

TITLE III: ADMINISTRATION

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CHAPTER 30: COUNTY OFFICIALS

Section

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forth in this code and conferred on an officer, official, board, commission, or other official entity does not of itself imply that the power or duty does not exist or has been considerably denied or withheld.
(1985 Code, ' 1-4-1)

' 30.01 POWERS AND DUTIES OF COUNTY OFFICIALS.

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

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

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

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

(B) To the extent provided by this section, the fact that a particular power or duty is not expressly set

If officials, officers, and employees of the county deem it necessary to join professional organizations or attend conferences that are specifically beneficial and of assistance in the performance of official duties and functions, they may do so, provided that the daily execution of their official duties and functions will not suffer in their absence. Applicable membership fees

' 30.02 OFFICIAL AGENCY.

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

(1985 Code, ' 1-4-2)

' 30.03 MEMBERSHIPS IN PROFESSIONAL ASSOCIATIONS.

and all specifically necessary and actual expenses of the officials, officers and employees shall, where reasonably feasible, be arranged in advance through normal budgetary and appropriation processes and may be paid from public funds in the way of reimbursement upon the presentation to the appropriate supervisor, fiscal or administrative body

of paid receipts and certificates of attendance or completion.

CHAPTER 31: COUNTY COUNCIL AND BOARD OF COMMISSIONERS

Section

County Council

31.01 Districts established for election of District Council members

Township, consisting of 6,542 registered voters.

(4) *District 4.* District 4 shall include Washington Township Precinct 1, Washington Township Precinct 4, Monroe Township, and Gibson Township, consisting of 6,823 registered voters.

Board of County Commissioners

31.15 County Commissioner districts
31.16 Periodic review of Commissioner districts

(B) Incorporated herein and adopted by reference is a color coded county map which implements the above specifically referenced redistricting by boundary.
(BCC Ord. 2005-01, passed 1-17-2005)

COUNTY COUNCIL

BOARD OF COUNTY COMMISSIONERS

' 31.01 DISTRICTS ESTABLISHED FOR ELECTION OF DISTRICT COUNCIL MEMBERS.

(A) Effective January 4, 2005, the boundary lines for the four County Council Districts shall be as follows.

(1) *District 1.* District 1 shall include Franklin Township, Polk Township, East Pierce Township, and West Pierce Township, consisting of 6,905 registered voters.

(2) *District 2.* District 2 shall include Washington Township Precinct 2, Howard Township, Jackson Township, East Posey Township, and West Posey Township, consisting of 6,953 registered voters.

(3) *District 3.* District 3 shall include Washington Township Precinct 3, Brown Township, Jefferson Township, Vernon Township, and Madison

(B) These Commissioners districts shall be in full force and effect from January 1, 1992 through December 31, 2001 or until changed pursuant to statute or otherwise.

' 31.15 COUNTY COMMISSIONER DISTRICTS.

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

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

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

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

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

Statutory reference:

County Commissioner election districts, see

I.C. 36-2-2-4

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

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

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

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

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

CHAPTER 32: DEPARTMENTS, BOARDS, AND COMMISSIONS

Section

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GENERAL ORGANIZATIONS

32.001 COUNTY PARTICIPATION IN BLUE RIVER COMMISSION.

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

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

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

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

' 32.002 ECONOMIC DEVELOPMENT COMMISSION.

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

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

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

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

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

' 32.003 DEPARTMENT OF REDEVELOPMENT.

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

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

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

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

(2) The term of office of the members of the County Redevelopment Commission shall commence from the date of their appointment and expire on January 1, 2007.

(BCC Ord. 2005-06, passed 12-5-2005)

' 32.004 CAPITAL PROJECTS BOARD.

This section is adopted by the County Council to prohibit the Capital Projects Board from reviewing, revising and reducing the budget, tax rate and tax levy of each political subdivision located in the county.

(CC Ord. 2008-01, passed 12-3-2007)

COUNTY HEALTH DEPARTMENT

32.015 HEALTH DEPARTMENT; BOARD OF HEALTH.

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

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

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

and (a) Be citizens of the United States;

(b) Reside within the county.

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

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

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

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

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

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

(1) Is absent from three consecutive Board meetings;

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

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

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

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

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

(1) The Chairperson;

(2) Any four other members; or

(3) The local Health Officer.

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

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

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

32.016 BOARD OF HEALTH SERVICE FEES.

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

(1) *Vital record services.*

(a) The County Board of Health is hereby authorized to establish and collect fees for the search of its records to provide genealogical information with specific reference to birth certificates and death certificates, with the fees to be \$4 for each birth certificate and \$5 for each death certificate for each name requested to be searched.

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

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

1. Standard size birth certificates shall be \$10;

2. Combination birth certificates (one standard sized and one wallet sized, laminated/pouch) shall be \$15;

3. Death certificates each shall be \$10;

4. Amendments to birth certificates (this includes one corrected birth certificate) shall be \$25;

5. Certificates of paternity/paternity upon marriage shall be \$25

6. Genealogical sheets shall be \$5; and

2. The fees chargeable by County Department of Health for the vaccines shall be the actual cost of procurement, plus an additional even

7. Department of State/Center for Disease Control foreign travel document package shall be \$5.

(2) *Environmental health services.*

(a) The application fee for a septic system permit shall be \$15.

