with the County Recorder; and

- B. the contract was terminated by the County Recorder because the County Recorder determined that the person failed to comply with the contract.

(F) Resale of Bulk Form Copies by Bulk User.

1. A bulk user that is licensed under IC 27-1-15.6-6(d) or holds a certificate of authority under IC 27-7-3-6 may provide bulk form copies related to the specific order for a title search (as defined in IC 27-7-3-2) when operating as:

- a. a title plant for the issuance of title insurance (as defined in IC 27-7-3-2); or

- b. title company (as defined in IC 27-7-3-2).

A bulk user that meets the requirements of this subsection may charge its customers a fee for using the bulk form copies obtained by the bulk user that may not exceed the costs incurred by the bulk user for obtaining the bulk form copies. A bulk user that meets the requirements of this subsection may not resell, provide, transfer, or allow the transfer of any copy of a recorded document, whether in bulk form or as individual copies or images, to any other bulk user or title plant.

2. A bulk user that does not meet the requirements of subsection (a) immediately above is prohibited from selling, offering for sale, advertising for sale, soliciting a purchase of, loaning, giving away, allowing subscription service to, or otherwise transferring, provide, or allowing the transfer of bulk form copies for commercial purposes to a third party, whether the copies are in bulk form or individual copies or images.

(G) This Section does not apply to enhanced access authorized under IC 5-14-3-3 and any County Ordinances promulgated thereunder.

Ordinance No. 2020-0817, passed August 17, 2020)

§ 37.05 ACCESS TO PUBLIC RECORDS

(A) The Board of Commissioners shall designate a person or persons responsible for public records release decisions and this person(s) shall make the final determination of whether to approve or deny a request.

(B) All requests for public documents shall be made in writing by completing a Request for Public Records Form, available from the County Auditor's Office, which form shall be created and/or reviewed by the County Attorney and made available to the public by the County Auditor's Office.

1. The Request for Public Records Form shall be the only accepted form for making such requests.

2. The Request for Public Records Form shall be obtained from and submitted to the County Auditor's Office during regular business hours.

3. Each request shall identify with reasonable particularity the record being requested. A request identifies a law enforcement recording with reasonable particularity only if the request provides the following information regarding the law enforcement activity depicted in the recording:

- a. The date and approximate time of the law enforcement activity.
- b. The specific location where the law enforcement activity occurred.
- c. The name of at least one (1) individual, other than a law enforcement officer, who was directly involved in the law enforcement activity.

(C) To recover the costs of reproducing these records, the County Auditor's Office shall assess the person(s) making the request a charge of \$.10 per page for photocopying of black and white single-sided standard 8 ½ x 11 inch paper or 8 ½ x 14 inch paper, \$.25 per page for photocopying of color single-sided standard 8 ½ x 11 inch paper or 8 ½ x 14 inch paper, and \$.50 per page for photocopying of black and white single-sided 11 x 17 inch paper.

The County Treasurer and Assessor shall assess a charge of \$1.00 per page for photocopying of black and white single-sided standard 8 ½ x 11 inch perforated paper.

The County Treasurer and Auditor shall assess a charge of \$25.00 per extract file, plus an additional \$25.00 per hour for time spent by any County public office researching or complying with requests for extract files.

The County Sheriff's Department shall assess a charge of \$8.00 per traffic accident report, pursuant to I.C. § 9-29-11-1. The fee for providing law enforcement recordings is \$150.00 per recording.

For copying photographs, audio tapes, electronic media, non-standard documents, and other items that may not be duplicated on a standard photocopier, other than law enforcement recordings, the County Auditor's Office shall charge the direct cost for such copying, as defined by I.C. § 5-14-3-2, as that section may be amended from time to time.

(D) Any county department required to provide certification of any document being provided to a person requesting such certification, shall pay a fee of \$1.00 per page certified, up to a maximum fee of \$5.00 per document certified.

(E) Pursuant to I.C. § 5-14-3-3, as that section may be amended from time to time, a person who obtains public records or information, which includes either the name, address, telephone number, property location, account balances, or any identifying information, shall not use the public records for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by the request to any other person for these purposes. Any person or organization that violates this provision shall be fined Twenty-five Hundred Dollars (\$2500.00) for each violation, and each record obtained in violation of this provision shall constitute a separate violation.

(Ordinance No. 2019-1118, passed November 18, 2019; amended by Ordinance No. 2021-0405, passed April 4, 2021)

TITLE IV: FEES, LICENSES, PERMITS

- 40. GENERAL PROVISIONS**
- 41. HEALTH DEPARTMENT FEES**
- 42. SHERIFF'S DEPARTMENT FEES**
- 43. PERMITS, LICENSES AND ALLOWANCES**
- 44. MISCELLANEOUS FEES**

CHAPTER 40: GENERAL PROVISIONS

Section

40.01 Authority to Grant Licenses and Permits

40.02 Authority to Charge Fees

§ 40.01 AUTHORITY TO GRANT LICENSES AND PERMITS

(A) The Board of Commissioners may grant licenses, or franchises for the use of County Property if they:

1. are not exclusive;
2. are of a definite duration; and
3. are assignable only with the consent of the Executive.

(B) Public utilities shall be governed by applicable State law.

§ 40.02 AUTHORITY TO CHARGE FEES

The County may impose a fee for such licenses or permits which is reasonably related to the administrative cost of exercising the regulatory powers.

CHAPTER 41: HEALTH DEPARTMENT FEES

Section

41.01 Health Department Fees

§ 41.01 HEALTH DEPARTMENT FEES

(A) There is hereby established the following uniform scheduled charges and fees which shall be charged for services and products provided by the Fountain-Warren County Health Department, as may be amended from time to time:

Birth Certificate	\$15.00 each
Additional Birth Certificates	\$ 5.00 each
Death Certificate	\$15.00 each
Genealogy Search	\$10.00 per record
Dye Test	\$50.00 each
Septic	
Residential	\$75.00
Commercial	\$125.00
Repair	\$75.00
Replacement	\$75.00
New Food Establishment	\$150.00
Food Permit Renewal	\$100.00
Temp/Mobile Food New	\$50.00
Temp/Mobile Food Renewal	\$50.00
Pool/Spa Permit	\$50.00
Tattoo/Body Piercing	\$50.00
Other Environmental Permit	\$50.00
STD Test Shipping Fee	\$10.00
TB Test	\$35.00
Adult Hepatitis A	\$55.00
Adult Hepatitis B	\$65.00
Adult Tdap	\$60.00
Adult Varicella	\$140.00
Adult and Child Non-vaccine Injection Fee	\$15.00
Adult and Child Allergy Injection Fee	\$25.00
VFC and Adult Medicaid Injection Fee	Medicaid Billing
Pregnancy Testing	Free
Hepatitis C and HIV Testing	Free
Vital Signs Check	Free
Head Lice Check	Free

(B) A permit for the installation of an on-site sewage disposal system (septic permit) shall lapse and be void if work and installation has not been completed within one (1) year of issuance; thereafter, a new permit will be required.

(C) Fees collected by the Fountain and Warren Health Department shall be allocated one-third (1/3) to Warren County and two-thirds (2/3) to Fountain County.

(Ordinance No. 2014-3, passed April 21, 2014; amending Ordinance No. 2010-4)

CHAPTER 42: SHERIFF'S DEPARTMENT FEES

Section

42.01 Reimbursement of the Cost of Incarceration

§ 42.01 REIMBURSEMENT OF THE COST OF INCARCERATION

(A) The County Council hereby fixes a per diem rate of thirty-seven and 50/100 dollars (\$37.50) as may be amended from time to time by the State legislature

(B) The amount of the reimbursement shall be as prescribed in I.C. 36-2-13-15(d) or as set by court in I.C. 35-50-5-4(c).

(C) If the court does not fix a reimbursement amount pursuant to I.C. 35-50-5-4(c), the county sheriff shall determine whether reimbursement is required under I.C. 36-2-13-15 because the person is not a member of a family that makes less than 150% of the federal poverty level guidelines.

(D) The county sheriff shall collect the amounts due; if the county sheriff does not collect the amount due to the county, the county attorney may collect the amount due.

(E) The Warren County Prisoner Reimbursement Fund is established as prescribed in I.C. 36-2-13-16.

(Ordinance No. 2020-0224, passed February 24, 2020; amending Ordinance No. 2009-7, passed August 16, 2009; amending Ordinance No. 1998-7, passed September 28, 1998; amending Ordinance No. 1998-6, passed September 21, 1998)

CHAPTER 43: PERMITS, LICENSES AND ALLOWANCES

Section

- 43.01 Licensing of Transient Merchants
- 43.02 Veterans' Burial Allowance

§ 43.01 LICENSING OF TRANSIENT MERCHANTS

(A) "Transient Merchant" shall be every person or firm who engages in, does, or transacts any temporary or transient business in this county, either in one (1) locality or in traveling from place to place, offering for sale or selling goods, wares or merchandise, and those who, for the purpose of carrying on such business hire, lease or occupy any room, building, vehicle, car, store, shop, vacant lot, parking lot, tent, or other structure for the exhibition and sale of goods, wares and merchandise.

(B) The provision of this ordinance shall not apply to persons or firms that grow and cultivate products on their farms or gardens or who make crafts or items by hand that are sold or offered for sale; auctioneers; a resident of the county who conducts a sale of tangible personal property for no more than four (4) days per calendar year; an organization exempt from Indiana gross retail tax under IC 6-2.5-5-26; a person who sells or offers to sell merchandise which sale is being conducted as part of an activity sponsored by a school or other non-profit organization; sheriffs or other public officers selling goods, wares, or merchandise for the benefit of creditors; merchants or their employees delivering goods in the usual course of business; and vendors of food products who distribute such to regular customers on established routes.

(C) It shall be unlawful for any transient merchant to engage in or transact any business as such in the County without first having obtained a license.

(D) Applicants for a license shall file with the County Auditor, on a form provided by him or her, a verified application in writing that shall give the following information:

1. Name, residence and post office address of applicant.
2. If applicant is a corporation or limited liability company, the date of incorporation or organization and the date qualified to transact business in Indiana.
3. A brief description of the nature of the business.
4. The length of time for which the right to do business is desired.
5. The location of such proposed place of business if any permanent or mobile building, structure or real estate is to be used for exhibition.
6. A detailed inventory and description of the goods, wares and merchandise to be offered for sale or sold, the manner in which the same is to be advertised for sale and the representations to be made in connection therewith, the persons from whom the goods, wares and merchandise were obtained, the date of receipt of such by the license applicant, the place from which the same were last taken and all details necessary to locate and identify all goods, wares and merchandise to be sold.
7. Attached to the application shall be a receipt showing that all personal property taxes on the goods, wares and merchandise have been paid.
8. Attached to the application shall be a copy of the notice required by IC 25-

37-1-4(f).

(E) No license shall be issued until the Warren County Sheriff conducts an investigation. If the Sheriff determines that the applicant's character is unsatisfactory or that the conduct of the license is sought will be contrary to the health, safety, or welfare of the public, no license will be issued.

(F) The applicant shall pay to the County Treasurer as a license fee the sum of twenty-five dollars (\$25.00) for a six (6) month period. A surety bond as prescribed in IC 25-37-1-5 is hereby waived.

(G) The license shall show the date of issue, the activity licensed, and the term that the license covers. The County Auditor shall keep a record of all licenses issued.

1. Every licensee shall carry his or her license upon his or her person at all times when engaged in the activity for which the license was granted, except that where the activity is conducted at a fixed place or establishment, the license shall be exhibited in a conspicuous place in the place of business.

2. The licensee shall exhibit the license when applying for a renewal and upon demand of any law enforcement officer or person representing the County Auditor.

3. A transient merchant shall solicit or transact business only Monday through Friday from nine o'clock AM to seven o'clock PM excluding all county observed holidays.

4. Within ten (10) days after the license expires the holder shall file, in duplicate, a verified inventory of all goods, wares and merchandise sold and the price received therefore, and the Auditor shall forward a copy to the Indiana Department of Revenue.

(H) Any license issued may be revoked by the County Board of Commissioners for any of the following causes:

1. Fraud, misrepresentation or inaccurate statement contained in the application.

2. Actions unauthorized or beyond the scope of the license granted.

3. Violation of any provision of this ordinance applicable to the activity for which the license has been granted, or any application regulation or law of the state.

4. Failure to continuously comply with all conditions required as precedent to the approval of the license.

(I) Any person violating this ordinance shall, upon conviction, be fined not more than one hundred dollars (\$100.00) for each violation.

(Ordinance No. 2009-08, passed December 21, 2009)

§ 43.02 VETERANS' BURIAL ALLOWANCE

(A) The County shall pay a burial stipend of Two Hundred Fifty Dollars (\$250.00) to assist with the cost of the burial of an eligible veteran who has been honorably discharged from

the United States Army, the United States Air Force, the United States Navy, the United States Marines or the United States Coast Guard.

(B) The County shall pay such a claim for a burial allowance once, either when the veteran dies or when the spouse of the veteran dies, but not both, pursuant to State Form 49890.

(C) The claimant must provide appropriate certification of an honorable discharge from active duty for the veteran.

(D) An eligible veteran must have been a resident of the county for six (6) months immediately prior to his or her death. In order to verify residency, the claimant may submit the following with his or her claim:

1. Property tax bills or receipts;
2. A deed;
3. A lease agreement;
4. Any other appropriate evidence.

(Ordinance No. 2020-0803, passed August 3, 2020)

CHAPTER 44: MISCELLANEOUS FEES

Section

- 44.01 Administrative Fee with Foreclosure Sales
- 44.02 Service Fee for Dishonored Checks
- 44.03 Real Property Endorsement Fee
- 44.04 Bulk Copy Fee
- 44.05 Fee for Street and Alley Vacations

§ 44.01 ADMINISTRATIVE FEE WITH FORECLOSURE SALES

(A) The costs directly attributed to the administration of mortgage foreclosure sales under IC 32-29-7-3, are in the amount of at least \$125.00, and such amount shall be the fee for Sheriff Mortgage Foreclosure Costs.

(B) Fees collected under this ordinance are to be deposited in the County General Fund.

(Ordinance No. 2009-6, passed August 4, 2009)

§ 44.02 SERVICE FEE FOR DISHONORED CHECKS

(A) Any individual or person who delivers a check, draft, or order on a credit institution for the payment of money to, or to acquire money or other property from, any county office, which check, draft, or order is not paid or honored by the credit institution upon presentment in the usual course of business, will be responsible for and be charged a service fee of Twenty Dollars (\$20.00) by the applicable county office.

(B) After notice to the applicable county office that the check, draft, or order has not been paid by the credit institution, it shall be the responsibility of said county office, if it desires to collect said service charge, to send a notice by regular United States mail to either the address printed or written on the check, draft, or order or to the address given by the person in writing to the payee at the time the check, draft, or order was issued, that the check, draft, or order has not been paid by the credit institution.

(Ordinance No. 2016-15, passed May 16, 2016)

§ 44.03 REAL PROPERTY ENDORSEMENT FEE

(A) Pursuant to I.C. 36-2-9-18(d), the County Auditor is required to collect a fee in the amount of Ten Dollars (\$10.00) for each: (1) Deed; or (2) legal description of each parcel contained in the deed; for which the County Auditor makes a real property endorsement. There is hereby adopted a Ten Dollars (\$10.00) fee for each deed. This fee is in addition to any other fee provided by law. The Auditor shall place the revenue received under this section in a dedicated

fund for use in maintaining plat books, in traditional or electronic format.

(Ordinance No. 2019-1104B, passed November 4, 2019)

§ 44.04 BULK COPY FEE

(A) The following definitions shall apply throughout this Section:

1. "Bulk form copy" means an aggregation of:
 - a. copies of all recorded documents received by the County Recorder for recording in a calendar day, week, month, or year;
 - b. the indices for finding, retrieving, and viewing all recorded documents received by the county recorder for recording in a calendar day, week, month, or year; or
 - c. both clauses (a) and (b).
2. "Bulk user" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association that receives bulk form copies under a contract with the County Recorder.
3. "Copy" means a reproduction, including an image of a recorded document or indices created by:
 - a. duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage; or
 - b. reproducing on microfilm.
4. "Indices" means all of the indexing information used by the county recorder for finding, retrieving, and viewing a recorded document.
5. "Recorded document" means a writing, a paper, a document, a plat, a map, a survey, or anything else received at any time for recording or filing in the public records maintained by the County Recorder or the County Recorder's designee.

(B) It is hereby established that the County Recorder through Fidler shall provide bulk form copies to a bulk user only by electronically transmitting the copies using an electronic transfer process.

(C) A bulk user must submit a written request to the County Recorder that identifies the requested bulk form copies with reasonable particularity. Unless the request is refused under Section G, upon receipt of a valid written request the County Recorder or the County Recorder's designee shall provide the bulk form copies to the bulk user by the method or methods established by Ordinance. The bulk form copies shall be provided within a reasonable time after the later of the following events:

1. The Recorder's archival process is completed and bulk form copies become available in the County Recorder's Office.
2. The bulk form user executes a contract that meets the requirements of Section F with:
 - a. the County Recorder; and
 - b. if the County Recorder uses a third party to provide bulk copy services, the County Recorder's designee.

(D) The County Recorder or the County Recorder's designee shall work with reasonable diligence to ensure that bulk form copies are timely produced to the bulk user.

(E) The Board of Commissioners finds and determines that the costs incurred by the County Recorder of producing bulk form copies (including applying a watermark or other protective feature) substantially exceed both the standard fee of ten cents (\$0.10) per page or per recorded document fixed by subsection (d) of IC 36-2-7-10.1, and the fee hereafter fixed.

1. Accordingly, the following fee schedule is hereby adopted:
 - a. Fifteen cents (\$0.15) per page for a copy of a recorded document, including the instrument's book and page, if applicable.
 - b. Fifteen cents (\$0.15) per recorded document for a copy of the indices used by the County Recorder for finding, retrieving, and viewing a recorded document.
2. The fees charged by the County Recorder are subject to the following requirements:
 - a. The County Recorder shall pay the fees into the County Treasury at the end of each calendar month.
 - b. The fees prescribed and collected under this section supersede all other fees for bulk form copies required by law to be charged for services rendered by the County Recorder to bulk users.
 - c. All revenue generated by the County Recorder under this section shall be deposited in the County Recorder's records perpetuation fund and used by the Recorder in accordance with IC 36-2-7-10(f).

(F) A bulk user must enter into a contract with the County Recorder and if the County Recorder uses a third party to provide bulk copy services, the County Recorder's designee, in order to receive bulk form copies.