(b) The actual permit fee for the construction and inspection of a new septic system shall be \$35.

(c) There shall be no permit fee for the repair and inspection of an existing septic system.

(d) The site inspection fee for loan approval F.H.A. dye testing shall be \$50. (1985 Code, ' 4-5-1)

(3) *Vaccinations.*

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

(b) 1. The County Board of Health is hereby authorized to establish and collect fees for vaccinations from the families of children from birth to 18 years of age who have coverage for such under a private plan of insurance, for the procurement and administration of all vaccines.

\$5 to cover the additional cost and expense of administration, including, but not limited to, the additional costs of syringes, swabs, record keeping,

and other miscellaneous costs, as well as spoilage and/or waste incidental to limited shelf life of some vaccines.

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

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

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

' 32.017 ACCOUNTING AND DISPOSITION OF COLLECTED FEES.

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

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

DEPARTMENT OF PARKS AND RECREATION

' 32.030 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly

indicates or requires a different meaning.

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

SUPERINTENDENT. The chief administrative officer of the Department of Parks and Recreation herein created, as appointed by the Board, irrespective of whether the Board designates the person by the title ASuperintendent@ or by some other title.

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

' 32.031 DEPARTMENT OF PARKS AND RECREATION ESTABLISHED.

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

(1985 Code, ' 3-3-2) (CC Ord. 1985-1C, passed - -1985)

' 32.032 APPOINTMENT AND TERMS OF MEMBERS OF PARKS AND RECREATION BOARD.

The Parks and Recreation Board shall consist of seven members.

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

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

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

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

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

(1) The County Cooperative Extension Coordinator;

(2) The county Extension Educator; or

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

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

(D) After the expiration of the initial terms of members as provided above, each designated appointing authority shall appoint a new member or reappoint the existing member for a term of four years as reckoned from the expiration date of the original term, the new appointees or reappointees to serve until the first Monday in January of the next succeeding fourth year. However, if any appointing authority should fail to appoint a new member on or before the expiration date of an existing member=s term, the existing member shall continue to serve until his or her successor is appointed and qualified; and if no successor is appointed and qualified by the first Monday in April following the expiration of the existing member=s term, the existing member shall be automatically deemed to have been reappointed for a new term. All members appointed under this division shall be residents of the area or special taxing district wherein property taxes or special benefits taxes are levied and appropriated to support the programs of the

Department of Parks and Recreation.

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

' 32.033 VACANCIES IN BOARD MEMBERSHIP.

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

' 32.034 COMPENSATION OF BOARD MEMBERS.

The County Council may fix for Board members an annual salary, not to exceed the amount permitted by I.C. 36-10-3-9, and/or a per diem allowance per Board meeting attended. Any compensation shall be budgeted by the Department and appropriated by the Council in the same manner as salaries and compensation paid to other county personnel. In addition, subject to appropriations, members may be reimbursed for necessary travel expenses, including travel by private vehicle at the rate applicable to county officers under I.C. 36-2-7-3.

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

' 32.035 MEETINGS.

The Board may establish its own rules and policies for the conduct of meetings as it deems necessary for the purposes of the Department, to the extent not in conflict with I.C. 36-10-3-8 or other statutes. Meetings shall be governed by the require-ments of I.C. 5-14-1.5. (1985 Code, ' 3-3-6) (CC Ord. 1985-1C, passed - -1985)

' 32.036 SUPERINTENDENT.

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

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

- (1) Be qualified by training or experience in the field of parks and recreation; or
- (2) Have a certification or an advanced degree in the field of parks and recreation.

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

(D) The salary of the Superintendent shall be fixed by the Board subject to appropriations by the County Council. (1985 Code, ' 3-3-7) (CC Ord. 1985-1C, passed - -1985)

' 32.037 PARKS AND RECREATION NON-EVERTING CAPITAL FUND.

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

(1) Monies derived from fees charged for park and recreation services, unless directed by the Board to be deposited in a special non-reverting operating fund, if any such fund has been created;

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

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

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

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

(C) Pursuant to I.C. 36-10-3-16, every park officer and employee who handles money in the performance of duties shall execute an official bond before entering upon the duties of office or employment. The bond shall be filed and recorded in the office of the County Recorder. (1985 Code, ' 3-3-8) (CC Ord. 1985-1C, passed - -1985)

PUBLIC DEFENDER BOARDS

' 32.050 BOARD ESTABLISHED.

The County Public Defender Board is hereby established for the purpose of providing legal representation to indigent defendants/respondents in criminal, juvenile, probation violation, extradition, child support, civil commitments, and other proceedings where the right to counsel has been established by law. (BCC Ord. 2000-02, passed - -2000)

32.051 DEFINITIONS.

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

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

INDIGENT DEFENDANT/RESPONDENT.

A person who requests legal representation and is determined by the court to be entitled to legal representation at public expense.

LEGAL REPRESENTATION.