1. The contract must be in writing and must require that the bulk user agree not to do any of the following:
 - a. Except as provided in Section G, provide, transfer, or allow the transfer of any copy of a recorded document obtained by the bulk user under this section to a third party.
 - b. Engage in unauthorized access to recorded documents.
 - c. Engage in unauthorized alteration of recorded documents.
2. A contract required under this subsection may not include any restrictions on a bulk form user's use of the bulk form copies other than those contained in this section.
3. If a bulk user does not comply with a contract, the County Recorder may terminate the contract, immediately stop providing bulk form copies to the bulk user, and refuse to provide the bulk form copies required by the bulk user if all termination provisions and procedures in the contract have been met by the County Recorder. The County Recorder may refuse subsequent requests from a bulk user for bulk form copies in the following circumstances:
 - a. The bulk user is a person that has had a previous bulk form copy contract terminated by the County Recorder because the Recorder determined that the bulk user failed to comply with the contract
 - b. The bulk user is a corporation or limited liability company in which a person has a majority or controlling interest and:
 - i. the person requested bulk form copies under a previous

contract with the County Recorder; and

ii. the contract was terminated by the County Recorder because the County Recorder determined that the person failed to comply with the contract.

(G) Resale of Bulk Form Copies by Bulk User.

1. A bulk user that is licensed under IC 27-1-15.6-6(d) or holds a certificate of authority under IC 27-7-3-6 may provide bulk form copies related to the specific order for a title search (as defined in IC 27-7-3-2) when operating as:

a. a title plant for the issuance of title insurance (as defined in IC 27-7-3-2); or

b. title company (as defined in IC 27-7-3-2).

2. A bulk user that meets the requirements of this subsection may charge its customers a fee for using the bulk form copies obtained by the bulk user that may not exceed the costs incurred by the bulk user for obtaining the bulk form copies. A bulk user that meets the requirements of this subsection may not resell, provide, transfer, or allow the transfer of any copy of a recorded document, whether in bulk form or as individual copies or images, to any other bulk user or title plant.

3. A bulk user that does not meet the requirements of subsection (a) immediately above is prohibited from selling, offering for sale, advertising for sale, soliciting a purchase of, loaning, giving away, allowing subscription service to, or otherwise transferring, provide, or allowing the transfer of bulk form copies for commercial purposes to a third party, whether the copies are in bulk form or individual copies or images.

(H) This Section does not apply to enhanced access authorized under IC 5-14-3-3 and any County Ordinances promulgated thereunder.

(Ordinance No. 2020-0817, passed August 17, 2020)

§ 44.05 FEE FOR STREET AND ALLEY VACATIONS

(A) For each street and/or alley vacation sought by an applicant who desires the County to prepare necessary Notices and Ordinances, the applicant shall pay a Document Fee of One Hundred Seventy-five Dollars (\$175.00). This Document Fee is payable at the time of filing the applicant's Petition at the County Courthouse.

(B) The applicant shall also be responsible for paying all publication and postage costs necessitated by the Petition for vacation together with all costs associate with obtaining a legal description of applicant's real estate if not provided by the applicant at the time of application.

(Ordinance No. 2020-0803, passed August 3, 2020)

TITLE V: PUBLIC WORKS AND SAFETY

- 50. GENERAL PROVISIONS**
- 51. HEALTH DEPARTMENT**
- 52. SHERIFF'S DEPARTMENT**
- 53. ANIMAL CONTROL**
- 54. NUISANCES**
- 55. DRUGS AND ALCOHOL**

**CHAPTER 50: PUBLIC HEALTH AND SAFETY MATTERS,
GENERAL PROVISIONS**

Section

- 50.01 Authority to Regulate
- 50.02 Preservation of Public Peace and Order
- 50.03 Authority to Regulate Air and Sound
- 50.04 Authority to Regulate Public Gatherings
- 50.05 Offense against Public Health, Order and Decency
- 50.06 Public Nuisances Prohibited
- 50.07 Fair Housing

§ 50.01 AUTHORITY TO REGULATE

The County may regulate the conduct, or use or possession of property which might endanger the public health, safety, or welfare of its citizens.

§ 50.02 PRESERVATION OF PUBLIC PEACE AND ORDER

The County may establish, maintain, and operate a police and law enforcement system to preserve public peace and order and may provide facilities and equipment for that system.

§ 50.03 AUTHORITY TO REGULATE AIR AND SOUND

The County may regulate the introduction of any substance or odor into the air, or any generation of sound.

§ 50.04 AUTHORITY TO REGULATE PUBLIC GATHERINGS

The County may regulate public gatherings, such as shows, demonstrations, fairs, conventions, sporting events, and exhibitions.

**§ 50.05 OFFENSES AGAINST PUBLIC HEALTH, ORDER
AND DECENCY**

All offenses against public health, order, and decency not addressed by this Code shall be governed by applicable State Statute.

§ 50.06 PUBLIC NUISANCES PROHIBITED

- (A) No person shall cause, permit, keep or maintain within the County anything which

is injurious to the public health, safety, or welfare or which is an obstacle to the free use of property. The existence of any of the above is declared to be a public nuisance, and is prohibited.

(B) Any nuisance identified in this Code are declared illegal. Such declaration is for the purpose of identification and shall not limit the scope of enforcement regarding other nuisances which may not be specifically addressed.

§ 50.07 FAIR HOUSING

(A) It shall be the policy of Warren County, Indiana to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the federal Civil Rights Act of 1968, as amended, the federal Housing and Community Development Act of 1974, as amended, and Indiana Code 22-9.5-1 et. seq.

(B) The definitions set forth in this Section shall apply throughout:

1. Dwelling means any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by one (1) or more families (I.C. 22-9.5-2-8).

2. Family includes a single individual (I.C. 22-9.5-2-9), with the status of such family being further defined in subsection (8) of this Section.

3. Person (I.C. 22-9.5-2-11), includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries.

4. To Rent (I.C. 22-9.5-2-13), includes to lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant.

5. Discriminatory Housing Practice means an act that is unlawful under Sections (D), (E), (F), (G) or (H) of this Section or I.C. 22-9.5-5.

6. Handicap means, with respect to a person:

a. a physical or mental impairment which substantially limits one or more of such person's major life activities.

b. a record of having such an impairment, or

c. being regarded as having such an impairment,

d. an impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990.

e. Any other impairment defined in 910 IAC 2-3.

The term 'Handicap' shall not include current illegal use of or addictions to a controlled substance as defined in Section 802 of Title 21 of the United States Code 910 IAC 2-3-2(14); nor does the term 'Handicap' include an individual solely because that individual is a transvestite 910 IAC 2-3-2(14).

7. An Aggrieved Person includes any person who (I.C. 22-9.5-2-2):

a. claims to have been injured by discriminatory housing practice; or

b. believes that such person will be injured by a discriminatory

housing practice that is about to occur.

8. Familial Status means one or more individuals who have not attained the age of 18 years being domiciled with a parent or another person having legal custody of such individual or the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

9. Commission (I.C. 22-9.5-2-3) means the Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4, et. Seq.

10. Complainant (I.C. 22-9.5-2-4) means a person, including the Commission, who files a complaint under I.C. 22-9.5-6.

(C) Subject to the provisions of subsection (B) of this Section, Section 9 of this Section and Title 22-9.5-3 of Indiana Code, the prohibitions against discrimination in the sale or rental of housing set forth Title 22-9.5-5-1 of Indiana Code and in Section 4 of this Section shall apply to:

1. All dwellings except as exempted by subsection 2 and Title 22-9.5-3 of Indiana Code.

2. Other than the provisions of subsection 3 of this Section, nothing in Section 4 shall apply to:

a. Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at any one time; provided that in the sale of such single family house by a private individual owner not residing in the house at the time of sale or exemption shall apply only to one such sale within any twenty-four (24) month period. The private individual owner may not own any interest in, nor have owned or reserved on his behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be exempted from application of this section only if such house is sold or rented:

i. without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesman, or person and

ii. without the publication, posting or mailing, after notice of advertisement or written notice in violation of Section (D)3 of this Section, but noting in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title, or

b. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

3. For the purposes of subsection 2, a person shall be deemed to be in the business of selling or renting dwellings if:

a. They have, within the preceding twelve (12) months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

b. They have, within the preceding twelve (12) months, participated

as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

c. They are the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five (5) or more families.

(D) As made applicable by Section (C) and except as exempted by Section (C)2 and (I), it shall be unlawful:

1. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, handicap, familial status or national origin.

2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, handicap, familial status or national origin.

3. To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status or national origin, or an intention to make any such preference, limitation or discrimination.

4. To represent to any person because of race, color, religion, sex, handicap, familial status or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

5. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status or national origin.

6. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:

a. that buyer or renter;

b. a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

c. any person associated with that person.

7. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:

a. that person; or

b. a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

c. any person associated with that person.

8. For purposes of this subsection, discrimination includes:

a. a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modifications, reasonable wear and tear excepted;

b. a refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

c. in connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 1998, a failure to design and construct those dwellings in such a manner that:

i. the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

ii. all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

iii. all premises within such dwellings contain the following features of adaptive design:

A. an accessible route into and through the dwelling;

B. light, switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

C. reinforcements in bathrooms such that an individual in a wheelchair can maneuver about the space.

Compliance with the appropriate requirement Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility and usability for physically handicapped people (commonly cited as “ANSI A117.1”) suffices to satisfy the requirements of paragraph c.iii.C.

Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(E) Discrimination in Residential Real Estate-Related Transactions

1. It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

2. As used in this section, the term residential real estate-related transaction means any of the following:

a. The making or purchasing of loans or providing other financial assistance:

i. for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

ii. secured by residential real estate.

b. The selling, brokering, or appraising of residential real property.

3. Nothing in this Section prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

(F) It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status or national origin.

(G) It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by sections (C), (D), (E) or (F) of this Ordinance.

(H) Whoever, whether or not acting under code or law, by force or threat of force willfully injures, intimidates or interferes with, or attempt to injure, intimidate or interfere with:

1. any person because of his race, color, religion, sex, handicap, familial status, or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

2. any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

a. participating, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection (1); or

b. affording another person or class of persons opportunity or protection so to participate; or

3. any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection 1, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined according to local, state and federal law; and if bodily injury results shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

(I) Pursuant to 24 CFR Part 5.403 and 24 CFR Part 574.3 the definition of "family" is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members.

(J) Exemptions

1. Exemptions defined or set forth under Title 22-9.5-3 et. seq. of Indiana Code shall be exempt from the provisions of this Section to include those activities or organizations set forth under subsections (B) and (C) of this Section.

2. Nothing in this Section shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to

persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this Section prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

3. Nothing in this Section regarding familial status shall apply with respect to housing for older persons. As used in this Section, 'housing for older persons' means housing:

a. provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the state civil rights commission determines is specifically designed and operated to assist elderly person (as defined in the state or federal program) or;

b. intended for, and solely occupied by, person 62 years of age or older; or

c. intended and operated for occupancy by at least one person 55 years of age or older per unit.

(K) Administrative Enforcement of Ordinance

1. The authority and responsibility for properly administering this Section and referral of complaints hereunder to the Commissioner as set forth in subsection 2 hereof shall be vested in the Chief Elected Official of the County.

2. Notwithstanding the provisions of I.C. 22-9.5-4-8, Warren County, Indiana, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under the Section, herein elects to refer all formal complaints of violation of the articles of this Section by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to Title 22-9.5-6 of Indiana Code and the Chief Elected Official of the County, shall refer all said complaints to the Commission as provided for under subsection 1 of this Section to said Commission for purposes of investigation, resolution and appropriate relief as provided for under Title 22-9.5-6 of Indiana Code.

3. All executive departments and agencies of Warren County, Indiana shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this Ordinance and shall cooperate with the Chief Elected Official and the Commission to further such purposes.

4. The Chief Elected Official of Warren County, Indiana, or the Chief Elected Official's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

(L) If any provision of this Section or the application thereof to any person or circumstances shall be determined to be invalid, the remainder of the Section and the application of its provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Ord. No. 2021-0119, passed January 19, 2021)

CHAPTER 51: HEALTH DEPARTMENT

Section

- 51.01 Food Establishments
- 51.02 On-site Sewage Disposal

§ 51.01 FOOD ESTABLISHMENTS

(A) Definitions

1. Bed and Breakfast Establishment (as defined in 410 IAC 7-15.5) means an Operator occupied residence that:

- a. provides sleeping accommodations to the public for a fee;
- b. has no more than fourteen (14) guest rooms;
- c. provides breakfast to its guests as part of the fee; and
- d. provides sleeping accommodations for no more than thirty (30)

consecutive days to a particular guest.

2. Conflict of Interest (derived from 68 IAC 9-1-1 (b)(2)) means a situation in which the private financial interest of Health Official, Health Official's spouse, ex-spouse, siblings, in-laws, children and/or unemancipated child, may influence the Health Official's judgment in the performance of a public duty. (Note: The Health Officials should follow the code of ethics if a code of ethics was established for Health Officials.

3. Food Establishment (as defined in IC 16-18-2-137) for purposes of IC 16-42-5 and IC 16-42-5.2, means any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food. The term does not include the following:

- a. A dwelling where food is prepared on the premises by the occupants, free of charge, for their consumption or for consumption by their guests.
- b. A gathering of individuals at a venue of an organization that is for educational purposes in a nonpublic educational setting or for religious purposes, if:
 - i. the individuals separately or jointly provide or prepare, free of charge, and consume their own food or that of others attending the gathering; and
 - ii. the gathering is for a purpose of the organization. Gatherings for the purpose of the organization include funerals, wedding receptions, christenings, bar or bat mitzvahs, baptisms, communions, and other events or celebrations sponsored by the organization.
- c. A vehicle used to transport food solely for distribution to the needy, either free of charge or for a nominal donation.
- d. A private gathering of individuals who separately or jointly provide or prepare and consume their own food or that of others attending the gathering, regardless of whether the gathering is held on public or private property.
- e. Except for food prepared by a for-profit entity, a venue of the sale of food prepared for the organization:
 - i. that is organized for religious purposes; or educational purposes in a nonpublic educational setting;

- ii. that is exempt from taxation under Section 501 of the Internal Revenue Code; and
 - iii. that offers the food for sale to the final consumer at an event held for the benefit of the organization; unless the food is being provided in a restaurant or a cafeteria with an extensive menu of prepared foods.
- f. Except for food prepared by a for-profit entity, an Indiana nonprofit organization that:
- i. is organized for civic, fraternal, veterans, or charitable purposes;
 - ii. is exempt from taxation under Section 501 of the Internal Revenue Code; and
 - iii. offers food for sale to the final consumer at an event held for the benefit of the organization;
 - iv. if the events conducted by the organization take place for not more than fifteen (15) days in a calendar year.
- g. An individual vendor of a farmers' market or roadside stand if the individual meets the requirements of IC 16-42-5-29.
- h. This definition also includes a Retail Food Establishment as defined in 410 IAC 7-24; however it does not include a Bed and Breakfast Establishment.
1. Fountain/Warren County Health Department means the local health department in Warren County or authorized representative having jurisdiction over a Bed and Breakfast Establishment and/or Food Establishment.
 2. Health Official means any Official of Warren County, Indiana. Hazard Analysis Critical Control Point (HACCP) Plan (as defined in 410 IAC 7-24) means a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.
 3. Health Officer means the person, appointed as specified in IC 16-20-2-16, or his/her duly authorized representative, as specified in IC 16-20-1-14, who may conduct inspections and make a final decision on an enforcement action.
 4. Hearing Officer means an individual or panel of individuals acting in the capacity of a Hearing Officer in an appeals process. The Hearing Officer is not the Health Officer or any other employee of the Fountain/Warren County Health Department. (Examples of Hearing Officer could be the Fountain/Warren County Health Board, a subcommittee of Fountain/Warren County Health Board, a subcommittee of health professionals from the community or other non-bias third party appointed by the Health Board.)
 5. Imminent Health Hazard means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury or illness based on the number of potential injuries and illnesses and the nature, severity and duration of the anticipated injury or illness [e.g., sewage backing up in a food preparation area or contamination of food products with toxic materials].
 6. Inspection Report means the document prepared by the Fountain/Warren County Health Department that is completed as the result of the inspection and provided to the Operator.

7. Operator means the person who has a primary oversight responsibility for operation of the establishment through ownership, or lease or contractual agreement, and who is responsible for the storage, preparation, display, transportation or serving of food to the public.

8. Order (derived from IC 4-21.5-1-9) means a Fountain/Warren County Health Department action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific Persons. The term includes a permit.

9. Permit means the document issued by the Fountain/Warren County Health Department that authorizes a Person to operate a Bed and Breakfast Establishment and/or Food Establishment.

a. (Full Time Establishment 6 months or more)

b. (Temporary, Seasonal and Mobil 6 months or fewer)

10. Person means an association; a corporation; an individual; partnership; or other legal entity, government, or governmental subdivision or agency.

(B) Plan Review

1. The owner or other authorized agent of an existing or proposed Bed and Breakfast Establishment and/or Food Establishment shall submit to the Fountain/Warren County Health Department properly prepared plans and specifications for review and approval before:

a. the construction of a Bed and Breakfast Establishment and/or Food Establishment;

b. the conversion of an existing structure for use as a Bed and Breakfast Establishment and/or Food Establishment; or

c. the remodeling of a Bed and Breakfast Establishment and/or Food Establishment or a change of type of Bed and Breakfast Establishment and/or Food Establishment or food operation if the Fountain/Warren County Health Department determines that plans and specifications are necessary to ensure compliance with this section.

2. The plans and specifications for a Bed and Breakfast Establishment and/or Food establishment shall include, the type of operation, type of food preparation (as specified in Appendix A of the published version of 410 IAC 7-24), and the menu.

3. The plans and specifications shall be deemed satisfactory and approved by Fountain/Warren County Health Department before a Permit can be issued.

4. A pre-operational inspection shows that the Bed and Breakfast Establishment and/or Food Establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this ordinance, 410 IAC 7-24 and/or 410 IAC 7-15.5.

(C) It is unlawful for a Person to operate any Bed and Breakfast Establishment and/or Food Establishment, without first obtaining a valid Permit from the Health Officer. The valid Permit must be posted in a location conspicuous to customers in the Bed and Breakfast Establishment and/or Food Establishment. Only persons who comply with the applicable requirements of 410 IAC 7-15.5 and /or 410 IAC 7-24 will be entitled to obtain and keep a Permit. A separate Permit shall be required for each Bed and Breakfast Establishment, and/or Food Establishment operated or to be operated by any Person. A Permit issued under this ordinance is not transferable. A Bed and Breakfast Establishment and/or Food Establishment permitted by Fountain/Warren County Health Department shall be considered registered as

required in IC 16-42-1-6.

1. Permit Period: (Full Time Establishment 6 months or more) A Permit for a Bed and Breakfast Establishment and/or Food Establishment shall be issued for a term beginning January 1, and/or before commencement of operation, and expiring December 31, of the same year and shall be applied for by the Person and/or Operator annually. If a Permit is applied for after July 1, a prorated fee could apply to get on a regular schedule. A Permit for a temporary Food Establishment shall be for the term of 6 months or fewer of continuous operation.

2. Any Permit issued by the Health Officer shall contain

a. the name and address of the Person and/or owner to whom the Permit is granted;

b. the location of the establishment for which the Permit is issued;

c. the issuance and expiration date(s); and

d. other such pertinent data as may be required by the Fountain/Warren County Health Officer.

3. A Person desiring to operate a Bed and Breakfast Establishment and/or Food Establishment shall submit to the Fountain/Warren County Health Department a written application for a Permit on a form provided by the Fountain/Warren County Health Department.

4. The application shall include:

a. The name, mailing address, telephone number, e-mail, and original signature of the Person and/or Operator applying for the Permit and the name, mailing address, and location of the Bed and Breakfast Establishment and/or Food Establishment;

b. Information specifying whether the Bed and Breakfast Establishment and/or Food Establishment is owned by an association, corporation, individual, partnership, or other legal entity;

c. A statement specifying whether the Bed and Breakfast Establishment and/or Food Establishment:

- i. If not permanent, is mobile and/or temporary, and
- ii. If the operation includes one or more of:
 - D. Prepares, offers for sale, or serves potentially hazardous food:
 - (1) Only to order upon a consumer's request;
 - (2) In advance in quantities based on projected consumer demand and discards food that is not sold or served at an approved frequency; or
 - (3) Using time, rather than temperature, as the public health control as specified under 410 IAC 7-24.
 - (4) Prepares acidified foods as defined in 410 IAC 7-21-3.
 - E. Prepares potentially hazardous food in advance using a food preparation method that involves two or more steps which may include combining potentially hazardous ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing;
 - F. Prepares food as specified under item (3)(B)(2) of

this section for delivery to and consumption at a location off the premises of the Bed and Breakfast Establishment and/or Food Establishment where it is prepared.

- G. Prepares food as specified under item (3)(B)(2) of this section for service to a highly susceptible population, as defined in 410 IAC 7-24;
- H. Prepares only food that is not potentially hazardous; or
- I. Does not prepare but offers for sale only prepackaged food that is not potentially hazardous.

d. The name, title, address, and telephone number of the Operator directly responsible for the Bed and Breakfast Establishment and/or Food Establishment.

e. The name, title, address, and telephone number of the Person who functions as the immediate supervisor of the Person specified under subdivision (4) of this section, such as the zone, district, or regional supervisor;

f. The names, titles, and addresses of:

i. The Persons comprising the legal ownership as specified under subdivision (2) of this section including the owners and Operator(s), and

ii. The local resident agent if one is required based on the type of legal ownership;

g. A statement signed by the applicant that:

i. Attests to the accuracy of the information provided in the application, and

ii. Affirms that the applicant will comply with this ordinance, and allow the Fountain/Warren County Health Department access to the Bed and Breakfast Establishment and/or Food Establishment and records as specified in 410 IAC 7-15.5 and 410 IAC 7-24;

h. Other information required by the Fountain/Warren County Health

Department.

5. To qualify for a Permit, an applicant must:

a. Be an owner and/or Operator of the Bed and Breakfast Establishment and/or Food Establishment;

b. Comply with the requirements of this ordinance;

c. Agree to allow access to the Bed and Breakfast Establishment and/or Food Establishment and provide required information; and

d. Pay the applicable Permit fees at the time the application is submitted.

6. The following must be done prior to the change of ownership;

a. Notification to the Fountain/Warren County Health Department

b. Inspection of the facility by the Fountain/Warren County Health Department.

c. The Fountain/Warren County Health Department may renew a Permit for an existing Bed and Breakfast Establishment, and/or Food Establishment or may issue

a Permit to a new owner of an existing Bed and Breakfast Establishment and/or Food Establishment after a properly completed application is submitted, reviewed, and approved, the fees are paid, and an inspection shows that the establishment is in compliance with this ordinance.

7. The Owner or Operator will notify the Fountain/Warren County Health Department when permanently closing a facility. Upon acceptance of the Permit issued by the Fountain/Warren County Health Department, the Operator, in order to retain the Permit, shall:
 - a. Comply with the provisions of this ordinance and all laws and rules adopted by reference herein and the conditions of any variances granted by the Indiana State Department of Health;
 - b. Immediately discontinue affected operations and notify the Fountain/Warren County Health Department if an Imminent Health Hazard may exist;
 - c. Allow representatives of the Fountain/Warren County Health Department access to the Bed and Breakfast Establishment and/or Food Establishment at all reasonable times;
 - d. Comply with directives of the Fountain/Warren County Health Department including time frames for corrective actions specified in Inspection Reports, notices, Orders, warnings, and other directives issued by the Fountain/Warren County Health Department in regard to the Operator's Bed and Breakfast Establishment and/or Food Establishment or in response to community emergencies;
 - e. Accept notices issued and served by the Fountain/Warren County Health Department; and
 - f. Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this ordinance or a directive of the Fountain/Warren County Health Department.
 - g. Post the Permit in a location in the Bed and Breakfast Establishment and/or Food Establishment that is conspicuous to consumers;

(D) It shall be unlawful for any Person to operate a Bed and Breakfast Establishment and/or Food Establishment in Fountain/Warren County, who has not paid the Permit fee required to be paid for the operation of such establishment. The fee shall be paid for a term beginning January 1, and/or before commencement of operation and expiring December 31, of the same year and the permit shall be applied for by the Person and/or Operator annually. A prorated Permit may be applied if the application is after July 1,

Permit fees for the issuance of a Permit under this Ordinance to a Bed and Breakfast Establishment and/or a Food Establishment shall be set by the Fountain/Warren County Health Department, as provided by the Statutes of the State of Indiana. (See IC 16-20-1-27)

A receipt for the payment of such fee shall be provided by the Fountain/Warren County Health Department.

The payment of such fees shall be required for each Bed and Breakfast Establishment and/or Food Establishment operated or to be operated by any Person.

1. An organization that is exempt under IC 16-18-3-137 will not be subject to permit fees.
2. A late fee for failure to pay the permit fee prior to the operation of the Bed and Breakfast Establishment and/or Food Establishment or the late fee for failure to renew a permit after the expiration of the permit to operate Bed and Breakfast Establishment and/or Food

Establishment shall be assessed as set by the Fountain/Warren County Health Board.

3. The payment of fees under this ordinance is not transferable or refundable.

(E) The Fountain/Warren County Health Department shall inspect a Bed and Breakfast Establishment and/or Food Establishment at least once every 6 months, unless a system of risk-based inspections is utilized as stated below.

1. The Fountain/Warren County Health Department may modify the interval between inspections beyond 6 months if:

- a. The Bed and Breakfast Establishment and/or Food Establishment is fully operating under an approved and validated Hazard Analysis Critical Control Point (HACCP) plan(s); or

- b. The Bed and Breakfast Establishment and/or Food Establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction and at least once every 6 months the establishment is contacted by telephone or other means by the regulatory authority to ensure that the establishment manager and the nature of food operation are not changed; or

- c. The establishment's operation involves only coffee service and other unpackaged or prepackaged food that is not potentially hazardous (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) such as carbonated beverages and snack food such as chips, nuts, popcorn, and pretzels. (Information taken from the 2009 FDA Model Food Code Section 8-401.10 Establishing Inspection Intervals)

2. The Fountain/Warren County Health Department shall periodically inspect throughout its Permit period a temporary Food Establishment that prepares, sells, or serves unpackaged potentially hazardous food and may inspect a temporary Food Establishment that prepares, sells or serves unpackaged, non-potentially hazardous food that:

- a. Has improvised rather than permanent facilities or equipment for accomplishing functions such as hand washing, food preparation and protection, food temperature control, ware washing, providing drinking water, waste retention and disposal, and insect and rodent control; or

- b. Has food employees that have not demonstrated knowledge, as per 410 IAC 7-24, of food operations.

3. Within the parameters specified in the above Inspection Subsection(s) of this Ordinance, the Fountain/Warren County Health Department shall prioritize, and conduct more frequent inspections based upon its assessment of a Bed and Breakfast Establishment and/or Food Establishment's history of compliance with this ordinance and the Bed and Breakfast Establishment and/or Food Establishment's potential as a vector of foodborne illness by evaluating:

- a. Past performance, for violations of 410 IAC 7-15.5, 410 IAC 7-24 and/or 410 IAC 7-22 and/or HACCP plan requirements that are critical or non-critical;

- b. Past performance, for numerous or repeat violations of 410 IAC 7-15.5 and/or 410 IAC 7-24 and/or HACCP plan requirements that are noncritical;

- c. Past performance, for complaints investigated and found to be valid;

- d. The hazards associated with the particular foods that are prepared, stored, or served;

- e. The type of operation including the methods and extent of food

storage, preparation, and service;

f. The number of people served; and

g. Whether the population served is a highly susceptible population as defined by Indiana law.

4. After the Fountain/Warren County Health Department presents official credentials and provides notice of the purpose of and the intent to conduct an inspection, the Operator shall allow the Fountain/Warren County Health Department to determine if the Bed and Breakfast Establishment and/or Food Establishment, is in compliance with this ordinance by allowing access to the establishment, allowing inspection, and providing information and records specified in this ordinance. The Fountain/Warren County Health Department is entitled the information and records according to IC 16-42-1-13 and IC 16-42-5-23, during the Bed and Breakfast Establishment and/or Food Establishment's hours of operation and other reasonable times. Access is a condition of the acceptance and retention of a food establishment Permit to operate. If access is denied, an Order issued by the appropriate authority allowing access may be obtained according to law. (See IC 16-20-1-26)

5. At the conclusion of the inspection, all inspection findings shall be recorded on an inspection report form and a copy given to the person in charge (PIC) at the time of inspection, as provided by IC 16-20-8. The Health Department Environmental Health Specialist (EHS) will review any recorded violations with the PIC and provide education on appropriate guidelines and actions needed to correct any violation.

Each inspection will be scored and assigned a letter grade for the food establishment. The grade will correspond with the standard numerical scoring system based on critical and non-critical violations noted during the inspection. Critical and non-critical violations are determined by the Indiana State Board of Health, Retail Food Establishment Sanitation Requirements, Title 410 IAC 7-24. Scoring will be as follows, with points for noted violations subtracted from a perfect score of 100 points (no violations): Critical Violation=3 points and Non-Critical Violations=2 points.

Letter grades shall be assigned as follows: a score between 90-100 shall be assigned an A; a score between 80-89 shall be assigned a B; a score between 70-79 shall be assigned a C; and a score below 70 shall result in CLOSURE of the food establishment until a subsequent inspection results in a letter grade being assigned. The EHS will also provide a food establishment score form displaying the letter grade based on the inspection report. The food establishment score form shall be posted in a place for public viewing and shall not be tampered with, mutilated, or removed, subject to the penalties provided for violations of this ordinance, until it is replaced by a food establishment score form by the EHS following a subsequent inspection. The Health Department may, at its discretion, also publicly post the name of food establishments inspected and the letter grade the establishment received approximately two weeks following each inspection.

Inspection reports shall establish a specific, reasonable time frame in which all listed violations, if any are found, shall be corrected. Follow-up inspections may be needed depending on the violations listed in the initial inspection report.

6. Except as specified in the next paragraph, an Operator shall at the time of inspection correct a critical violation of 410 IAC 7-15.5, 410 IAC 7-24 and/or 410 IAC 7-22 and implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit.

Considering the nature of the potential hazard involved and the complexity of the

corrective action needed, the Fountain/Warren County Health Department may agree to or specify a longer time frame after the inspection for the Operator to correct critical code violations or HACCP plan deviations.

After receiving notification that the Operator has corrected a critical violation or HACCP plan deviation, or at the end of the specified period of time, the Fountain/Warren County Health Department shall verify correction of the violation, document the information on an Inspection Report, and enter the report in the Fountain/Warren County Health Department's records.

7. Refusal to sign an acknowledgment of receipt will not affect the Operator's obligation to correct the violations noted in the Inspection Report within the time frames specified. A refusal to sign an acknowledgment of receipt is noted in the Inspection Report and conveyed to the Fountain/Warren County Health Department historical record for the Bed and Breakfast Establishment and/or Food Establishment. The Operator is not necessarily in agreement with the findings of the Fountain/Warren County Health Department inspection by acknowledgement of receipt.

8. Except as specified in Section 194 (Trade Secrets) of 410 IAC 7-24, the Fountain/Warren County Health Department shall treat the Inspection Report as a public document and shall make it available for disclosure to a Person who requests it as provided in law. (See IC 16-20-8)

(F) Compliance and Enforcement

1. If an application for a plan review and/or Permit to operate a Bed and Breakfast Establishment and/or Food Establishment is denied, the Fountain/Warren County Health Department shall provide the applicant with a notice that includes:

- a. The specific reasons and rule citations for the application and/or Permit denial;
- b. The actions, if any, that the applicant must take to qualify for the application and/or Permit; and
- c. Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.

2. The Fountain/Warren County Health Department may revoke a Permit to operate a Bed and Breakfast Establishment and/or Food Establishment for a time period not to exceed 90 calendar days. If the Permit has been revoked in the past and a clear demonstration of non-compliance is demonstrated by the Permit Holder, then the Permit may be revoked for a longer period of time as determined by the Health Officer.

3. The Fountain/Warren County Health Department may suspend a Permit to operate a Bed and Breakfast Establishment and/or Food Establishment if it determines through inspection, or examination of employee, food, records, or other means as specified in this ordinance, that an Imminent Health Hazard exists. A suspension shall not exceed 30 calendar days. The permit may be suspended for a longer period of time as determined by the Health Officer.

4. An Operator of a Bed and Breakfast Establishment and/or Food Establishment shall immediately discontinue operations and notify the Fountain/Warren County Health Department if an Imminent Health Hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary

occurrence or condition, or other circumstance that may endanger public health. An Operator need not discontinue operations in an area of an establishment that is unaffected by the Imminent Health Hazard.

5. If a Bed and Breakfast Establishment and/or Food Establishment has discontinued operations for the reasons stated above or otherwise according to law, the Operator must obtain approval from the Fountain/Warren County Health Department before resuming operations.

6. Any outstanding fees and fines owed to the Fountain/Warren County Health Department shall be paid prior to the issuance of a permit.

7. The following are options available to the Fountain/Warren County Health Department for consideration:

a. The following critical violations are examples of violations that warrant immediate action.

- i. Vermin activity that results in food adulteration
- ii. Vermin evidence that indicates current activity that may result in food adulteration
- iii. Food that contains any filthy, decomposed or putrid substances, unsound food, or food that may be poisonous or deleterious to health or otherwise unsafe
- iv. Severe environmental conditions causing food contamination such as fire, floods, toxic chemical release, sewage/plumbing disrepair and water contamination
- v. Employee hygienic practices or health conditions that may result in gross contamination, such as:
 - A. Employee ill, skin lesions or other conditions as in 410 IAC 7-21-35 And 410 IAC 7-24-120, or
 - B. Bare hand contact of ready-to-eat foods or lack of hand washing facilities
- vi. Misbranded products
- vii. Potentially hazardous foods not cooked to proper temperature
- viii. Potentially hazardous food not held at proper cold/hot temperatures or properly cooled
- ix. A cutting board used to cut raw meat not cleaned and sanitized prior to being used to cut lettuce for salad preparation
- x. Raw meats stored over ready-to-eat foods

If immediate action is required at the time of inspection, one or more of the following options may be utilized:

- i. Destruction or denaturing of adulterated product(s) (See IC 16-42-2-6)
- ii. Voluntary disposition by removing the affected food from sale and the Fountain/Warren County Health Department witnessing the disposition
- iii. Embargo the food(s) by placing a completed Public Notice of Embargo form on designated products to hold products

for five (5) days. (See IC 16-42-1-18) Embargoing may be used when a firm refuses to discard adulterated or misbranded products. If appropriate, food samples can be collected for analysis

- iv. Reconditioning or salvaging of food may be appropriate, such as relabeled, reheated or converted to animal feed
- v. Cease and Desist Order(s) may be issued when violation(s) constitute an imminent health hazard or when a firm operates without a valid permit
- vi. Suspension of the permit(s) to operate the establishment(s) until the imminent health hazard is abated.
- vii. A follow-up inspection may be conducted when deemed necessary and new violations may be documented as observed.

b. The enforcement options listed in this section may be used if the same critical violation is documented on consecutive inspections, whether corrected or uncorrected at the time of the visit. A history of noncompliance is established when there are two (2) consecutive inspections documenting the same critical violation(s).

- i. After a first or second follow-up inspection has been conducted, one or more the following options may be utilized:
 - A. Letter of warning
 - B. A follow-up inspection within thirty (30) days in which new violations may be documented as observed
- ii. In addition to the options listed in B(1), after the third or more follow-up inspection, one or more of the following options may be utilized:
 - A. Issue a notice of violation from the Health Officer which may include the following:
 - (1) Levying civil penalties as provided in Indiana Code (IC) 16-19-3-4, IC 16-42-5-28, 410 IAC 7-22 and 410 IAC 7-23, and/or
 - (2) Developing an agreement (consent decree) between the two (2) parties involved as part of the action. The agreement may include but is not limited to:
 - aa. Training provided by the Health Department, food safety consulting firm or the Indiana State Department of Health
 - bb. Maintaining a documented cleaning schedule and have available for review
 - cc. Maintaining pest control records and have available for review
 - dd. Correction of all violations within a

specified period of time

ee. A follow-up inspection of the establishment(s), in which the action has been initiated, may be scheduled within thirty (30) days of adoption of the agreement (consent decree). New violations may be documented as observed.

B. Issue a notice of permit revocation.

c. Critical Violations - Non-Consecutive Inspections. The enforcement options listed in Sections B(1) and B(2) may be used if the same critical violation is documented on non-consecutive inspections, which is corrected after each documentation. A history of noncompliance is established when there are three (3) non-consecutive inspections documenting the same critical violation(s).

d. The enforcement options listed in this section may be used if the same non-critical violation is documented on consecutive inspections, whether connected or unconnected at the time of the visit. A history of noncompliance is established when there are three (3) consecutive inspections documenting the same non-critical violation(s). The enforcement options listed in Sections B(1) and B(2) may also be utilized if, in the opinion of the Health Officer, such action is warranted.