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

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

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

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

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

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

(f) Civil commitment and contempt proceedings; or

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

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

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

32.052 MEMBERSHIP AND APPOINTMENT.

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

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

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

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

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

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

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

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

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

§ 32.053 POWERS AND DUTIES OF THE BOARD.

The Board shall have the following powers and duties:

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

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

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

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

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

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

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

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

§ 32.054 AUTHORITY OF JUDGES.

Nothing contained herein shall be deemed to abridge the authority of any judge of a state court of
(E) The growth of the community be

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

§ 32.055 SCOPE OF SUBCHAPTER.

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

PLAN COMMISSION

§ 32.065 TITLE.

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

§ 32.066 PURPOSE.

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

(A) Highway systems be carefully planned;

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

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

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

commensurate with, and promotive of, the efficient

and economic use of public funds.
(BCC Ord. 2010-05, passed 10-20-2010)

• **32.067 FUNCTION.**

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

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

• **32.068 MEMBERSHIP.**

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

(1) One member appointed by the County Commissioners from its membership;

(2) One member appointed by the County Council from its membership;

(3) The County Surveyor or a qualified deputy surveyor appointed by the Surveyor;

(4) The county agriculture extension educator; and

(5) Five citizen members, of whom not more than three may be of the same political party. Each of the five members must be:

(a) A resident of an unincorporated area of the county; or

(b) A resident of the county who is also an owner of real property located in whole or in

part in an unincorporated area of the county; appointed by the county executive. However, at least two members must be residents of the unincorporated area of the county. Although geographic districts are not established from which to select members of the Plan Commission, geographic representation from across the county is encouraged.

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

(C) Each citizen member shall be appointed because of the member=s knowledge and experience in community affairs, the member=s awareness of the social, economic, agriculture, and industrial problems of the area, and the member=s interest in the development and integration of the area. A citizen member may not hold other elective or appointive office in municipal, county, or state government, except in the case of an area Plan Commission membership on the School Board, the Park Board, or the Board of Directors for Public Utilities or Board of Trustees for Utilities created under I.C. 8-1-11.1.

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

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

(2) A designated representative of the Municipal Plan Commission shall serve as an advisory member of the County Plan Commission. Each advisory member has all the privileges of membership, except the right to vote. If the County Plan Commission fails to make a designation, the county executive shall make the designation.
(BCC Ord. 2010-05, passed 10-20-2010)

‘ **32.069 VACANCIES.**

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

‘ **32.070 ATTENDANCE AT MEETINGS.**

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

‘ **32.071 QUORUM.**

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

‘ **32.072 MILEAGE; COMPENSATION.**

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

(A) A sum for mileage for each mile necessarily traveled while performing the duties of a Plan Commission member in an amount that is equal to the

amount paid to state employees for mileage; and/or

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

‘ **32.073 OFFICIAL ACTION.**

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

‘ **32.074 ELECTION OF OFFICERS.**

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

‘ **32.075 APPOINTMENT OF SECRETARY.**

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

‘ **32.076 REGULAR MEETINGS AND MINUTES.**

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

• **32.077 SPECIAL MEETINGS.**

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

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

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

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

• **32.078 DUTIES OF PLAN COMMISSION.**

The Plan Commission shall:

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

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

(C) Keep complete records of all departmental proceedings;

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

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

(F) Adopt a seal;

(G) Certify to all official acts;

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

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

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

• **32.079 ADOPTION OF STATE STATUTES.**

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

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

CHAPTER 33: COUNTY SHERIFF; FIRE DISTRICTS

Section

County Sheriff

- 33.01 Sheriff=s Merit Board
- 33.02 Sheriff=s Reserve Unit
- 33.03 Sheriff=s sale program; service fee
- 33.04 User fees; motor vehicle accident services

Fire Protection Districts

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

COUNTY SHERIFF

' 33.01 SHERIFF=S MERIT BOARD.

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

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

' 33.02 SHERIFF=S RESERVE UNIT.

(A) *Established; limitation on number of reserves.* The County Police Reserves, which shall be known as the Sheriff=s Reserve Unit, is hereby authorized and established. The maximum number of members of the Sheriff=s Reserve Unit shall be 25

persons.

(1985 Code, ' 5-9-2)

(B) *Appointment and qualifications of members.*

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

(1985 Code, ' 5-9-4)

(C) *Compensation and benefits.*

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

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

(1985 Code, ' 5-9-5)

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

' 33.03 SHERIFF=S SALE PROGRAM; SERVICE FEE.

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

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

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

(D) The Sheriff is hereby authorized to charge a fee of \$100 per parcel of property in the Sheriff=s Sale Program for which the contractor provides services (the Aforeclosure costs fee@) and to deposit the foreclosure costs fee collected by the Sheriff as costs in the foreclosure proceeding in the appropriate fund or funds.

(E) The foreclosure costs fee shall be payable from the proceeds of the Sheriffs Sale in addition to other statutory costs and fees.

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

(BCC Ord. 2004-02, passed 6-21-2004)

• 33.04 USER FEES; MOTOR VEHICLE ACCIDENT SERVICES.