- i. After a first or second follow-up inspection has been conducted, one or more of the following options may be utilized:
 - A. Letter of warning
- ii. In addition to the options listed in Section D(1), after the third or more follow-up inspection, one or more of the following options may be utilized:
 - A. Issuing a notice of violation from the Health Officer:
 - B. A follow-up inspection within thirty (30) days in which new violations may be documented as observed.
- iii. In addition to the options listed in Sections D(1) and D(2), after the fourth follow-up inspection, one or more of the following options may be utilized:
 - A. Issue a notice of violation from the Health Officer which may include the following:
 - (1) Levying civil penalties as provided in Indiana Code (IC) 16-19-3-4, IC 16-42-5-28, 410 IAC 7-22 and 410 IAC 7-23, and/or;
 - (2) Developing an agreement (consent decree) between the two (2) parties involved as part of the action. The agreement may include but is not limited to:
 - aa. Training provided by the Health Department, food safety consulting firm

- or the State Department of Health
- bb. Maintaining a documented cleaning schedule and have available for review
- cc. Maintaining pest control records and have available for review
- dd. Correction of all violations within a specified period of time
- ee. A follow-up inspection of the establishment(s), in which the action has been initiated, may be scheduled within thirty (30) days of adoption of the agreement (consent decree). New violations may be documented as observed.

(3) Issue a notice of permit revocation:

- iv. In addition to the options listed in Sections D(1), D(2), and D(3), after the fifth or more follow-up inspection has been conducted, issue a notice of permit revocation.

e. The enforcement options listed in Sections D(1), D(2), D(3), and D(4) may be used if the same non-critical violation is documented on non-consecutive inspections, which is collected after each documentation. A history of noncompliance is established when there are four (4) non-consecutive inspections documenting the same non-critical violation(s) the enforcement options listed in Sections B(1) and B(2) may also be utilized if, in the opinion of the Health Officer, such action is warranted.

(G) Appeals Section

1. Any Person(s) aggrieved by Orders issued under Section F: Compliance and Enforcement above shall be entitled to a review of the final Order before a Hearing Officer by filing an administrative written request therefore with the Health Officer (Secretary of the Fountain/Warren County Board of Health See IC 16-20-1-10). The written request must be mailed, or hand delivered to the Health Officer, and must be received within fifteen (15) days after such final Order is issued.

2. Upon the Health Officer's receipt of such request, the Hearing Officer shall hear the matter again in an open hearing after at least five (5) days written notice of the time, place and nature thereof. The time shall be measured pursuant to the rules of court of the jurisdiction. (A shorter period of time may be granted, if requested by either party and agreed upon.)

3. The notice of the hearing shall be served upon the Person requesting the review by hand delivering or mailing by Certified Mail the notice to the address listed on the Permit application as the Person's mailing address or such other address, as the Person shall designate in the letter of request to the Health Officer.

4. The Hearing Officer establishes the Rules of Procedure and advises the parties prior to the start of the proceedings.

5. The Hearing Officer shall make written findings of facts and shall enter its final administrative Order or determination of this matter in writing.

6. The administrative Order completes the Administrative Appeals

procedure.

(H) No Health Official shall conduct himself or herself in a manner that is or could have the appearance of a Conflict of Interest.

(I) Any person violating this Ordinance, as determined by a Health Official, may be punished for the first offense by a fine of not more than One Hundred Dollars (\$100.00); for the second offense by a fine of not more than Two Hundred Dollars (\$200.00); and for the third and each subsequent offense by a fine of not more than Three Hundred Dollars (\$300.00). Each day after expiration of any time limit for compliance with this ordinance as ordered by the Health Official shall constitute a distinct and separate offense.

§ 51.02 ON-SITE SEWAGE DISPOSAL

(A) The purpose of this Section is to provide minimum standards for the prevention and suppression of disease and health risks associated with the use of on-site sewage disposal systems and to otherwise promote public safety and welfare and protection of the environment.

(B) The Health Officer, as hereinafter defined, and the Health Officer's agents and representatives are hereby authorized to issue permits, installer approval, collect permit and incidental fees, perform inspections, order or otherwise compel correction of violations of this ordinance, and are otherwise authorized to perform all actions necessary for the administration and enforcement of this ordinance.

(C) The regulations of the Indiana State Department of Health as found in Title 410 IAC 6.8 Residential Sewage Disposal Systems are hereby incorporated by reference in this ordinance and shall include any later amendments to those regulations as the same published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein. Copies of 410 IAC 6-8.1-1 et. Seq. are available and on file in the office of the Fountain/Warren County Health Office and the Warren County Auditor.

(D) The regulations of the State Department of Health as found in Title 410 IAC 6-10, Commercial On-site Wastewater Disposal are hereby incorporated by reference in this Ordinance and shall include any later amendments to those regulations as the same are published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein. Copies of 410 IAC 6-10-1 et. Seq. are available and on file in the office of the Fountain/Warren County Health Office and the Warren County Auditor.

(E) In addition to or to otherwise supplement those definitions contained in 410 IAC 6-8.1- 1 et. Seq. which is incorporated herein by reference this ordinance shall include the following definitions:

1. Bedroom: Means a room within a dwelling that might reasonably and regularly be used as a sleeping room or which contains a closet or shares a common hallway with or adjoins a bathroom. A "bedroom" may include but is not limited to those rooms designated as dens, studios, offices, or libraries if such rooms otherwise meet the above definition.

2. Board: Shall include and means the Fountain/Warren County Board of Health.

3. Business Building: Means that building or structure utilized primarily for a commercial establishment including, but not limited to, office buildings, apartments, condominiums, motels, mobile home parks, churches, campgrounds, schools, hospitals, nursing homes, subdivisions, restaurants, etc., at locations where such facilities may be approvable.

4. Commercial On-Site Wastewater Disposal Facility: Means all equipment and devices necessary for proper conduction, collection, storage, treatment, an on-site disposal of wastewater from other than one- or two-family dwellings.

5. Duplex: Means a dwelling as defined in 410 IAC 6-8.1-7 with two separate living quarters for two separate families.

6. Health Department: Means the Fountain/Warren County Health Department.

7. Health Officer: Shall include and also means the Health Officer of Warren County.

8. Installer: For purposes of this ordinance, installer shall mean any person engaged in construction, repair or installation of residential or commercial on-site sewage disposal systems in Warren County.

9. Multiple Family Units: Means any building or place of residential or commercial on-site sewage disposal systems in Warren County.

10. On-Site Sewage Disposal System: Means any sewage disposal facility not owned by a municipality or sanitary district or administered by the Indiana State Department of Health where the effluent is treated on the lot and shall include, but is not limited to, residential sewers, grease traps, septic tanks, dosing tanks, soil absorption systems, experimental treatment processes, perimeter drains, temporary sewage holding tanks, and sanitary vault privies. On-site systems include both residential and commercial disposal systems.

11. Planned Development: Means any land development which requires the specific zoning classification entitled "Planned Development."

12. Public Water Supply: Means a system which provides piped water for human consumption to at least fifteen (15) service connections or at least twenty-five (25) people at least sixty (60) days out of the year.

13. Residence: Means a dwelling, as defined in 410 IAC 6-8. 1-7.

14. Residential Sewage Disposal System: Means all equipment and devices necessary for proper conduction, collection, storage, treatment, and on-site disposal of sewage from a one (1) or two (2) family dwelling.

15. Sanitary Privy: Means a privy so located, constructed, and maintained; 1. that Users do not contact waste matter deposited; 2. that flies, insects, rats and other animals cannot gain access to the privy interior or vault; 3. that surface or ground water cannot enter tile vault; 4. that the waste material in the privy cannot contaminate a water supply, stream, or body of water 5, that odors are minimized both inside and outside the privy structure.

(F) No person shall construct, install, replace; alter, or repair any part of an on-site sewage disposal system unless the person is approved by the Fountain/Warren County Health Department.

1. Any person engaged in the installation of on-site sewage disposal systems in Fountain County must file for approval from the Fountain/Warren County Health Department.

2. Every person engaged in the installation of on-site sewage disposal systems in Warren County shall be knowledgeable of all laws, rules, and regulations of both the State of Indiana and Warren County, governing on-site sewage disposal systems.

3. A property owner wishing to install, repair, or otherwise work on the on-site sewage disposal system serving his own dwelling shall be required to demonstrate knowledge of the applicable laws, rules, and regulations and be approved by the Fountain/Warren County Health Department.

(G) Where a sanitary sewer system is not available within 300 feet, all persons owning, leasing, or otherwise occupying property shall comply with 410 IAC 6-8.1-1 et. Seq. and 410 IAC 6-10-1 et. Seq., whichever is applicable and the following provisions of this Ordinance for an on-site sewage disposal system.

1. No person shall throw, run, drain, seep or otherwise dispose into any of the surface waters or ground waters, or cause, permit, or suffer to be thrown, drained, allowed to seep, or otherwise disposed into such waters, any organic or inorganic matter from a dwelling or residential sewage disposal system that would cause or contribute to a health hazard or water pollution.

2. Connection to an existing soil absorption system shall be permitted if the following conditions are met:

a. The connection will not exceed the system design load based on the sizing requirements of 410 IAC 6-8.1 or 410 IAC 6-10, whichever is applicable

b. The existing system has not malfunctioned.

c. The existing system has been permitted and approved by the Health Officer or his appointee or his, and the applicant has possession of a record of the permitted and approved system which shows all system dimensions.

d. If the existing system shall fail, there is sufficient space for system replacement.

3. In the event that a system enlargement is proposed, the enlargement must bring existing system into compliance with the minimum standards of Rule 410 IAC 6-8.1 or 410 IAC 6-10., whichever is applicable.

4. No privy shall be permitted for a residence except on a temporary basis and then only by special permit. All such privies shall comply with Indiana State department of Health Bulletin S.E.11. Bulletin S.E. 11 is herein incorporated by reference as part of this section and two copies are filed in the office of the Warren County Auditor and Fountain/Warren County Board of Health for public inspection. In the case of self-contained chemical toilets, no pit will be required.

5. Should an on-site sewage disposal system fail, the failure shall be corrected by the owner or occupant served by such system within the limit set by the Health Officer.

6. Whenever a public sanitary sewage system becomes available and is within 300 feet of a residential dwelling or commercial building situated in Warren County, and the building is served by an on-site sewage disposal system or privy, a direct connection of the building sewer may be made to said sanitary sewer and any septic tanks, vaults, and similar sewage disposal and treatment facilities shall be abandoned and filled in a safe and sanitary manner.

7. Whenever a public sanitary sewage system becomes available and is

within 300 feet of a residential dwelling or business building and is served by an on-site sewage disposal system or privy that fails to be in compliance with Warren County Ordinances related to on-site sewage disposal systems and/or the laws of the State of Indiana, said residential dwelling or business building's sewer shall be directly connected to the sanitary sewage system and any septic tanks, vaults, and similar sewage disposal and treatment facilities shall be abandoned and filled in a safe and sanitary manner. The direct connection to a sanitary sewage system shall be made within 180 days of issuance of order of connection.

(H) Whenever a new business building or dwelling is to be constructed in an area where a sanitary sewage system is available as provided in the above paragraph, a connection shall be made to the sanitary sewer according to plans submitted for approval prior to construction of any such project.

(I) Any trailer, camper, or recreational vehicle which is connected to an external water source shall be considered a single-family dwelling and must meet all the provisions of this ordinance, unless it is located in a campground approved by the Indiana State Department of Health or a mobile home park licensed by the Indiana State Department of Health.

(J) Before the commencement of construction, alteration or repair of an on-site sewage disposal system, the owner or his agent shall apply in writing to the Fountain/Warren County Health Office for a permit to construct, alter or repair an on-site sewage disposal system which application shall set out the date of the intended construction, alteration, or repair an on-site sewage disposal system, which application shall set out the date of the intended construction, alteration, or repair, topographic and soil characteristic information as well as other information required in 410 IAC 6-8.1-48 and 410 IAC 6-10-6 previously incorporated herein by reference, and expressly stating that the owner has complied and will at all times comply with the standards set out in this Ordinance. The Sewage Disposal Permit issued by the Health Officer must be obtained prior to application for a Building Permit.

1. For a Commercial On-site Sewage Disposal Permit the application shall include a copy of the permit issued for the Indiana State Department of Health and a copy of the project design plans. No permit will be issued if it is determined the issuance of such a permit would violate or otherwise be inconsistent with the provisions of 410 IAC 6-8. 1-1 et. Seq. or 410 IAC 6-10-1 et. Seq., whichever is applicable and Federal or State statute or regulation and ordinance of Warren County, or would otherwise be reasonably expected to cause or contribute to all unsanitary condition, an unacceptable probability of groundwater contamination or construction of an oil-site sewage disposal system with an unacceptable risk of failure.

2. No on-site sewage disposal system shall serve more than one (1) single dwelling or business building. No permits will be issued for multiple family units served by an on-site sewage disposal system unless permitted by 410 IAC 6-10-1 et. Seq.

3. A permit for the installation of an on-site sewage disposal system, whether issued prior to or after the adoption of this Section, shall lapse and be void if work has not been completed within one year after its issuance. When a permit has expired or has been revoked, the work on the on-site sewage disposal system shall not commence or resume unless a new application and fee have been submitted and a new permit has been obtained.

4. The permit shall be available to regulatory authorities at or near the dwelling or facility where the on-site sewage disposal system is under construction. The permit

shall be posted in a conspicuous place and be plainly visible from the public thoroughfare serving this building;

5. No part of an on-site sewage disposal system for a residence shall be located closer than 25 feet to a surface water drain tile, running stream or surface water drain. The rules and regulations of the drainage board will apply for any legal ditch or drain. All parts of the system must be kept at least 50 feet from any water well.

(K) The board, its agent, or the Health Officer or his or her agent shall be permitted to enter upon all properties for purpose of inspection, observation, measurement, sampling, and testing necessary to ensure compliance with this Section and to verify no on-site sewage disposal system has failed.

1. No construction of the on-site sewage disposal system may take place if the on-site sewage disposal system site is disturbed or altered after the on-site evaluation by the addition of fill material (other than that construction necessary for the on-site sewage disposal system itself) or by cutting, scraping, compaction or the removal of soil, until a new evaluation has been conducted and a modified permit has been issued. In the event the on-site inspection indicates site limitations, either arising from topography or soil characteristics, the site owner or his agent is responsible for designing a residential or an on-site sewage disposal system which addresses the demands of the site in accordance with the rules established in 410 IAC 6-8.1-1 et. Seq., 410 IAC 6-10-1 et. Seq., whichever is applicable and this Section.

2. The owner or his agent shall request an inspection by the Fountain/Warren County Health Department at least two (2) working days before any portion of the on-site disposal system is covered, in accordance with rules established in 410 IAC 6-8.1-1 et. Seq.

(L) The Fountain/Warren County Board of Health shall hear appeals incidental to the issuance and revocation of permits if, within 15 days following the date of receipt of an issued permit, permit modification, notice of permit denial or notice of permit revocation, any person aggrieved by such action files a petition for review concerning such action with the Board.

1. A petition for review shall state: 1. the name, address and telephone number (if applicable) of the person making the request; 2. Identify the interests of the petitioner which is effected by the permit issuance, denial, modification, or revocation; 3. Identify any persons whom the petitioner represents, 4. State with particularity the reasons for the request; 5. State with particularity the issues proposed to be considered; 6. Include proposed terms or conditions which, in the judgment of the petitioner, would be appropriate to carry out the requirements of 410 IAC 6- 10-1 e t. se q. or 410 IAC 6-8.1-1 et. seq. governing such permits.

2. The procedures established in I.C. 4-21-5. the Administrative Procedure and Orders Act shall apply to the conduct of the hearing.

3. Any person found to be in violation of any provision of this Section or the applicable rules and regulations of the Indiana State Department of Health shall be served with a written order either in person or by certified or registered mail by the County Board of Health or the County Health Officer or his authorized agent. This order shall state the nature of the violation, and provide a reasonable time limit, unless the Health Officer deems an emergency exists, not to exceed 60 days, for the correction of any violation of this ordinance.

4. Any installer, as defined in this ordinance, and certified under Section 6, found to be in violation of any provision of this Section, the applicable rules of the Indiana State Department shall receive notice as specified in Section 12, paragraph a. The installer shall have

up to fourteen (14) days to correct the violation or as otherwise determined by the Health Officer or his Representative.

5. If the violation is not corrected within the designated time, the Health Officer may suspend or revoke the permit.

6. Any person or contractor performing work in constructing, installing, replacing, altering or repairing any on-site sewage disposal system who is not approved in Warren County shall be deemed to be in violation of this Section. A person who is violation on this Ordinance shall be fined for the first offense not more than \$500; for the second and each subsequent offense not more than \$1000. Each violation of this Section shall constitute a separate violation.

7. Any property owner, or other person in lawful possession of real estate who shall continue any violation of this Section beyond the time limit provided for correction of any violations of this Section or who performs any act prohibited herein or shall fail to perform any duty lawfully enjoined or who shall fail, neglect, or refuse to obey any lawful order given by the Health Officer shall be punished for the first offense by a fine of not more than \$500; for the second and each subsequent offense not more than \$1000. Each day a violation of this Section continues shall constitute a separate offense for which a separate fine may be levied.

8. Application of this Section or any part of this Section is intended to be consistent with 410 IAC 6-8.1-1 et. seq. and 410 IAC 6-10-1 et. Seq. Any inconsistency in the direct application of this ordinance with said regulations shall be resolved in favor of enforceability of those regulations.

9. To the extent the provisions of 410 IAC 6-10-1 et. seq. and 410 IAC 6-8-1-1 et. seq. is inconsistent with each other than that interpretation provided by 410 IAC 6-10-1 et. seq. shall apply for on-site sewage disposal systems serving business buildings and that interpretation provided by 410 IAC b-8.1-1 et. seq. shall apply for on-site sewage disposal systems serving residences.

(M) The Health Officer may, in the name of the Commissioners, bring actions in the Warren Circuit Court or Superior Court of Fountain County for mandatory and injunctive relief for the enforcement of and to secure compliance with any order or orders made by the Health Officer or to otherwise provide for the enforcement of this Ordinance. Any such action for mandatory or injunctive relief may be joined with all action to recover the penalties, costs and expenses provided in this Section. In the event any legal action is necessary to enforce this Section, the Health Officer may seek recovery of costs and expenses reasonably incurred to enforce the provisions of this Section including, but not limited to, reasonable attorney's fees.

(Ordinance No. 2010-5)

CHAPTER 52: SHERIFF'S DEPARTMENT

Section

- 52.01 Inmate Medical Copayment
- 52.02 Deferred Compensation Plan
- 52.03 Retention of Weapons
- 52.04 Sheriff's Merit Board

§ 52.01 INMATE MEDICAL COPAYMENT

(A) If an inmate is in need of emergency treatment, notify the Sheriff or the Jail Nurse immediately. Emergency medical treatment is available at all times. If emergency medical treatment is necessary, inmates will be transported by patrol officers, jail officers or ambulance to the St. Vincent Hospital in Williamsport.