(A) The County Sheriff=s Department shall initiate user fees for the delivery of police services, personnel, supplies, and equipment to the scene of

motor vehicle accidents. The rate of the user fees shall be that which is the usual, customary, and reasonable costs (UCR), which includes any services, personnel, supplies, and equipment and may fluctuate based on the needs of the accident.

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

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

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

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

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

FIRE PROTECTION DISTRICTS

• 33.15 SOUTHWEST WASHINGTON FIRE DISTRICT.

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

name of the fire protection district is Southwest

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

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

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

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

and

- (7) Trustee at large from the district.

(BCC Ord. 92-04, passed 3-16-1992)

' 33.16 BLUE RIVER FIRE PROTECTION DISTRICT.

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

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

Washington Fire District.

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

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

' 33.17 BROWN-VERNON FIRE DISTRICT.

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

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

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

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

and

- (5) Trustee from North Vernon Township.

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

CHAPTER 34: EMERGENCY MANAGEMENT

Section

<i>General Provisions</i>		
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34.02	Definitions	34.46 Cooperation of county officers and employees
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<i>Administration</i>		
34.15	Emergency Management Advisory Council	34.99 Penalty
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34.17	Director of Emergency Management	
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34.19	Powers and duties of County Commissioners	
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34.23	Countywide jurisdiction of Department and application of plan	
34.24	Local Emergency Planning Committee	
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GENERAL PROVISIONS

▸ **34.01 PURPOSE.**

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

▸ **34.02 DEFINITIONS.**

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

ADVISORY COUNCIL. The Washington County Emergency Management Advisory Council as established under this chapter.

34.44 Special emergency powers and duties
CHIEF EXECUTIVE OFFICER. As referred to in I.C. 10-14-3-29-(a) for purposes of declaring a local disaster emergency, and as referred to

hereinafter, means the presiding officer of the Board of Commissioners. The presiding officer shall be considered as the regularly designated President of the

Board, except if he or she is absent or incapacitated, and the Board has a regularly designated President Pro Tem, then the President Pro Tem shall be considered as the **CHIEF EXECUTIVE OFFICER**. If the President is absent or incapacitated and there is no designated President Pro Tem, then the remaining two Commissioners shall select among themselves one to be presiding officer in the same manner as when an ordinary business meeting needs to be conducted in the absence of the President. If both the President and another Commissioner are absent or incapacitated, then the remaining Commissioner shall be considered the presiding officer.

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

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

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

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

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

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

PARTICIPATING EMERGENCY SERVICE.

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

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

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

TECHNOLOGICAL DISASTER. Any incidents such as severe fire, explosions, hazardous material spills, radiological problems which are beyond the control of regular forces. (BCC Ord. 1996-04, passed 2-5-1996)

' 34.03 LIBERAL CONSTRUCTION OF POWERS.

The general intent of this chapter is to provide for all necessary and dispensable powers and procedure reasonable needed to prevent, cope with, or make more tolerable emergency conditions. For this and all powers, both ministerial and discretionary, as conferred herein shall be liberally construed and shall be construed as intending to supplement and augment, and not to limit, any other powers or reasonable exercise of discretion which may ordinarily pertain to county officers, employees, departments and agencies. (BCC Ord. 1996-04, passed 2-5-1996)

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

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

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

ADMINISTRATION

34.15 EMERGENCY MANAGEMENT ADVISORY COUNCIL.

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

designees who shall be comparably qualified:

- (1) The President of the county executive or other current County Commissioner;
- (2) The President of the county fiscal body or other current County Commissioner;
- (3) The mayor of each city located in the county or other current County Commissioner;
- (4) An elected official from the legislative of each town board located within the county;
- (5) Representatives of the private and public agencies or organizations which can be of assistance in emergencies, as the Director considers appropriate, or as may be added later by the County Emergency Management Advisory Council, which shall include the following:
 - (a) The County Sheriff or designee;
 - (b) The Chairperson of the Local Emergency Planning Council;
 - (c) The Police Chief of any city in the county, or a designee;
 - (d) The President of the Volunteer Fire Chiefs Association, or another designated fire chief; and
 - (e) Director of the Washington County Memorial Hospital.
- (6) One commander of a local civil air patrol unit in the county or a representative of the Washington County Pilots Association.

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

(C) *Duties.*

(1) The Advisory Council shall exercise general supervision over the emergency management and disaster program of the county. The Advisory Council alone shall recommend a person to serve as County Emergency Management Director, subject to the approval and appointment of the County Commissioners. The Director shall have direct responsibility for the organization, administration, and operation of the county's emergency management program, and shall be responsible to the Chairperson of the Advisory Council. The office of Emergency Management Director is not a political or partisan appointment, and the person who serves as Director shall not hold any other lucrative local or state government office.

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

' 34.16 DEPARTMENT OF EMERGENCY MANAGEMENT.