(B) Routine medical services are available at the jail through the Inmate Medical Request forms. Inmate Medical Request forms may be obtained from the jail officers at any time. Inmate Medical forms must be filled out completely with special emphasis given to the "reason for request and symptom" section. The Staff will then contact the jail's medical service provider to set up an appointment at the earliest time with the medical service provider.

(C) Only emergency dental care will be provided. Treatment will be limited to pain and infection control. Cleaning and other routine procedures are not available. Medical treatment request forms for dental work should be addressed on the Medical Request Forms.

(D) Emergency eye care will be provided by the Williamsport Hospital. Eye examinations and glasses for persons not normally wearing glasses will be provided, by only at the suggestion of the eye doctor at the Hospital. It is recommended that inmates send glasses out for repair with a visitor. Charges for repairs will be the inmate's expenses and will be deducted from their commissary account if the Warren County Jail has to make arrangements for this repair work. Indigent inmates will not be charged for repairs.

(E) The following medical services do not require co-payments;

1. Medical emergencies (as determined by Sheriff)
2. Emergency Mental Health services
3. Treatment initiated by Jail Staff
4. Treatment for DOC inmates (if they are awaiting sentencing by Warren County but are DOC through another county the inmate will be charged)
5. Service provided at the request of the Sheriff.

(F) The following Medical Services will require a co-payment:

1. Doctor Visit	\$15.00
2. Dentist Visit	\$15.00
3. Optometrist Visit	\$15.00
4. Hospital Visit (non-emergency)	\$15.00
5. Prescription	\$15.00

Example: If an inmate goes to the Doctor and gets a prescription, the inmate will be charged \$30.00, a Doctor's visit with two prescriptions will be \$45.00 etc.

(G) Co-payments will be deducted from the inmate's commissary account. Inmates will never be refused medical treatment because of their inability to pay. If an inmate has a "0" balance in their account; a negative balance will be placed on their account for 60 days from the date of the service was provided. (If the inmate does not have enough money in their account to pay the co-payment and the inmate receives money within 60 days the co-payment will then be deducted from their account.)

(H) Prescription refills will not require a co-payment until the prescription is actually refilled. Each refill will be the same co-payment as the original prescription.

(I) Medical co-payments will be subtracted from the inmate's account before commissary is received, or before the inmate is released from this facility.

(J) Co-payments will be deposited in the County General Fund.

(K) Inmates with private insurance are required to provide the jail staff with the necessary information for processing claims with their insurance company.

(Ordinance No. 2003-4, passed August 1, 2003; amending Ordinance No. 1995-2, passed June 5, 1995)

§ 52.02 DEFERRED COMPENSATION PLAN

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

(B) The Sheriff's Office will utilize the Deferred Compensation Plan established by County Sheriff's Offices in Indiana known as the Indiana 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 Office 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 Offices participating in the Plan (as determined by participating Sheriff Offices) to make such other arrangements as are necessary to implement the Plan. It is understood that, other than the incidental expenses related to collecting the employees' deferrals and other minor administrative matters, there is to be no cost to or contribution by the County to this Plan.

(Ordinance No. 2008-10, passed September 2, 2008).

§ 52.03 RETENTION OF WEAPONS

(A) The County Sheriff shall have the authority to release and legally transfer, to the retiring Sheriff's Office member one of his or her duty issued sidearms.

(B) The retiring Deputy or Sheriff must have served honorably as a Merit Officer of Warren County Sheriff's Office for a minimum of 20 years, and meet the definition of a "retired law enforcement officer" as defined in 18 USC 926C.

(C) The Board hereby delegates to the Warren County Sheriff's Merit Board the authority to determine whether a retiring Deputy or Sheriff is in all respects qualified to receive this recognition; and delegates to the Warren County Sheriff the authority to determine what firearm is to be transferred and to sign all documents and comply with all the laws necessary to affect the legal transfer of that firearm.

(D) The County Sheriff's Office shall issue to the retiring member a retired badge, and a retired ID card that provides for name, and retiring rank and indicates the authority to retain the employee's firearm.

(Ordinance No. 2011-3, passed July 5, 2011)

§ 52.04 SHERIFF'S MERIT BOARD

(A) Pursuant to IC 36-8-10-3, the fiscal body of Warren County has established a sheriff's merit board to be known as the Warren County Sheriff's Merit Board.

(B) The board consists of five (5) members. Three (3) members shall be appointed by the sheriff, and two (2) members shall be elected by a majority vote of the members of the county police force under procedures established by the sheriff's merit board. However, no active county police officer may serve on the board. Appointments are for terms of four (4) years or for the remainder of an unexpired term. Not more than two (2) of the members appointed by the sheriff nor more than one (one) of the members elected by the by the officers may belong to the same political party. All members must reside in the county. All members serve during their respective terms and until their successors have been appointed and qualified. A member may be removed for cause duly adjudicated by declaratory judgment of the circuit court of the county.

(C) As compensation for service, each member of the board is entitled to receive from the county a minimum of fifteen dollars (\$15.00) per day for each day, or fraction of a day, that the member is engaged in transacting the business of the board. The County merit board members shall be paid twenty-five dollars (\$25.00) per meeting that they participate in.

(Ordinance No. 2017-12, passed December 4, 2017)

CHAPTER 54: ANIMALS

Section

54.01 Animal Control

§ 54.01 ANIMAL CONTROL

(A) It shall be unlawful for any person owning or possessing any dog to permit the same to run at large. For the purpose of this paragraph, "running at large" shall be defined to be the presence of a dog at any place except upon the premises of the owner.

A dog shall not be considered to be running at large if it is on a leash and under control of a person physically able to control it.

No dog shall be permitted in any cemetery.

(B) Whenever any police officer or other person designated by the Board shall find any dog running at large as defined in this ordinance, he shall, if possible, pick up and impound such animal in such place as the Board may direct.

Whenever any impounded dog shall bear an identification mark such as a collar or license tag, the owner may be notified. Any dog impounded that is wearing a collar with owner identification or license shall be held for a period of seven days. There shall be no required holding period if the owner produces proof of required vaccinations unless such dog is suspected of having a disease such as rabies, in which case the impounded dog shall be held for a period of seven days. At the end of seven days the impounded dog wearing a collar with owner identification or license shall be disposed of unless the owner thereof shall reclaim such dog. Dogs not wearing a collar with owner identification or license may be destroyed without a waiting period. The destruction of any impounded dog by any police officer or any person designated by the Board under the provisions of this ordinance shall be by means of a humane manner.

Any person who allows a dog to run at large shall pay at the Auditor's Office the reasonable cost of keeping such dog and an impounding fee of fifty dollars (\$50.00) for the first impounding and of one hundred dollars (\$100.00) and three hundred dollars (\$300.00) for the second and third impounding respectively in one year.

(Ordinance No.1997-7, passed

CHAPTER 54: NUISANCES

Section

54.01 Property Maintenance

§ 54.01 PROPERTY MAINTENANCE

(A) The following shall be authorized enforcement agents in the enforcement of this Section within the unincorporated areas of Warren County: Law Enforcement Officials serving the County, the County Building Commissioner, the County Health Department, the County Highway Department, and their representatives/agents are hereby authorized to investigate violations and to perform all actions necessary for the enforcement and administration of this ordinance and will be referred to as "Enforcement Agents." Enforcement Agents to be charged with primary responsibilities for investigation and enforcement as follows: the County Building Commissioner for junk, abandoned/junk vehicles, litter and trash; the County Highway Department for weeds; the County Sheriff's Department for junk, abandoned and/or junk vehicle violations on public right of way or public property.

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

1. "Abandoned/Junk Vehicle" means the following:
 - a. Any vehicle that has remained on private property without the consent of the owner or person in control of that property for more than forty-eight (48) hours;
 - b. A vehicle that is mechanically inoperable or incapable of movement by its own locomotion, and that is not being held for or which is under repair to be completed within next 20 days; or
 - c. Vehicles without a valid current state registration and license plate and left on private property continuously in a location visible from public property for more than twenty (20) days.
2. "Accumulate" - as pertains to junk and trash means any one of the following: 1) Improperly collecting junk and trash in an inappropriate storage container; or 2) collecting junk and trash in an accumulation greater than three (3) cubic yards.
3. "Complaint" - written communication on the County's designated form, electronic or hard copy, to an Enforcement Agent addressing a violation of this Ordinance setting forth the nature and location of the violation and containing the written or electronic signature and contact information of the reporting individual. Complaint forms shall be made available at the offices of Enforcement Agents and County Auditor, as well as the County's website.
4. "Compost" - the product produced by the process of composting vegetative matter and other types of organic material.
5. "Composting" - the biological treatment process by which microorganisms decompose the organic components of vegetative matter and other types of organic material under controlled conditions to produce a usable product.
6. "County" - the County of Warren, State of Indiana.
7. "Garbage" - the animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.
8. "Hearing Authority" - shall be the Warren County Commissioners or any

person(s) designated as such by the Commissioners under authority of IC 36-7-9-2.

9. "Highway or Road" - shall mean that portion of the State or County public highway or road system so designated on the General Highway and Transportation Map, as amended, which are maintained by the Indiana Department of Transportation or the Warren County Highway Department.

10. "Junk" - refers to accumulation of combustible and non-combustible waste materials; the term shall include: paper; rags; tin; metals; residue from burning; household goods including, but not limited to, mattress, furniture, major appliances, clothing and other household items not intended for exposure to rain and other inclement weather. Trash is considered junk.

11. "Motor Vehicle Graveyard" - means any establishment, place of business or parcel of real estate which is maintained, used or operated for storing or keeping, at any one time in excess of two (2) non-operating, wrecked, scrapped, ruined or dismantled motor vehicles or parts thereof.

12. "Person" -means any person, firm, partnership, association, corporation, company or organization of any kind.

13. "Private Property" -shall mean all privately-owned property which is not classified within the definition of public property.

14. "Public Property" -shall mean any public right-of-way, street, highway, alley, park or other state, county or municipally owned property.

15. "Report" -shall have the same meaning as "Complaint"

16. "Scrap Metal Processing Facility" shall mean an establishment having facilities for processing iron, steel, or nonferrous metal and whose principal product is scrap iron, steel or scrap for sale for smelting purposes.

17. "Second Violation" - a violation of this ordinance that is committed by a person within twelve (12) months of a previous violation.

18. "Sheriff" means the duly elected Sheriff of Warren County or a duly appointed Deputy Sheriff of the Warren County Sheriff's Department.

19. "Standard Container"- Sturdy, tied plastic bags; durable metal, plastic, or similarly constructed container designed for the storage of trash. Food scraps and other household garbage that attracts animals and/or rodents must be placed in a vermin-proof and waterproof container with a tight-fitting lid.

20. "Substantial property interest" - means any right in real property that may be affected in a substantial way by actions authorized or prohibited in this ordinance, including fee interest, a life estate interest, a mortgage interest, or an equitable interest of a contract purchaser.

21. "Trash" -means anything worthless, useless or discarded; rubbish. Trash is considered "Junk".

22. "Vehicle" - shall mean any motor vehicle, such as an automobile, motorcycle, truck, trailer, semitrailer, truck tractor, bus, school bus, motor home, recreational vehicle, house car or motor bicycle.

23. "Visible" - shall mean capable of being seen from any public roadway, right-of-way, or public property or from privately held real property.

24. "Weeds"- refers to any growth of vegetation, other than trees, bushes, shrubs, ornamental plants, or agricultural plants cultivated in an orderly manner for the purpose of producing food and/or feed.

Trash and Junk

(A) No person may establish, operate, cause or maintain a junkyard, motor vehicle graveyard, or scrap metal processing facility or store or allow accumulation of junk on any real estate which is visible or deemed a public health nuisance, except for the following:

1. those which are screened by natural objects, plantings, fences or other appropriate means so as not to be visible
2. those located within areas which are zoned for industrial use under the authority of law of a municipal zoning ordinance
3. those located within non-zoned industrial areas as determined by the State Planning Agency and approved by the Secretary of the Department of Transportation.

(B) It shall be a violation of this Section for the owner, or anyone having a substantial property interest in real property, including open or vacant property, within the County, to deposit or allow to remain on that real property any trash or junk, which items might provide food or harborage for insects, rodents, pests, or pose a fire safety hazard.

(C) No person shall permit junk or trash to be situated on his or her property so that the material can be carried by wind, water or natural forces to any highway, right-of-way, easement, or to the property of any other person.

(D) Nothing in this Section shall be deemed to apply to County owned or operated recycling or State licensed salvage operations.

(E) Nothing in this Section shall be deemed to apply to established compost and composting.

(F) Nothing in this Section shall be deemed to apply to the use of standard containers or dumpsters for the temporary containment of trash or junk awaiting scheduled disposal. Trash that attracts animals or rodents must be placed in a vermin-proof and waterproof container with a tight-fitting lid. Such containers shall be constructed, handled, and placed in a way that will not promote a safety or health issue.

(G) A person who recklessly, knowingly or intentionally places or leaves junk on a highway, road right of way or on the property of another person, commits littering. Evidence that littering was committed from a moving vehicle other than a public conveyance constitutes prima facie evidence that it was committed by the operator of the vehicle.

Weeds

(A) Nothing in the Section shall be deemed to apply to agricultural plants or crops, such as hay and pasture.

(B) No owner or occupant of any lot or parcel of real estate located within the County shall permit said real estate to become overgrown with weeds. The following standards shall be the criteria used in determining that weed growth is detrimental to or threatens public health or

safety:

1. Where the real estate is located in a platted subdivision containing two (2) or more residential structures, grass or other vegetation in excess of twelve (12) inches in height shall be considered weeds.

2. In all other areas within the County, weeds, grass or other vegetation, excepting actively used agricultural crop land, in excess of twelve (12) inches in height shall be considered weeds where:

- a. The real estate is located within fifty (50) feet of a county intersection;
- b. The real estate is located within a county right-of-way;
- c. The real estate is located within one hundred fifty (150) feet of any residential structure located in the County, or
- d. The real estate is in such a condition that it creates a threat to public health safety as a result of rodent, insect, reptile or mosquito harborage.

Abandoned/Junk Vehicles

(A) It shall be unlawful for any person to keep, park or store any junk or abandoned vehicle(s) or parts thereof, on public or private property.

(B) A vehicle shall not be considered an abandoned or junk vehicle if it is stored in a garage or other building or an opaque structure or within a fenced area which blocks the vehicle from being visible.

(C) For purposes of this Section, a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, textile, or any other similar material covering is considered to be visible.

(D) Nothing contained in this Section shall be construed to apply to farm machinery, equipment or implements; unless the farm machinery, equipment or implement is mechanically inoperable or incapable of movement by its own locomotion, and that is not being held for or which is under repair, to be completed within six (6) months, or within such extended period as may be determined by the authorized enforcement agent.

(E) Nothing contained in this Ordinance shall be construed to apply to vehicle(s) screened by natural objects or plantings (excluding weeds), fences or other appropriate means so as not to be visible.

Investigation

(A) Complaint and/or Reports of violation(s) of this Section shall be completed in the Office of the Warren County Building Commissioner.

(B) The County Building Commissioner shall receive and/or investigate a report or complaint. If the Building Commissioner determines that another enforcement agent holds primary responsibility, the report/complaint shall be referred to that agent.

(C) In the course of the investigation, the Authorized Enforcement Agent may seek assistance from any other Authorized Enforcement Agency, as needed to ensure the safety and wellbeing of the investigating Authorized Enforcement Agent or Agency. An Authorized Enforcement Agent may use his or her discretion in initiating or continuing an investigation in the interest of his or her safety and well-being.

Notice of Violation

(A) Any person found to be in violation of any provision of this Section shall receive a Notice of Violation. In the case of littering, an order may be served without initial notice of violation.

(B) The Notice of Violation shall state:

1. the date and location of the violation.
2. The nature of the violation.
3. The time period for correcting the violation.
4. The potential fine(s) for the violation.
5. The procedures if the violation is not corrected in the time specified on the

Notice of Violation.

6. That failing to comply with an Order may result in the County entering upon said real estate for the purpose of correcting the violation, and the costs thereof, together with administrative expenses, shall be billed to the owner, and if not paid within thirty (30) calendar days, certified to the County Auditor for collection as delinquent property taxes are collected.

7. The name, address and telephone number of the person to contact regarding the correction of the violation.

(C) The Notice of Violation shall be delivered upon an individual or entity alleged to have violated this Section by:

1. Said Notice of Violation shall be mailed by registered or certified mail or served by an equivalent means as permitted under IC 1-1-7-1, to his or her address as shown on the most recent records of the Auditor of Warren County, Indiana, with return receipt requested and returned showing receipt of the Notice of Violation; or

2. Delivering a copy of the Notice of Violation personally or by Law Enforcement Officials serving in the County; or

3. Leaving a copy of the Notice of Violation at his or her dwelling house or usual place of abode. Whenever delivery is made in this manner, the person making the delivery also shall send by first class mail, a copy of the Notice of Violation to the last known address of the person being served, and this fact shall be shown upon the return.

4. For the purposes of this Section, the date of delivery will be the date the Notice of Violation was sent by registered or certified mail, or the date delivered personally or by local law enforcement or the date the Notice of Violation was left at the residence.

(D) The authorized enforcement agent shall be responsible for issuing the Notice of Violation.

(E) Trash and Junk: In cases of actions violating Section 2 of this Section a "Notice of Violation" shall be issued by the authorized enforcement agent requiring the violator to remove and properly dispose of the trash and/or junk from the premises within thirty (30) calendar days from the date of delivering the Notice of Violation, or within such extended period as may be determined by the authorized enforcement agent.

(F) Weeds: In cases of actions violating Section 3 of this Section a "Notice of Violation" shall be issued by the authorized enforcement agent requiring the violator to cut and/or remove the accumulation of weeds from the premises within fourteen (14) calendar days from the date of delivering the Notice of Violation, or within such extended period as may be determined by the authorized enforcement agent.

(G) Abandoned and Junk Vehicles: In cases of actions violating Section 4 of this Section a "Notice of Violation" shall be issued by the authorized enforcement agent requiring the violator to comply with said section within thirty (30) calendar days from the date of delivering the Notice of Violation, or within such extended period as may be determined by the authorized enforcement agent.

(H) If the recipient of the Notice of Violation does not correct the violation, an order will be issued by either the Hearing Authority or the authorized enforcement agent and shall be served upon the violator either in person or by registered or certified mail at his or her address as shown in the records of the Auditor. The order will state the date, time and location for a hearing before the Hearing Authority to present evidence and arguments as to why an order for removal of violations and/or a penalty should not be issued for the described violation.