(A) There is hereby established a Department of Emergency Management within the executive branch of the county government for the purpose of utilizing to the fullest extent possible the personnel and facilities of existing county departments and agencies to prepare for and meet any emergency as defined in this chapter. The County Commissioners and Director of Emergency Management shall be responsible for its organization, administration, and operation. The Department shall consist of the following:

(1) A Director as executive head, appointed in accordance with ' 34.15(C);

(2) A Deputy Director, whose qualifications shall be determined by the Director, and who shall be appointed by the Director with the approval of the Advisory Council;

(3) Emergency management volunteers, as deemed necessary and appointed by the Director in accordance with ' 34.20;

(4) The employees, equipment and facilities of all county departments and agencies

suitable for, or adaptable to emergency management, as recommended to the Director and designated by the County Commissioners;

(5) Staff officers appointed by the Director with responsibility for warning and communications, radiological, health, emergency care, police, fire and rescue, public works, and public information; and

(6) The assistants, clerical help, and other employees as deemed necessary to the proper functioning of the Department, who may be appointed by the Director.

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

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

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

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

Programs (January, 1984), or subsequent editions thereof as may be in effect at the time.

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

§ 34.17 DIRECTOR OF EMERGENCY MANAGEMENT.

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

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

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

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

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

(3) The Director shall coordinate, within the county, all activities for emergency management

and shall maintain liaison and coordinate with all other affected agencies, public and private;

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

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

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

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

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

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

statewide basis by the State Emergency Management Agency under I.C. 10-4-1-1 et seq.

' 34.18 DEPUTY DIRECTOR.

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

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

' 34.19 POWERS AND DUTIES OF COUNTY COMMISSIONERS.

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

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

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

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

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

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

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

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

' 34.20 QUALIFICATIONS AND APPOINTMENT OF EMERGENCY MANAGEMENT VOLUNTEERS.

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

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

(2) Have no criminal record;

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

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

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

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

' 34.21 DEPARTMENTAL BUDGETING AND FINANCE.

The Advisory Council shall review the budget as presented and prepared by the Director. The County Council shall appropriate funds as it may deem necessary for the purpose of emergency management. All funds appropriated or otherwise available to the Department of Emergency Management shall be administered by the Director, in the same manner as provided by statute or ordinance for other county funds.

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

' 34.22 EMERGENCY OPERATIONS PLAN.

(A) A county emergency operations plan shall be adopted by resolution of the County Commissioners. In the preparation of this plan, as it pertains to county organization, it is the intent that the services, equipment, facilities, and personnel of all existing departments and agencies shall be utilized to the fullest extent possible.

(1) The plan content shall include the following:

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

(2) The following appendices are also required:

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

(j) Resource and supply.

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

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

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

§ 34.23 COUNTYWIDE JURISDICTION OF DEPARTMENT AND APPLICATION OF PLAN.

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

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

§ 34.24 LOCAL EMERGENCY PLANNING COMMITTEE.

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

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

- (5) First aid;
- (6) Health;
- (7) Environmental;
- (8) Hospital;
- (9) Transportation;
- (10) Media;
- (11) Community organizations; and

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

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

' 34.25 LOCAL EMERGENCY PLANNING COMMITTEE FUND.

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

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

EMERGENCY POWERS, REGULATIONS AND PROCEDURES

' 34.40 APPLICATION.

This subchapter applies whenever:

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

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

(C) A presumptive state of emergency is deemed to exist affecting all or part of the county causing the Director to invoke and implement emergency plans and procedures in accordance with ' 34.45; or

(D) The Board of Commissioners has implemented a test of the county=s emergency plans and procedures.
(BCC Ord. 1996-04, passed 2-5-1996)

' 34.41 PRE-DISASTER RESPONSIBILITIES OF DEPARTMENT.

The Department of Emergency Management=s primary pre-disaster responsibility shall be the warning function as prescribed in the warning plan, and emergency communications as prescribed in the communications plan for the entire county, including all cities and towns.
(BCC Ord. 1996-04, passed 2-5-1996)

' 34.42 DECLARATION OF LOCAL DISASTER EMERGENCY.

(A) In the event of actual or threatened enemy attack or disaster affecting the county, the chief executive officer of the county may declare a local disaster emergency pursuant to I.C. 10-14-3-29(a) for any period not to exceed seven days.

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

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

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

' 34.43 EMERGENCY MEETING OF BOARD OF COMMISSIONERS.

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

(B) Any such meeting of the Commissioners shall automatically be deemed an emergency meeting subject only to the procedural provisions of law as govern emergency meetings of County Commissioners, including relaxation of any applicable notice requirements pursuant to I.C. 5-14-1.5-5(d), and may be held in any convenient and available place.

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

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

' 34.44 SPECIAL EMERGENCY POWERS AND DUTIES OF BOARD OF COMMISSIONERS.

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

(1) At the meeting convened under ' 34.43, the Commissioners may exercise any of their normal executive and legislative powers to the extent related to the emergency and necessary to deal therewith. In addition, however, they may also exercise any of the following special and extraordinary powers:

(a) The Commissioners may extend the period of a state of emergency declared by the chief executive officer pursuant to ' 34.42, to last more than seven days if necessary.

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

(c) The Commissioners may order the activation and implementation of the county's comprehensive emergency management and disaster control plan that has been adopted pursuant to ' 34.22 or such several component parts thereof as may be relevant to the emergency.