Hearing

(A) If the recipient of the Notice of Violation believes he or she has received the notice in error or believed he or she is not in violation of this ordinance, the recipient is entitled to appear at the Hearing before the Property Maintenance Hearing Authority to present evidence and arguments as to why the Notice of Violation was issued in error or a penalty should not be assessed.

(B) The Hearing Authority may affirm, modify or rescind the Notice of Violation.

(C) If the Notice of Violation is affirmed or modified by the Hearing Authority, the recipient has the right, pursuant to IC 36-7-9-8, to appeal the Hearing Authority's decision by filing a verified complaint, including the findings of fact and the action taken by the Hearing Authority, with the Circuit Court within fourteen (14) calendar days after the date when the action was taken.

(D) If the Commissioners designate a third party as the Hearing Authority, said Hearing Authority will issue a report, with all supporting evidence, to the Commissioners within fourteen (14) calendar days.

Penalties, Fines and Remedies

(A) Upon the failure or refusal of an owner, occupant, agent or person in possession of the premises (who was the recipient(s) of the "Notice of Violation") to correct the violation as stated in the "Notice of Violation", he and/or she shall be subject up to a One Thousand Dollars (\$1,000.00) fine for any violation.

(B) The Commissioners may authorize the removal of the trash, junk or weeds as listed in the order. The removal of trash, junk, or weeds can be performed either by the County's own workers and equipment or by a contractor hired at the direction of the Commissioners for this purpose. Compliance with abandoned and/or junk vehicle violations on public right of way or property will be handled by the Sheriff's Department.

(C) The Auditor's Office shall issue an invoice to the owner(s) of the property for the total costs incurred by the County to bring the property into compliance with this ordinance plus any fines that have not been paid. Payment is due no later than 30 days following the date of the invoice.

(D) If the fine and the costs incurred by the County are not paid when due, they may be added to the property taxes and/or be a lien against the property. Further action, including but not limited to wage garnishment and the attachment of judgements, may be pursued through court action.

(E) Remedies.

1. The Commissioners may bring actions in the Circuit Court for mandatory or injunctive relief for the enforcement of, and to secure compliance with, any order or orders to otherwise provide for the enforcement of this Section.

2. Any such action for mandatory or injunctive relief may be joined with an action to recover the penalties, costs and expenses provided in this Ordinance. In the event any legal action is necessary to enforce this Section, the County may seek recovery of costs and expenses reasonably incurred to enforce the provisions of this Section including, but not limited to, reasonable attorney's fees.

(F) The County may enforce this Ordinance through any other means provided by law, including but not limited to IC 36-1-6, the Enforcement of Ordinances.

(G) The Commissioners shall utilize an existing line item in the Commissioners' budget entitled "Ordinance Violation Enforcement" for the enforcement of this Ordinance. The County Council shall appropriate funds for the administration and enforcement of this ordinance.

(H) All fines, penalties, and clean-up costs paid, or revenue received, if any, pursuant to this Ordinance shall be deposited into the Warren County "General Fund", which shall be administered under the direction of the Commissioners.

(I) The funds appropriated into the Warren County "Ordinance Violation Enforcement" shall be used for the following purposes:

- vehicles.
1. The removal and cleanup of trash, junk, weeds, abandoned and/or junk
 2. Court fees, costs and expenses reasonably incurred to enforce this
 3. Educational materials to inform residents of, and the publicizing of, the
 4. Other expenditures as deemed appropriate by the Commissioners.

(Ordinance No. 2019-0912B, passed September 12, 2019)

CHAPTER 55: DRUGS AND ALCOHOL

Section

- 55.01 Synthetic Cannabinoids
- 55.02 Smoking Policy

§ 55.01 SYNTHETIC CANNABINOIDS

- (A) As used in this Section, "synthetic cannabinoid" means any of the following:
1. All parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or its extracts;
 2. HU-210, a substance also known as (6aR, 10aR) -9- (Hydroxymethyl) -6,6-dimethyl-3-(2-methyloctan- 2-yl)-6a,7,10,10a-tetrahydrobenzo(c) chromen-1- 01;
 3. JWH-018, a substance also known as Naphthalen -1-yl-(1-pentylindol-3-yl) methanone;
 4. JWH-073, a substance also known as Naphthalen-1-yl-(1-butylinol-3-yl) methanone;
 5. TFMPP, a substance also known as 1-[3-(trifluoromethyl) phenyl] piperazine;
 6. Cannabicyclohexanol, a substance also known as 2-[(1R,3S)-3-hydroxycyclohexyl] -5- (2methylnonan-2-yl) phenol;
 7. CP-47,497, a substance also known as 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2- methyloctan-2-yl)phenol;
 8. JWH-250, a substance also known as 2- (2-methoxyphenyl)-1- (1-pentylindol-3-yl) ethanone;
 9. Structural analogs of any of these substances.
 10. Any herbal-based substance sold under the name of K2, Spice, Acapulco Spices, Serenity Now, Spice Gold, Shokotsu, Afghan Incense, Baked, Black Magic, Buzz, Cherry Charm, Fire Bird, Fire "N" Ice, Pulse, Solitude or Voodoo, or any other herbal-based substance containing the foregoing described substances.

(B) A person may not sell, barter, give, publicly display for sale, or attempt to sell, give or barter, or to possess any synthetic cannabinoid.

(C) The Sheriff's Department is responsible for the interpretation and civil enforcement of this ordinance. Enforcement personnel from the Sheriff's Department may seize and destroy synthetic cannabinoids that are in violation of this ordinance. A person in violation of this ordinance shall be fined two hundred fifty dollars (\$250.00). Each day a violation occurs or continues constitutes a separate offense.

(D) It is a defense under this ordinance that a person otherwise in violation is acting at the direction of an authorized agent of the County to enforce or ensure compliance with this ordinance. It is a defense under this ordinance that a person otherwise in violation is acting, with respect to the violation, under the direction or prescription of a person who holds an unlimited license to practice medicine under IC 22-22.5 or a license to practice dentistry under IC 25-14.

It is a defense under this ordinance that a person otherwise in violation is acting, with respect to the violation, in connection with a bona fide research or scientific endeavor funded by public entities or non-profit organizations.

(Ordinance No. 2010-8, passed September 20, 2010)

§ 55.02 SMOKING POLICY

(A) Smoking shall be defined, as set out in IC 7.1-5-12-3, as carrying or holding of a lighted cigarette, cigar, or pipe, or any other lighted tobacco smoking equipment; or inhalation or exhalation of smoke from lighted tobacco smoking equipment.

(B) Smoking shall be prohibited in any county owned, leased or operated property and place of employment, including vehicles and grounds, and including but not limited to Warren County Courthouse, Warren County Extension Office, Warren County Highway Department and Solid Waste facilities, Warren County Emergency Management and Rescue, and Warren County Jail and Sheriff's Office. Conspicuous signs shall be posted displaying the message that smoking is prohibited.

(Ordinance No. 2012-6, passed August 6, 2012)

TITLE VII: TRAFFIC CODE

- 70. COUNTY ROAD REGULATIONS**
- 71. TRAFFIC CONTROL**
- 72. OFF ROAD VEHICLES**

CHAPTER 70: COUNTY ROAD REGULATIONS

Section

- 70.01 Closing or Limiting Vehicles by Highway Supervisor
- 70.02 Improvement of County Rights of Way
- 70.03 Frost Law
- 70.04 Protection and Preservation of County Roadways

§ 70.01 CLOSING OR LIMITING VEHICLES BY HIGHWAY SUPERVISOR

(A) The County Highway Supervisor is authorized and directed to close or limit certain County highways as to certain trucks and other motor vehicles of such weight and dimensions as to constitute a hazard to other persons and vehicles using said highway or as is likely to damage and impair the surface and roadbed of the County highway; that all highways so closed or limited by the County Highway Supervisor shall be prominently marked by appropriate signs which shall set forth the limitations or use of such highway and the penalty therefore.

(B) Any person driving a truck or other vehicle on a County highway in violation of the restrictions posted thereon by the County Highway Supervisor shall be guilty of an ordinance violation and upon conviction shall be fined a sum not exceeding five hundred dollars (\$500.00).

(C) Any person who operates a truck or motor vehicle upon a County highway in violation of the restrictions posted thereon by the County Highway Supervisor, and any person, firm, or corporation who employs any persons so operating such truck or other motor vehicle shall be personally liable for all damages caused to the County highways by use thereof in violation of such ordinance, and the County Attorney is directed to institute whatever legal action is necessary to collect the damages caused to the County highways by such use in violation of the ordinance.

§ 70.02 USE OF COUNTY RIGHTS OF WAY

(A) Warren County, through the Highway Department, shall have the right to allow and provide specifications for certain uses (also referred to as "improvements") within the rights-of-way of all county roads.

(B) Any person or contractor who wishes to cut, cross, or use the right-of-way of any County road shall make application to do so at least thirty (30) days in advance of the desired excavation or use, on a form provided by the Highway Department.

(C) Included in the application shall be the name, address, and telephone number of the applicant, the described location (including section and township and road number), the purpose, the type of surface where the opening is to be made, and other information deemed important by the Highway Department.

(D) The applicant shall provide drawings of the improvement and certificate of liability insurance and shall coordinate with the Highway Department to identify any existing

utilities or improvements that may be impacted by the scope of work.

(E) The applicant shall pay a fee for cutting, boring, or using County roads and rights-of-way as set out in a schedule prepared by the Highway Department, and such fee shall be paid within ten (10) days after the grant of permit is made to cut into or use a County right-of-way by a check made payable to the County Treasurer.

(F) The Highway Department has adopted minimum standards for all improvements regulating the depth of trenching, distance from maintained road surface of poles and improvements, and materials to be used in trenchings or openings, which minimums shall be followed unless exceptions are granted by the Superintendent of the Highway Department.

(G) The Highway Department has the right to require a Maintenance Bond in certain circumstances to cover one hundred percent (100%) of the cost of restoring the county's property to its condition prior to being opened or damaged and has the right to refuse to approve the application if the request is determined to not be in the best interests of maintaining roads and rights-of-way.

(H) Any person who installs a pipeline, conduit, or private drain across or along any county highway or blocks or damages a county highway without first obtaining a permit therefore such person shall, upon conviction, be fined any sum not exceeding one thousand dollars (\$1,000.00).

(Ordinance No. 2010-9, passed December 20, 2010)

§ 70.03 FROST LAW

(A) During the period of time beginning February 15 and expiring on April 15 of any calendar year, it shall be unlawful for any person to operate, or move, or for the owner to cause or knowingly permit to be operated or moved upon any County Public Highway, street or road, any vehicle or combination of vehicles of a weight exceeding ten thousand (10,000) pounds, except as express authority may be granted by the Commissioners, Highway Supervisor, or authorized representative thereof, with the following exceptions:

1. Implements of agriculture (as defined by IC 9-13-2-77) when used during farming operations or when constructed so that the implements can be moved without material damage to the highways;
2. Farm drainage machinery;
3. Public safety and emergency vehicles;
4. Vehicles hauling agricultural necessities including feed and other perishable commodities, livestock and livestock commodities such as milk, but excluding grain, to and from the point of production.

(B) It shall be the duty of the Prosecuting Attorney, to whom the Sheriff's Department shall report, any violation of the provisions of this ordinance, to cause proceedings to be commenced against the person violating the provisions of this ordinance and to prosecute to the

final termination.

(C) Any person driving a truck or other vehicle on a County highway or road in violation of the restrictions described herein shall be deemed to have violated this Section. The first offense shall receive a verbal warning from the law enforcement officer. The second offense shall be fined two hundred fifty dollars (\$250.00). Subsequent offenses shall be fined not more than one thousand dollars (\$1000.00) per violation per truck.

(D) Any person who operates a truck or motor vehicle upon a County highway or road in violation of the restrictions posted thereon by the County Highway Supervisor, and any person, firm, or corporation who employs any persons so operating such truck or other motor vehicle shall be personally liable for all damages caused to the County highways and roads by use thereof in violation of such ordinance, and the County Attorney is directed to institute whatever legal action is necessary to collect the damages caused to the County highways and roads by such use in violation of the ordinance.

(E) The fines and damage payments collected shall be split evenly between the Sheriff's Department and the Highway Department. The revenues collected and deposited shall be utilized for traffic safety as well as the improvement and maintenance of county roads and shall not be utilized for any other purpose.

(Ordinance No. 2019-1104D, passed November 4, 2019)

§ 70.04 PROTECTION AND PRESERVATION OF COUNTY RIGHTS OF WAY

(A) For the health and safety of the citizens of Warren County, Indiana, henceforth, no individual, corporation, or any other entity shall encroach upon the County's right-of-way by planting crops upon said right-of-way, or placing debris or other articles upon the right-of-ways of the County roadway system.

(B) It shall henceforth be a prohibition to grow a commercial or any other crop within ten (10) feet of the road surface within the right-of-ways of the County roadway system, or deposit or place any debris, organic or inorganic, within ten (10) feet of the road surface within the County's roadway rights-of-way.

If a question shall arise as to the location of the County's right-of-way, a citizen is directed to the County Highway Office, who will ascertain the boundary line of such roadway right-of-way, and mark appropriately.

(C) If any crop is grown upon the County's roadway right-of-way, the County will be entitled to cut the crop without further notice, re-seed and grade as necessary and charge the costs of such action to the landowner, and/or operator of such farm and assess said cost as a tax upon the real estate; and/or file an action as a civil suit seeking damages for the costs associated with removal of the crop or debris and seek injunctive relief to prohibit the same from occurring in the future.

In the event that debris and/or other material is placed upon the County's right-of-way,

County authorities have the right to remove such debris and assess the costs against the violator of this ordinance, with the cost of such clean-up.

Nothing in the Ordinance shall be deemed to restrict the County's rights to enforce compliance with said rules and regulations.

(Ordinance No. 2019-1202B, passed December 2, 2019)

CHAPTER 71: TRAFFIC CONTROL

Section

- 71.01 Speed Limits
- 71.02 Weight Limits
- 71.03 Stop Signs

§ 71.01 SPEED LIMITS

Cemetery Road

The speed limit on "Cemetery Road" shall be 30 mph from the easterly limits on the town of Williamsport to the intersection with "River Road".

(Ordinance No. 1989-1, passed)

County Roads

The speed limit shall be thirty (30) miles per hour along County Roads 325s, 450w and 350s, from the west limits of West Lebanon to the intersection with State Road #63.

(Ordinance No. 1989-3, passed October 16, 1989)

Brisco Road

The maximum speed limit for Brisco Road from 075W to Old 41 is thirty (30) miles per hour.

(Ordinance No. 2011-5, passed January 1, 2012)

Baltimore Hill Road

The maximum speed limit for Baltimore Hill Road and County Road 1000S from Indiana State Road 63 to County Road 875 West is forty (40) miles per hour.

(Ordinance No. 2016-19, passed June 20, 2016)

§ 71.02 WEIGHT LIMITS

Road 325E, commonly known as the Cemetery Road in Pine Village area of Bridge 93, shall have a weight limit on such road reduced from 8 ton to 3 ton, effective immediately.

(Ordinance No. 1990-1, passed)

§ 71.03 STOP SIGNS

There shall be erected stop signs on Sycamore Lane, Dogwood Drive and Redbud Drive at the intersection of said roads with Maple Road in Forest Hills First Revised Addition and Forest Hills Second Addition.

(Ordinance No. 1991-3, passed)

CHAPTER 72: OFF-ROAD VEHICLES

Section

72.01 Off-Road Vehicles

§ 72.01 OFF-ROAD VEHICLES

(A) Definitions. As used in this Section the term:

1. "Operator" means any person at least eighteen (18) years old whose driving privileges are not currently revoked or suspended.
2. "Off-Road Vehicle" means a motor driven vehicle capable of cross county travel without benefit of a road or trail, on or immediately over land, water, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-wheel drive or low-pressure tire vehicle, amphibious machine, ground effect air cushion vehicle or other means of transportation deriving motive power from a source other than muscle or wind. It does not include a farm vehicle being used for farming or a vehicle used for military or law enforcement purposes, a construction, mining, or other industrial related vehicle used in performance of its common function, a snowmobile, or a registered aircraft and does not include any other vehicle properly registered by the Indiana Bureau of Motor Vehicles, and any watercraft which is registered pursuant to Indiana statutes.
3. "Highway, Road or Right-of-Way" means the entire width between the boundary lines of every way maintained by and within the jurisdiction of Warren County, Indiana when any part thereof is open to the use of the public for purposes of vehicular travel. This Section shall not be construed to permit the use of off-road vehicles on state highways.
4. "Operate" means to ride in or on and to be in actual physical control of the operation of an off-road vehicle.

(B) Any person who operates an off-road vehicle over and upon county roads shall maintain recreational vehicle liability insurance in the minimum amount of One Hundred Thousand Dollars (\$100,000.00) per person and Three Hundred thousand Dollar (\$300,000.00) per occurrence insuring against injury to persons and damage to property arising from the use and operation of such off-road vehicle upon county roads. Any person who operates an off-road vehicle over and upon county roads shall carry proof of such insurance on his or her person at all times when operating an off- road vehicle on county roads.

(C) An off-road vehicle shall not be operated on a county road unless it is duly registered with the Indiana Department of Natural Resources and meets all of the standards, requirements and regulations set forth in IC 14-16-1-1 et seq.

(D) A person shall not operate an off-road vehicle:

1. At a rate of speed greater than is reasonable and proper having due regard for conditions then existing but in no event greater than any speed limit of said road or right-of-way.
2. While under the influence of intoxicating liquor or unlawfully under the influence of narcotic or other habit forming or dangerous depressant or stimulant drug.
3. During the hours from one-half (1/2) hour after sunset to one-half (1/2)

hour before sunrise without displaying a lighted headlight and lighted taillight.

4. Unless the vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

5. On any private property without the consent of the landowner.

6. Contrary to any traffic laws governing the operation of motor vehicles in the State of Indiana set forth in Titles 9 and 14 of the Indiana Code.

(E) An off-road vehicle may not be operated by an individual under the age of fourteen (14) years on a public right-of-way.

(F) An individual under eighteen (18) years of age who is operating or riding an off road vehicle shall wear a helmet that meets the standards established by the United States Department of Transportation.

(G) The Commissioners may restrict off-road vehicular traffic on county roads by designating such roads as unsuitable for off-road vehicular traffic and by posting signs on such designated roads. It shall be a violation of this Section to operate an off-road vehicle on any county road so designated and posted.

(H) A person who operates an off-road vehicle in violation of this ordinance shall, upon conviction, be fined an amount not less than One Hundred Dollars (\$100.00) but not to exceed Five Hundred Dollars (\$500.00).