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

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

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

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

(h) The Commissioners may make provision for availability and use of temporary emergency housing, which housing need not necessarily comply with any minimum housing standards, building or zoning regulations, and the like,

which would govern the use and location of premises for housing purposes during normal times.

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

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

(k) In the event of a national security emergency or state of emergency as provided in I.C. 10-14-3-13, the Commissioners may assign special emergency duties and functions to any county offices, departments, and agencies irrespective of their usual duties and functions, and any unexpended and unencumbered monies budgeted and appropriated for the operation of the offices, departments and agencies and not otherwise dedicated by law to different and specified purposes may, within the scope of each major budget and appropriation category (major object classification), be utilized and expended for the purpose of carrying out the special emergency duties and functions.

(l) The Commissioners may make and promulgate emergency orders, rules, and regulations as may be deemed necessary to protect life and property, preserve order, conserve critical resources, or implement and carry out the provisions of the county=s or state=s disaster plans, including but not limited to the power to order the roads closed, establish curfews, close business, or any action that they deem necessary to save lives and recover from a declared emergency. This power also includes the power to supplement, modify, or suspend any general contingency regulations which may have been incorporated as part of the county=s previously adopted emergency operations plan. Any emergency regulations adopted under this division shall not be effective until promulgated, which promulgation shall be by written filing in the office of the County Clerk as required by I.C. 10-14-3-22(b)(2).

(m) The Commissioners may request the state or the United States or their agencies and political subdivisions to send aid (including financial assistance) if the situation is beyond the control of the regular and emergency county forces and resources.

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

(B) *Director.* It shall be the duty of the Director to make recommendations and advise the Board of Commissioners or the chief executive officer on any actions which it would be necessary or desirable to take under division (A) above in the event of any emergency.
(BCC Ord. 1996-04, passed 2-5-1996)

‘ 34.45 POWERS OF DIRECTOR DURING PRESUMPTIVE STATE OF EMERGENCY.

(A) In the event that an emergency clearly exists or is imminent within the county, and a state of emergency has not been declared by the Governor nor is any person having the powers of the chief executive officer of the county present to declare such an emergency pursuant to ‘ 34.42, the Director may temporarily presume the existence of a state of emergency even though not officially declared and may, as his or her own judgement dictates, invoke, implement, and carry out the provisions of the county=s adopted comprehensive emergency management and disaster control plan as are necessary to cope with the emergency and protect the public safety and welfare, and shall be construed to have all powers necessary and dispensable to doing so to the extent not specifically limited by statute or specifically limited herein, until a time as a chief executive officer becomes available. This section also applies to the Deputy Director to the extent that the Deputy Director is required to assume the duties of the Director, as provided by ‘ 34.18, in the latter=s absence or incapacitation during the emergency.

(B) Assistance from the Department of Emergency Management may be rendered without a declaration of an emergency in order to assist local emergency services in time of need.
(BCC Ord. 1996-04, passed 2-5-1996)

‘ 34.46 COOPERATION OF COUNTY OFFICERS AND EMPLOYEES.

All officers and employees of the county shall cooperate with and give active support to the County Commissioners and the County Emergency Management Director in all emergency operations, and shall comply with all orders of the Commissioners and County Emergency Management Director issued pursuant to this chapter.
(BCC Ord. 1996-04, passed 2-5-1996)

‘ 34.47 PRIORITY OF EMERGENCY ORDERS, RULES AND REGULATIONS.

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

' 34.48 VIOLATIONS.

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

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

(2) Fail to observe, abide by, and comply with any emergency management duties, orders, regulations and procedures as made applicable to the person by the appropriate authorities; or

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

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

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

' 34.49 LIMITATION OF LIABILITY.

latter may be inconsistent therewith.
(BCC Ord. 1996-04, passed 2-5-1996)

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

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

' 34.50 REIMBURSEMENT FOR USE OF PROPERTY COMMANDEERED DURING EMERGENCY

Persons whose services or property are commandeered for the use in any emergency by a member of the Department of Emergency Management, by the County Commissioners, or by any other authorized person formally pre-designated by the Commissioners as having the power to commandeer, shall be reimbursed for its use by the county in a manner approved by the County Council and consistent with the State Constitution reimbursement shall include payment for services, use of equipment, damage thereto, and destruction thereof.
(BCC Ord. 1996-04, passed 2-5-1996)

' 34.99 PENALTY.

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

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

CHAPTER 35: PERSONNEL POLICIES

Section

35.01 Personnel policies adopted by reference

35.01 PERSONNEL POLICIES ADOPTED BY REFERENCE.

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

CHAPTER 36: FINANCE AND REVENUE

Section

	<i>General Provisions</i>		
36.01	Investment of monies authorized	36.28	Highway Department Petty Cash Fund
36.02	Appropriations and expenditures for organizational memberships and purposes beneficial to county government	36.29	Cumulative Bridge Fund
36.03	Income tax	36.30	Sheriff=s Drug Investigation Fund
36.04	Distribution of unallocated Social Security receipts	36.31	Clerk=s Record Perpetuation Fund
36.05	Innkeepers tax	36.32	Enhanced 911 Fund and Wireless 911 Fund
36.06	Inventory tax repeal; economic development income tax; apportionment	36.33	Fees for electronic map data
36.07	Reduction of six-month balance; special account	36.34	Identification Security Protection Fund
36.08	Auditor may make claim payments in advance of Board allowance for certain expenses	36.35	Fees for drainage culverts; Highway Department
36.09	Electronic transmission of statements and other information for property taxes and special assessments	36.36	Building permit fee schedule
		36.37	Fees for issuing a mobile home permit
		36.38	Building or Remodeling and Fire Equipment Fund
		36.39	Plat Book Maintenance Fund
		36.40	Fees for copies of plats

GENERAL PROVISIONS

§ 36.01 INVESTMENT OF MONIES AUTHORIZED.