(Ordinance No. 2011-2, passed July 5, 2011)

TITLE IX: BUILDING CODE

- 90. BUILDING CODE**
- 91. FLOOD HAZARD AREAS**
- 92. UNSAFE AND ABANDONED BUILDINGS**

CHAPTER 90: BUILDING CODE

Section

90.01 Building Code

§ 90.01 BUILDING CODE

(A) This article, and all ordinances supplemental or amendatory hereto, shall be known as the "Building Code of Warren County, Indiana", or "Building Code", and may be cited as such, and will be referred to herein as "this code", and shall superseded all ordinances and parts of ordinances in conflict herewith, which are hereby repealed.

(B) The purpose of this code is to provide minimum standards for the protection of life, limb, health, environment, public safety and welfare, and for the conservation of energy in the design and construction of buildings and structures.

(C) There is hereby created and established the office of Building Commissioner of Warren County. The Building Commissioner shall be appointed by the Board of Commissioners.

(D) The Building Commissioner is authorized and directed to administer and enforce all of the provisions of this code, and he is also the official designated and authorized to enforce the other articles of the Warren County Code of Ordinances pertaining to Unsafe Buildings or Building Construction. Whenever in this chapter it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner or any other officer of the County, this shall be construed to give that officer only the discretion of determining whether the rules and standards established have been complied with. No such provision shall be construed as giving any officer discretionary powers as to what such regulations or standards shall be, or power to require conditions not prescribed by this chapter or to enforce its provisions in an arbitrary or discriminatory manner.

The Building Commissioner is authorized to employ sufficient inspectors, assistants, and other personnel as may be approved by the Board of Commissioners and necessary to the carrying out of his duties. Compensation for the Building Commissioner and his inspectors, assistants, and other employees shall be determined by the County Commissioners and the Warren County Council.

(E) The provisions of this code apply to the construction, alteration, repair, use, occupancy, maintenance, and addition to all buildings and structures, other than fences and other than industrialized building systems or mobile structures certified under I.C. 22-15-4, in the area in Warren County in which the Warren County Advisory Plan Commission has jurisdiction for Planning and Zoning, provided that each of the incorporated towns that has designated the Warren County Advisory Plan Commission as the municipal plan commission for Planning and Zoning purposes in accordance with the provisions of I.C. 36-7-4-410, adopts a resolution confirming that the authority granted by this Code is to be effective in their respective corporation. Otherwise, this Code will be effective in the unincorporated portion of Warren County and those incorporated towns which shall adopt said resolution.

(F) Building rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this ordinance and shall include later amendments to those Articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

1. Article 13-Building Codes
 - a. Fire and Building Safety Standards
 - b. Indiana Building Code
 - c. Indiana Building Code Standards
 - d. Indiana Handicapped Accessibility Code
2. Article 14-One- and Two-Family Dwelling Codes
 - a. Council of American Building Officials One- and Two-Family Dwelling Code
 - b. CABO One- and Two-Family Dwelling Code; Amendments
3. Article 16-Plumbing Code
 - a. Indiana Plumbing Code
4. Article 17-Electrical Code
 - a. Indiana Electrical Code
 - b. Safety Code for Health Care Facilities
5. Article 18-Mechanical Code
 - a. Indiana Mechanical Code
6. Article 19-Energy Conservation Code
 - a. Indiana Energy Conservation
 - b. Modifications to the Model Energy Code
7. Article 20-Swimming Pool Code
 - a. Indiana Swimming Pool Code"

Copies of this code and rules, regulations, and codes adopted herein by reference are on file as required by law in the office of the Building Commissioner.

(G) A permit, using forms furnished by the Building Commissioner, shall be obtained before beginning new construction, or altering or repairing existing buildings or structures if the alterations or repairs affect structural strength, sanitary conditions, fire hazards, or pose a threat to personal or public safety. All permits shall be issued by the Building Commissioner and all fees provided for herein shall be paid in the manner set forth in Section XI.

It shall be unlawful for any person to do any work for which a permit is required, on any new or old structure, including repairs or alterations, unless the person doing the work shall maintain a building permit for the work in a full and a conspicuous place on the site of the work until the work shall be finished and finally inspected. No permit issued pursuant to this code shall be removed from the site of the work authorized thereby until permission for its removal is granted by the Building Commissioner.

(H) No permit shall be issued for the purposes specified in Section VII unless the application for the permit is accompanied by two copies of drawings, plans, and specifications showing in complete detail the following:

1. Plat or map of the parcel of land involved, showing the location of the proposed or existing building or structure, and setback from streets or property lines of the

proposed building or structure on the lot or premises.

2. A complete survey, showing all property lines and the size of the lot or premises where any building is to be erected or constructed, certified by a professional engineer or land surveyor registered in Indiana, unless in the opinion of the Building Commissioner the survey is not necessary.

3. All construction and details.

4. Except for single-family dwellings, electrical work, wiring or installations showing the exact location of all apparatus, and the size and capacity thereof; the size of all main and branch conduits; the location of all openings and cabinets, and the capacity of all conductors; provided, however, that the requirements of this division shall not be applicable to meter and service installations, or maintenance, repairs, or alterations to equipment used by public utilities.

5. Except for single-family dwellings, plumbing work showing the exact location of all fixtures and apparatus, and the capacity thereof; the size of all pipes; the location of all openings and traps, and the capacity of all conductors; provided, however, that the Building Commissioner may dispense with the requirement that drawings be furnished in cases of repairs the cost value of which does not exceed \$100, and which are done by a licensed plumber.

Both copies of the drawings, plans and specifications referred to in paragraph (a) herein shall be stamped "approved" by the Building Commissioner, and one such copy shall be returned to the applicant to be kept on the job site at all times.

All plans for building construction under the authority of the Fire Prevention and Building Safety Commission of the State of Indiana must also be filed with the State Building Commissioner. No local permits shall be issued until a copy of a Release for Construction from the State Building Commissioner is received by the Building Commissioner.

(I) The application, plans, and specifications filed by an applicant shall be checked by the Building Commissioner. If the Building Commissioner is satisfied that the work described in the application conforms to the requirements of this chapter and other pertinent laws and ordinances, he shall issue a permit.

Every permit shall expire by limitation if active work shall not have commenced within six (6) months of the date of issue, otherwise the building permit shall expire by limitation. All work so authorized shall be completed within twelve (12) months from the issuance of the building permit. Otherwise the building permit shall expire by limitation. Provided, that a permit for a building or structure which is a part of a Special Exception (Use) authorized by the Warren Advisory County Board of Zoning Appeals shall expire by limitation if active work shall not have commenced within twelve (12) months of the date of issue. All work so authorized shall be completed within three (3) year from the issuance of the building permit; otherwise the building permit shall expire by limitation.

The Building Commissioner is authorized to revoke a building permit, or other permit issued pursuant to this code, after ten (10) days notification in writing thereof to the applicant, if the work under the permit is not proceeding according to the plans and specifications upon which the permit was issued, or if the work is proceeding in violation of law, or of any provision of this or other provisions of the Warren County Code.

(J) The Building Commissioner shall perform the following Flood Control duties:

1. Require certification of flood proofing by engineer/ architect (Structural

dry flood proofing is allowed for non-residential structures.) The engineer/architect must certify to the elevation to which the structure is dry flood proofed.

2. Require all manufactured homes to be installed using methods and practices which minimize flood damages. Manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement.

3. Utility Construction.

a. Require new and replacement water and sewer systems to be designed to minimize infiltration.

b. Require on-site waste disposal systems to be designed to avoid impairment.

4. Record Keeping

a. Obtain and maintain records of elevation and flood proofing levels for new construction or substantial improvements.

b. Obtain certification of flood proofing by engineer/architect.

c. Lowest floor elevations must be obtained for all new construction and substantial improvements.

d. All information concerning and justifying any variances.

5. Water Course Alteration and Maintenance

a. Notify neighboring communities of watercourse alteration.

b. Maintain carrying capacity of altered watercourse.

6. Review Building Permits

a. Review permits to assure sites are reasonably free from flooding.

b. Review permits of proposed construction/development and require:
i. anchoring (including manufactured homes) to prevent flotation and lateral movement.

ii. use of flood resistant materials.

iii. construction methods which minimize flood damage.

iv. electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities to be designed or located to prevent entry or accumulation of water.

v. fully enclosed areas below the lowest floor of an elevated building (if permitted by local ordinances) to be designed to automatically equalize hydrostatic flood forces by allowing for the entry and exit of flood waters.

(K) Application for building permits shall be filed on forms provided, with any necessary exhibits or documents, and shall be accompanied by the filing fees specified. These fees shall be paid to the Building Commissioner who shall forthwith pay over such fees to the County Auditor.

Until all applicable fees have been paid in full, no action shall be taken on any application. The building permit fee shall be in addition to any hook-on or other connection charges, electric meter base charges, or other fees charged pursuant to other town or county ordinances. The fees and charges shall be those established by the Board of Commissioners from time to time.

(L) After the issuance of any building permit, the Building Commissioner shall make, or shall cause to be made, such inspections of the work being done under the permit as are

necessary to ensure full compliance with the provisions of this chapter and the terms of the permit. Basically, the Building Commissioner will make the following inspections for dwellings, businesses, educational and institutional and church buildings and industrial and warehouse and bulk storage buildings: (1) Footing, (2) framing, (3) plumbing and heating, (4) electrical and heating, and (5) final. Reinspections of work found to be incomplete or not ready for inspection are subject to assessment of reinspection fees as prescribed in Section XI. The Building Commissioner shall in all cases designate the stage of construction when each required inspection must be requested by the permit holder. The permit holder shall be responsible for notifying the Building Commissioner, orally or in writing, not less than eight working hours, viz. the hours between 8:00 a.m. and 4:00 p.m., before covering or concealing work to be inspected.

No concrete shall be placed for foundations, slabs, or floors without prior inspection. No electrical, mechanical, plumbing, thermal insulation, or structural framing shall be covered without prior inspection.

A sticker or tag shall be attached to the building permit certifying each phase of construction or renovation. In cases where the work is not approved, the Building Commissioner shall cause a tag or sticker to be fastened to the building permit stating that the work is deemed in noncompliance. It shall be unlawful for any person to disturb or remove the tag until authorized to do so by the Building Commissioner. The permit holder shall repair or cause to be repaired defective work deemed in noncompliance to this code or documents listed in Section VI and shall notify the Building Commissioner after the work is completed so that reinspection can be made. No further work can progress until the previous phase of construction has been approved by the Building Commissioner.

(M) Upon presentation of proper credentials, the Building Commissioner or his duly authorized representatives may enter at reasonable times any building, structure, or premises in the town or unincorporated county area to perform any duty imposed upon him by this code.

(N) Whenever any work is being done contrary to the provisions of this code, the Building Commissioner may order the work stopped by notice in writing served on any persons engaged in doing or causing the work to be done, and any such persons shall forthwith stop the work until authorized by the Building Commissioner to proceed with the work.

(O) No certificate of occupancy for any building or structure erected, altered, or repaired after the adoption of this chapter shall be issued unless the building or structure was erected, altered, or repaired in compliance with the provisions of this chapter. The electric meter will not be energized until a certificate of occupancy has been issued.

(P) All work on the construction, alteration, and repair of buildings and other structures shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade.

(Q) It shall be unlawful for any person, firm, or corporation, whether as owner, lessee, sub-lessee, or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy, or maintain any building or structure, other than fences, in the town or unincorporated county area, or cause or permit the same to be done, contrary to or in violation of the provisions of this code.

(R) All persons shall have the right to appeal the Building Commissioner's decision first through the Board of Commissioners, and then to the Fire Prevention and Building Safety Commission of Indiana, in accordance with the provisions of I.C. 22-13-2-7 or I.C. 4-21-5-3-7, as applicable.

(S) The Building Commissioner shall in the name of the Commissioners of Warren County bring actions in the Warren Circuit Court, for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders, made by the Building Commissioner, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this code.

(T) If any person, firm, or corporation shall violate any of the provisions of this chapter, or shall do any act prohibited herein; or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Building Commissioner; or shall fail, neglect, or refuse to obey any lawful order given by the Building Commissioner in connection with the provisions of this chapter, for each violation, failure, or refusal, the person, firm, or corporation shall be fined in any sum not more than \$500. Each day the unlawful activity continues shall constitute a separate offense.

CHAPTER 91: FLOOD HAZARD AREAS

Section

91.01 Flood Hazard Areas

§ 91.01 FLOOD HAZARD AREAS

Statutory Authorization, Findings of Fact, Purpose, and Objectives.

(A) The Indiana Legislature has in IC 36-7-4 and IC 14-28-4 granted the power to local government units to control land use within their jurisdictions. Therefore, Warren County does hereby adopt the following floodplain management regulations.

(B) The flood hazard areas of Warren County, the Town of Williamsport, Town of State Line, Town of West Lebanon and the Town of Pine Village are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

(C) It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
4. Control filling, grading, dredging, and other development which may increase erosion or flood damage:
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
6. Make federally subsidized flood insurance available for structures and their contents in the County by fulfilling the requirements of the National Flood Insurance Program.

(D) The objectives of this ordinance are:

1. To protect human life and health.
2. To minimize expenditure of public money for costly flood control projects.

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
4. To minimize prolonged business interruptions.
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.
7. To ensure potential homebuyers are notified that property is in flood area.

Definitions

(A) Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

2. A zone means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A 1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM or FHBM. The definitions are presented below:

a. Zone A. Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown. Mandatory flood insurance purchase requirements apply.

b. Zone AE and A1-A30. Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. Mandatory flood insurance purchase requirements apply. (Zone AE is on new and revised maps in place of Zones A 1-A30.)

c. Zone AO. Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.

d. Zone AH. Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.

e. Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection. Mandatory flood insurance purchase requirements apply.

f. Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown. Mandatory flood insurance purchase requirements apply.

3. Accessory structures should constitute a minimal initial investment, may

not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

4. Addition (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

5. Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance or a request for a variance.

6. Area of shallow flooding means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

7. Base Flood Elevation (BFE) means the elevation of the one-percent annual chance flood.

8. Basement means that portion of a structure having its floor sub-grade (below ground level) on all sides.

9. Building - see "Structure."

10. Community means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

11. Community Rating System (CRS) means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

12. Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

13. Development means any man-made change to improved or unimproved real estate including but not limited to:

a. construction, reconstruction, or placement of a structure or any addition to a structure;

b. installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;

c. installing utilities, erection of walls and fences, construction of roads, or similar projects;

d. construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;

e. mining, dredging, filling, grading, excavation, or drilling operations;

f. construction and/or reconstruction of bridges or culverts;

g. storage of materials; or

h. any other activity that might change the direction, height, or velocity of flood or surface waters.

i. "Development" does not include activities such as the maintenance

of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

14. Elevated structure means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

15. Elevation Certificate is a certified statement that verifies a structure's elevation information.

16. Emergency Program means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

17. Encroachment means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

18. Existing Construction means any structure for which the "start of construction" commenced before the effective date of the community's first floodplain ordinance.

19. Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

20. Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

21. FEMA means the Federal Emergency Management Agency.

22. Five-hundred-year flood (500-year flood) means the flood that has a 0.2 percent chance of being equaled or exceeded in any year.

23. Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

24. Flood Boundary and Floodway Map (FBFM) means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

25. Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.

26. Flood Insurance Rate Map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

27. Flood Insurance Study (FIS) is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

28. Flood Prone Area means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Flood")

29. Flood Protection Grade (FPG) is the elevation of the regulatory flood plus

two feet at any given location in the SFHA. (see "Freeboard")

30. Floodplain means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

31. Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

32. Floodplain management regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

33. Floodproofing (dry floodproofing) is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

34. Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

35. Floodway is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

36. Freeboard means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

37. Fringe is those portions of the floodplain lying outside the floodway.

38. Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

39. Hardship (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The Warren County Board of Zoning Appeals require that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel

to a different use than originally intended.

40. Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

41. Historic structure means any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

42. Increased Cost of Compliance (ICC) means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

43. Letter of Map Amendment (LOMA) means an amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA. A LOMA is only issued by FEMA.

44. Letter of Map Revision (LOMR) means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

45. Letter of Map Revision Based on Fill (LOMR-F) means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

46. Lowest adjacent grade means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

47. Lowest floor means the lowest of the following:

- a. the top of the lowest level of the structure;
- b. the top of the basement floor;
- c. the top of the garage floor, if the garage is the lowest level of the

structure;

- d. the top of the first floor of a structure elevated on pilings or pillars;
- e. the top of the floor level of any enclosure, other than a basement,

below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:

- i. the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls having a total net area of one (1) square inch for every one square foot of enclosed area. The bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,

- ii. such enclosed space shall be usable solely for the parking of vehicles and building access.

48. Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

49. Manufactured home park or subdivision means a parcel (or contiguous

parcels) of land divided into two or more manufactured home lots for rent or sale.

50. Map amendment means a change to an effective NFIP map that results in the exclusion from the SFHA of an individual structure or a legally described parcel of land that has been inadvertently included in the SFHA (i.e., no alterations of topography have occurred since the date of the first NFIP map that showed the structure or parcel to be within the SFHA).

51. Map panel number is the four-digit number followed by a letter suffix assigned by FEMA on a flood map. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised. (The letter "A" is not used by FEMA, the letter "B" is the first revision.)

52. Market value means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value) or adjusted assessed values.

53. Mitigation means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

54. National Flood Insurance Program (NFIP) is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

55. National Geodetic Vertical Datum (NGVD) of 1929 as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

56. New construction means any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

57. New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

58. North American Vertical Datum of 1988 (NAVO 88) as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

59. Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

60. One-hundred year flood (100-year flood) is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

61. One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

62. Participating community is any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

63. Physical Map Revision (PMR) is an official republication of a community's FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

64. Post-FIRM construction means construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

65. Pre-FIRM construction means construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

66. Probation is a means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

67. Public safety and nuisance means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

68. Recreational vehicle means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

69. Regular program means the phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

70. Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Article 3 (B) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

71. Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event.

72. Section 1316 is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

73. Special Flood Hazard Area (SFHA) means those lands within the jurisdictions of Warren County subject to inundation by the regulatory flood. The SFHAs of Warren County, the Town of Williamsport, Town of State Line, Town of West Lebanon and the Town of Pine Village are generally identified as such on the Warren County, Indiana and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management

Agency, dated December 4, 2012. The SFHAs of those parts of unincorporated Warren County that are within the extraterritorial jurisdiction of the Town of Williamsport, Town of State Line, Town of West Lebanon and the Town of Pine Village or that may be annexed into Warren County, the Town of Williamsport, Town of State Line, Town of West Lebanon and the Town of Pine Village are generally identified as such on the Warren County, Indiana and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated December 4, 2012. (These areas are shown on a FHBM or FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

74. Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building."

75. Structure means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

76. Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

77. Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

78. Suspension means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

79. Variance is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

80. Violation means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

81. Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

82. Water surface elevation means the height, in relation to the North American Vertical Datum of 1988 (NAVO 88) or National Geodetic Vertical Datum of 1929 (NGVD) (other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

83. X zone means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

84. Zone means a geographical area shown on a FHBM or FIRM that reflects the severity or type of flooding in the area.

85. Zone A (see definition for A zone)

86. Zone B, C, and X means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)

General Provisions

(A) General Provisions.

1. This Section shall apply to all SFHAs and known flood prone areas within the jurisdiction of Warren County, the Town of Williamsport, Town of State Line, Town of West Lebanon and the Town of Pine Village.

2. This Section's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Indiana Department of Natural Resources for review and approval.

a. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Warren County, the Town of Williamsport, Town of State Line, Town of West Lebanon and the Town of Pine Village delineated as an "A Zone" on the Warren County, Indiana and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated December 4, 2012, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.

b. If the SFHA within the jurisdiction of Warren County, the Town of Williamsport, Town of State Line, Town of West Lebanon and the Town of Pine Village is delineated as "Zone A" on the Warren County, Indiana and Incorporated Areas Flood Insurance Rate Map, prepared by the Federal Emergency Management Agency and dated December 4, 2012, the regulatory flood elevation, floodway, and fringe limits shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the

upstream drainage area from the subject site is greater than one square mile.

c. In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.

3. A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

4. No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

5. This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

6. Discrepancy between Mapped Floodplain and Actual Ground Elevations.

a. In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

b. If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

c. If the elevation (natural grade) of the site in question is above the base flood elevation, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner should be advised to apply for a LOMA.

7. In interpretation and application of this ordinance all provisions shall be:

a. Considered as minimum requirements.

b. Liberally construed in favor of the governing body.

c. Deemed neither to limit nor repeal any other powers granted under state statutes.

8. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of Warren County, the Town of Williamsport, Town of State Line, Town of West Lebanon and the Town of Pine Village, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

9. Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for Warren County. All violations shall be punishable by a fine of ten dollars (\$10.00) per day not exceeding five hundred dollars (\$500.00) per day.

a. A separate offense shall be deemed to occur for each day the violation continues to exist.

b. The Warren County Commissioners shall inform the owner that

any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

c. Nothing herein shall prevent the County from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

10. Increased Cost of Compliance (ICC). In order for buildings to qualify for a claim payment under ICC coverage as a "repetitive loss structure", the National Reform Act of 1994 requires that the building be covered by a contract for flood insurance and incur flood-related damages on two occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each such flood event.

(B) Administration.

1. Warren County hereby appoints the Area Plan Commission Director hereafter referred to as the Zoning Administrator to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

2. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- a. Application stage
 - i. A description of the proposed development
 - ii. Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams.
 - iii. A legal description of the property site.
 - iv. A site development plan showing existing and proposed development locations and existing and proposed land grades.
 - v. Elevation of the top of the lowest floor (including basement) of all proposed buildings, Elevation should be in NAVO 88 or NGVD.
 - vi. Elevation (in NAVO 88 or NGVD) to which any non-residential structure will be floodproofed.
 - vii. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development
- b. Construction stage.
 - i. Upon placement of the lowest floor; or floodproofing, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NAVO 88 or NGVD elevation of the lowest floor or floodproofed elevation, as built Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular structure said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders' risk. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) The permit holder shall correct

deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project

3. The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose. Duties and Responsibilities of the Floodplain Administrator shall include, but not be limited to:

a. Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied.

b. Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.

c. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Article 5, Section E and G(1) of this ordinance and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment).

d. Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits are to be maintained on file with the floodplain development permit.

e. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse and submit copies of such to FEMA.

f. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance.

g. Utilize and enforce all Letters of Map Revision (LOMR) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.

h. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

i. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4 Section 8.

j. Verify and record actual elevation to which new or substantially improved structures have been floodproofed in accordance with Article 4, Section 8.

k. Review certified plans and specifications for compliance.

l. Stop Work Orders

i. Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.

ii. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

m. Revocation of Permits

i. The floodplain administrator may revoke a permit or

approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

ii. The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

n. Inspect sites for compliance. For all new and/or substantially improved buildings constructed in the SFHA, inspect before, during and after construction. Authorized County officials shall have the right to enter and inspect properties located in SFHA

(C) Provisions for Flood Hazard Reduction.

1. In all SFHAs and known flood prone areas the following provisions are required:

a. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

b. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

c. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.

d. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

e. Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

f. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

g. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

h. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

i. Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance.

j. Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not further extended, or replaced.

k. Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.

i. The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located.

ii. Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled.

iii. The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water.

iv. The fill or structure shall not obstruct a drainage way leading to the floodplain.

v. The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water.

vi. The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement.

vii. Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

2. In all SFHAs, the following provisions are required:

a. In addition to the requirements of Article 5, Section A, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

i. Construction or placement of any new structure having a floor area greater than 400 square feet.

- ii. Addition or improvement made to any existing structure:
- A. where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).
 - B. with a previous addition or improvement constructed since the community's first floodplain ordinance.

iii. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.

iv. Installing a travel trailer or recreational vehicle on a site for more than 180 days.

v. Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.

vi. Reconstruction or repairs made to repetitive loss structure.

b. New construction or substantial improvement of any residential

structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section B (4).

c. New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section B (4). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

i. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in Article 4, Section C (10).

ii. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

d. New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG. Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

i. Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).

ii. The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.

iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

iv. Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.

v. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

vi. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

vii. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.

viii. Where elevation requirements exceed 6 feet above the

highest adjacent grade, a copy of the legally recorded deed restriction prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the structure's originally approved design, shall be presented as a condition of issuance of the final Certificate of Occupancy.

e. A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

i. The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method.

ii. The fill should extend at least ten feet beyond the foundation of the structure before sloping below the FPG.

iii. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.

iv. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

v. The top of the lowest floor including basements shall be at or above the FPG.

f. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

i. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;

A. outside a manufactured home park or subdivision;

B. in a new manufactured home park or subdivision;

C. in an expansion to an existing manufactured home park or subdivision; or

D. in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

ii. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

iii. Manufactured homes with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.

iv. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

v. Recreational vehicles placed on a site shall either:

- A. be on site for less than 180 days; and,
- B. be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
- C. meet the requirements for "manufactured homes" as stated earlier in this section.

3. Standards for Subdivision Proposals.

- a. All subdivision proposals shall be consistent with the need to minimize flood damage.
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- d. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty lots or five acres.
- e. All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- f. All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

4. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

5. Located within SFHAs, established in Article 3, Section B, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/ improvements to residences in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval (construction in a floodway permit) for the fill is required from

the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed which acting alone or in combination with existing or future development, will increase the regulatory flood more than 0.14 of one foot.

For all projects involving channel modifications or fill (including levees) the County shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

6. If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Article 5 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

7. Standards for SFHAs Without Established Base Flood Elevation and/or Floodways/Fringes.

a. Drainage area upstream of the site is greater than one square mile: If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a floodway or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Article 5 of this ordinance have been met.

b. Drainage area upstream of the site is less than one square mile: If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 have been met.

c. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages.

8. All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Article 5.

(D) Variance Procedures.

1. The Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this ordinance.

2. The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Warren Circuit Court.

3. In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

- a. The danger of life and property due to flooding or erosion damage.
- b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- c. The importance of the services provided by the proposed facility to the community.
- d. The necessity to the facility of a waterfront location, where applicable.
- e. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- f. The compatibility of the proposed use with existing and anticipated development,
- g. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- h. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- i. The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
- j. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

4. Conditions for Variances.

- a. Variances shall only be issued when there is:
 - i. A showing of good and sufficient cause.
 - ii. A determination that failure to grant the variance would result in exceptional hardship.
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- b. No variance for a residential use within a floodway subject to Article 5, Section E or Section G (1) of this ordinance may be granted.
- c. Any variance granted in a floodway subject to Article 5, Section E

or Section G (1) of this ordinance will require a permit from the Indiana Department of Natural Resources.

d. Variances to the Provisions for Flood Hazard Reduction of Article 5, Section B, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

e. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

f. Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

g. Any application to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Article 6, Section E).

h. The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Article 6, Section E).

5. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

a. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;

b. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

6. Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

7. Upon the consideration of the factors listed in Article 6, and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(Ordinance No. 2012-10, passed)

CHAPTER 92: UNSAFE AND ABANDONED BUILDINGS

Section

- 92.01 Unsafe Buildings
- 92.02 Abandoned Buildings

§ 92.01 UNSAFE BUILDINGS

(A) The County Commissioners have adopted Chapter 36-7-9 et seq. of the Indiana Code commonly known as the Unsafe Building Law and all of the provisions of said Chapter;

(B) The County Commissioners shall be the "executive department" authorized to administer the provisions of the Unsafe Building Law;

(C) The County Zoning Director shall be the "enforcement authority".

(D) The County Zoning Director, or his designee, shall be responsible for inspecting buildings about which complaints have been received and issuing orders requesting action with regard to unsafe buildings;

(E) In the event the County is required to bring any action in a court of law to enforce any order of the Warren County Zoning Director or any violation of the Unsafe Building Code, Warren County shall be entitled to recover costs, attorney fees and expenses from the property owner;

(F) The County adopts and incorporates by reference all policies, procedures and definitions as spelled out in IC 36-7-9-1 et seq., as exist now and as amended from time to time and more specifically adopts the definition of "substantial property interest";

(G) There is hereby created an "Unsafe Building Fund" for the deposit of any funds collected under this Section.

(Ordinance No. 2017-04, passed April 3, 2017; Ordinance No. 2017-05, passed May 22, 2017)

§ 92.02 ABANDONED BUILDINGS

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

1. Abandoned Building. A building or structure on a parcel of real property in Warren County, Indiana:

- a. Which is vacant for more than ninety (90) days;
- b. Which is also submitted to and order issued pursuant to Warren County's Unsafe Building Ordinance; and
- c. Upon which the condition which has generated the order has existed for at least thirty (30) days and has not been remedied.

2. Owner. Any person having a legal or equitable title in the real estate or premises.

3. Owner's Representative. A person hired by the owner to represent and/or advocate on the owner's behalf.

4. Person. Any entity including any of the following: individual, firm, corporation, association, partnership, or limited liability corporation/company. References in the masculine gender include the feminine and the neuter, in the present tense includes the future, and the singular includes the plural.

5. Property Manager. An individual or company responsible for the day-to-day functioning of a piece of real estate.

6. Vacant Building. A building or structure on a parcel of real property which lacks the habitual presence of human beings or beings who have a legal right to be on the premises, or at which substantially all lawful business operations or residential occupancy has ceased for a period of at least thirty (30) days. A vacant building shall not include a seasonally occupied residence or a residence owned by an individual actively serving in the military.

(B) Continuing Maintenance Mandatory.

1. Upon finding a building vacant and abandoned, the Code Enforcement Officer, or his or her designee, may issue to the owner an order for continuing maintenance pursuant to the Unsafe Building Act, IC 36-7-9, as may be amended from time to time or pursuant to similar authority granted by state statute or this chapter, or other ordinances and regulations.

2. The owner of a building at that is abandoned shall register the abandoned property with the Code Enforcement Officer pursuant to Section (D).

(C) Property Manager.

1. The owner of a building required to be registered pursuant to this article must appoint a Property Manager residing within fifty (50) miles of the property. The failure to appoint a Property manager is a violation of this section. The Property Manager may be an owner or agent of the owner.

2. An agent acting as the Property Manager must be at least eighteen (18) years of age.

3. The Property Manager must be available to government officials by telephone twenty-four (24) hours a day. The owner's failure to make certain that such a Property Manager is available and maintains the property is a violation of this article.

(D) Registration of Buildings and Structures.

1. The owner of a building that is vacant and abandoned shall register the property with the Code Enforcement Officer upon receipt of an order for registration. Registration shall be on a form provided by the Code Enforcement Officer, shall be verified under penalties of perjury, and shall include the following:

a. Street address of the affected property;

b. The name(s), mailing address(es) and telephone number(s) of the owner(s) or entities which hold an ownership, land contract, mortgage, or other lien interest in the property, and all beneficiaries of any land trust which owns the property.

c. A copy of the most recently executed deed used to transfer title to the property and the most recently prepared sales disclosure form, if available to the owner.

d. The name(s) and residential and business addresses and telephone numbers of the Property Manager.

e. Name of insurance company providing insurance coverage for the building or structure requiring registration, including the representing agent's name, address and telephone number that provides 24-hour access.

f. A written plan for maintenance and repair of the property, including:

i. A schedule within which the owner anticipates completion of all repairs required to bring the building and property into compliance with this chapter and other property maintenance ordinances.

A. The schedule shall not exceed 30 days unless it is demonstrated to the Code Enforcement Officer that additional time is necessary to avoid undue hardship to the owner due to the quantity of work required.

B. The owner's request for additional time shall be supported by relevant documentation, including, but not limited to, bids, quotes for the work, and the owner's financial statement, based upon a financial disclosure statement.

ii. The owner's schedule of plan does not relieve the owner of any order issued pursuant to the Unsafe Building Ordinance

iii. The Code Enforcement Officer's receipt of the plan does not constitute approval of the owner's plan.

2. The owner is responsible for providing an updated registration form to the Code Enforcement Officer within five business days of any change in ownership or any information contained on the registration form. The failure of the owner to provide updated information within five business days of any change in the registration is a violation of this chapter.

(E) Standards for Maintenance.

1. At least once each week, the owner or property manager of the property required to be registered under this chapter shall ensure that the property is inspected and secured against unlawful entry, that the property is cleaned, vegetation is mowed, and that walkways are cleared of snow and ice. Records of such inspections shall be provided to the Code Enforcement Officer upon request.

2. Door and window openings of all buildings or structures on the property shall be secured against unlawful entry by the use of locks designed for such use.

3. To protect the building against unlawful entry or vandalism while vacant, the Code Enforcement Officer may order the owner to secure the doors and windows of the building by the use of boarding. If boarding is used to secure the building, the following standard shall be met: Windows shall be framed by nominal two-inch by four-inch lumber secured with

plywood to the frame using six seven-inch lag bolts into king studs in all corners and in the center of the vertical boards. Plywood shall be a minimum of four-ply rated for exterior exposure, no less than one-half inch in thickness and attached with tamper proof screws, no less than three inches in length and spaced no more than eight inches on-center. Doors may be secured against unlawful entry by the use of locks designed to prevent unlawful entry or by framing nominal two-inch by four-inch lumber secured with plywood to the frame using six seven-inch lag bolts into king studs in all corners and in the center of the vertical boards. Plywood shall be a minimum of four-ply rated for exterior exposure, no less than one-half inch in thickness and attached with tamper proof screws, no less than three inches in length and spaced no more than eight inches on-center.

4. The Code Enforcement Officer may approve alternative methods to secure windows, upon the owner presenting the following information:

- a. Type of material to be used;
- b. Thickness of material;
- c. Method used to attach the material to the building or structure.

5. Boarding of a vacant or abandoned building or structure is to be considered temporary and not a long-term method of securing the building or structure. Boarding used to secure doors and/or windows for more than thirty (30) day shall be surface coated with an exterior grade paint matching the exterior of the building or structure to reduce blighting effect on the neighborhood.

(F) Registration Fee.

1. The owner of any building or structure required to be registered under this chapter shall pay an annual registration fee to the County, upon registration.

2. Fees shall be as follows:

- a. Buildings or structures used or zoned for residential purposes and contains no more than two dwelling units, the registration fee shall be \$100.
- b. Buildings or structures used or zoned for non-residential purposes, the registration fee shall be \$250 for the first year and \$500 for each subsequent year.

3. The registration fee is to reimburse the Code Enforcement Officer, Fire Chiefs, or Sheriff Department for the costs of monitoring the buildings or structures and the additional costs of responding to emergencies and any property maintenance cost incurred by the County for the vacant and abandoned building or structure not covered by any other statute, law or ordinance.

4. The Code Enforcement Officer shall have the limited authority to waive accrued fees on a case by case basis when those costs are determined to impede positive action on an individual property to rehabilitate it for public benefit.

5. Any property that has been repaired; occupied, secured and has its utilities turned on; demolished; or, has been placed under contract for demolition prior to December 31st of each calendar year shall not be required to register and pay the annual registration fee.

(G) Liability Insurance.

1. The owner of any building or structure required to be registered by this chapter shall maintain a policy of liability insurance for the building or structure. A copy certificate or the liability insurance policy shall be provided to the Code Enforcement Officer. The minimum coverage required shall be \$100,000 per occurrence and \$100,000 in the aggregate.

2. The insurance policy shall require the agent or earner to provide a minimum of fifteen (15) business days' advance notice of cancellation to the Code Enforcement Officer.

(H) Exemptions. The Code Enforcement Officer may grant an exception for properties to register if the property is the subject of an open probate estate; or has suffered extensive fire or catastrophic damage within the past ninety (90) days. Any exemption granted shall be for a specific period of time, not to exceed ninety (90) days. However, exemption from the registration requirement shall not constitute approval of any violation of this chapter, or the Unsafe Building Section.

(I) Penalty.

1. An owner of a property that remains vacant or abandoned for at least ninety (90) consecutive calendar days may be liable for a civil penalty in the amount of \$500 per vacant or abandoned building or structure, not to exceed \$5,000 per building or structure per year, unless:

a. Documentation has been filed and approved by the Code Enforcement Officer that indicates the owner's intent to eliminate the vacant or abandoned building or structure status of the property;

b. The owner is current on all property taxes/special assessments; and

c. At least one of the following applies:

i. The structure is the subject of a valid building permit for repair or rehabilitation and the owner is proceeding diligently and in good faith to complete the repair or rehabilitation of the building or structure as defined in the enforcement order issued by the Code Enforcement Officer.

ii. The structure is maintained in compliance with this chapter and other application statutes, laws or ordinances and actively being offered for sale, lease, or rent.

iii. The owner can demonstrate that a diligent and good faith effort to implement actions approved by the Code Enforcement Officer.

2. If the building or structure continues to remain vacant or abandoned beyond the initial ninety (90) days described in division (1) and the owner does not meet any of the exceptions set forth in this section, the Code Enforcement Officer may continue to assess penalties each year on each building or structure in the following amounts:

a. \$1000 for each second ninety (90) calendar day period each building or structure remains vacant or abandoned.

b. \$1500 for the third ninety (90) calendar day period each building or structure remains vacant or abandoned.

c. \$2000 for the fourth and each subsequent ninety (90) calendar day period thereafter for each building or structure that remains a vacant or abandoned.

3. A civil penalty under this section may not exceed \$5,000 per building or structure per year.

TITLE XI: ZONING CODE

110. ZONING CODE