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

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

	<i>Fees and Funds</i>
36.20	County User Fee Fund
36.21	Levy Excess Fund
36.22	Cumulative Jail Fund
36.23	County Correction Fund
36.24	Special non-reverting operating fund for park purposes
36.25	Prosecutor=s Drug Investigation Fund
36.26	Washington County Memorial Hospital Fund
36.27	Non-reverting Insurance Fund

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

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

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

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

(3) Unless otherwise provided by a statute, an applicable state or federal administrative regulation, or a county ordinance, all investments made under this section shall be deemed to have been made from total monies on deposit, and all earnings or capital gains realized from the investments shall accrue to the General Fund of the county; however, any transaction fees or financial institution service charges owing pursuant to the making, sale, or liquidation of an investment shall be deemed part of and payable from the principal of the investment, and any such payments out of principal shall be restored to the principal amount from the amounts of earnings and capital gains when the principal is redistributed to the original fund or funds from which it derived, at the time of final liquidation of the investment.

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

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

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

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

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

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

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

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

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

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

' 36.03 INCOME TAX.

(A) *County Economic Development Income Tax*

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

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

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

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

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

' 36.04 DISTRIBUTION OF UNALLOCATED SOCIAL SECURITY RECEIPTS

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

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

' 36.05 INNKEEPERS TAX.

(A) The County Council hereby levies a tax of 4% of the gross retail income derived from lodging income on every person or entity engaged in the business of renting or furnishing, for periods of less than 30 days, any room or rooms, lodgings or accommodations in any hotel, motel, boat motel, inn or tourist cabin located within the county. This tax shall not apply to gross income received in the transaction in which a person rents a room, lodging or accommodation for a period of 30 days or more.

(CEDIT).

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

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

(D) It is further ordained and decreed by the County Council that the county executive as defined in I.C. 36-1-2 shall create a commission to promote the development and growth of the convention, visitor, and tourism industry in the county. That this commission shall be developed and organized pursuant to I.C. 6-9-18-5 and be governed by those provisions at I.C. 6-9-18-4, 6-9-18-6, 6-9-18-7, and 6-9-18-8 as may from time to time be amended by the State General Assembly.

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

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

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

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

supervision by the State Board of Accounts.

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

(CC Ord. 2002-02, passed 8-5-2002)

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

(A) Repeal inventory tax.

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

(2) It is the intent of the County Council in the passage of this division (A) to comply with I.C. 6-1.1-12-41 so as to exercise the authority provided to the County Council to authorize 100% deduction of the assessed value of inventory located in the county.

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

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

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

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

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

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

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

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

(1) Pursuant to the ordinance passed March 3, 2004 by the County Council, the Council has adopted the economic development income tax in conjunction with the repeal of the inventory tax of the county, which provides for homestead credits to the

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

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

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

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

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

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

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

(C) Pursuant to I.C. 6-3.5-1.1-9.5, the County Council would request the State Budget Agency to comply with subsections (d) through (g) and distribute

residents of the county, to offset the 100% deduction of the assessed value of inventory located in the county.

those monies from the special account balance to the Auditor of the county so that the State Budget Agency in its special account balance does not hold more than a three-month balance of the county adjusted gross income tax.

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

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

(A) The County Auditor may make claim payments in advance of Board allowance for the following kinds of expenses:

(1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions;

(2) License or permit fees;

(3) Insurance premiums;

(4) Utility payments or utility connection charges;

(5) General grant programs where funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced;

(6) Grants of state funds authorized by statute;

(7) Maintenance or service agreements;

(8) Leases or rental agreements;

(9) Bond or coupon payments;

(10) Payroll;

(11) State or federal taxes;

(12) Expenses that must be paid because of emergency circumstances;

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(13) Available discount if paid by early due date;

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

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

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

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

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

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

(2) A provisional tax statement that would otherwise be sent by the County Treasurer to the person by regular mail under I.C. 6-1.1-22.5-6;

(3) A reconciling tax statement that would otherwise be sent by the County Treasurer to the person by regular mail under any of the following:

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

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

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

(14) Postage; and

(15) Expenses described in an ordinance.

under I.C. 6-1.1-22.5-18.5.

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

(5) Any other information that:

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

(b) Would otherwise be sent:

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

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

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

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

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

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

(G) The E-Billing Services contract shall provide for the delivery of the services by a contractor in compliance with all applicable statutory provisions for the electronic transmission of statements and other information for property taxes and special assessments. The E-Billing Services contract shall also provide for the payment of fee(s) for each parcel that a county taxpayer elects to participate in the electronic transmission of statements and other information for property taxes and special assessments.

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

FEES AND FUNDS

36.20 COUNTY USER FEE FUND.

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

- (A) The Pretrial Division Program Fee;
- (B) The Informal Adjustment Program Fee;

- (C) The Marijuana Eradication Program Fee;
- (D) The Alcohol and Drug Services Program Fee;
- (E) The Law Enforcement Continuing Education Program Fee;
- (F) The Deferral Program Fee; and
- (G) The Jury Fee.

36.21 LEVY EXCESS FUND.

(A) Pursuant to I.C. 6-1.1-18.5-17 as amended by 1985, H.B. 1558, there is hereby established a special non-reverting fund to be known as the Levy Excess Fund into which monies shall be deposited as follows:

(1) For tax years after 1979 but prior to 1985, any property tax receipts of the county from the county's own property tax levies which exceed 102% of the total estimated property tax levy for the year as finally fixed in the approved and certified county budget for that year shall be credited to and deposited in the Levy Excess Fund.

(2) For tax years 1985 and subsequently, there shall be credited to the Levy Excess Fund the lesser of:

- (a) The actual amount of any levy excess as determined in the manner described under division (A)(1) above; or
- (b) One hundred dollars.

(B) In the event that property tax collections credited to any other fund or funds of the county must be refunded to the taxpayer in accordance with I.C. 6-1.1-26 because they were excessive or erroneous collections, the Auditor and Treasurer shall reimburse the amount of the refund to the appropriate fund or funds from unappropriated monies in the Levy Excess Fund, unless the County Council shall have concurrently reduced appropriations from other fund or funds in the amount necessary to offset the required refund; however, if unappropriated monies in the Levy Excess Fund are insufficient to completely reimburse any required refund, reimbursement to each affected fund shall be made proportionately as to the amount of refund paid from each such fund. Otherwise, monies in the Levy Excess Fund may only be budgeted, appropriated, and expended for purposes authorized by the State Board of Tax Commissioners in accordance with I.C. 6-1.1-18.5-17(e). Monies in the Levy Excess Fund may be invested by the Treasurer, but all proceeds shall be receipted back to the fund. (1985 Code, ' 5-4-4) (BCC Ord. 1985-C8, passed - -1985)

' 36.22 CUMULATIVE JAIL FUND.

(A) Pursuant to I.C. 36-9-15-2, it is desired and deemed necessary to proceed with the proposed plan to establish a Cumulative Jail Fund, to be used for the purposes of construction, repair, or improvement of the county jail. (1985 Code, ' 3-6-1)

(B) A property tax shall be levied within the taxing district for the Cumulative Jail Fund in each tax year at a rate of \$.0100 per \$100 assessed valuation. (1985 Code, ' 3-6-2) (CC Res. passed 7-16-1984)

' 36.23 COUNTY CORRECTION FUND.

The county shall participate in the County Corrections Fund, under I.C. 11-12-6 at level three funding, being that the county shall house 100% of all misdemeanor prisoners. (BCC Ord. 96-02, passed 1-15-1996; BCC Ord. 97-02, passed 1-20-1997; BCC Ord. 98-01, passed 1-19-1998; BCC Ord. 2001-02, passed 2-5-2001)

' 36.24 SPECIAL NON-REVERTING OPERATING FUND FOR PARK PURPOSES.

A special non-reverting operating fund shall be established pursuant to I.C 36-10-3-22 as follows.

(A) The fund shall be funded at the beginning of each operating season by its revenues from the previous year to a maximum of \$500.

(B) On a monthly basis this fund shall be drawn down to a maximum of \$500.

(C) No money shall be withdrawn from this special non-reverting fund unless it shall be used for the purchase of merchandise, goods or supplies necessary for the continuation and success of the snack concession and boat and cabin rental.

(D) Money obtained from fees or received from the sale of surplus property under this section in excess of \$500 shall be deposited at least once each month with the County Treasurer.

(E) No creditor shall receive compensation for services, merchandise, supplies or equipment from this fund in excess of \$300 without prior approval by the Board of Parks and Recreation.

(F) All disbursements from this fund are subject to review by the Board and must be approved and ratified in writing by the President and Secretary of the Board. (CC Ord. passed 9-2-1986)

' 36.25 PROSECUTOR=S DRUG INVESTIGATION FUND.

(A) The Board of Commissioners does hereby authorize the Auditor to create and maintain a fund to be known as the County Prosecutor Drug Investigation Fund (P.D.I.F.).

(B) The purpose of the P.D.I.F. shall be to provide monies for the use of all law enforcement agencies in the county, to aid and assist in the furtherance of criminal investigations.

(C) The County Auditor is hereby authorized to accept funds, whether by way of voluntary contributions, court order, restitution, or the assessments of fines and costs, specifically designated for use as P.D.I.F. monies; the Auditor shall accept the monies, and the monies shall be made available for use

(D) The Prosecuting Attorney shall deposit warrants paid by the County Commissioners into the checking account to be known as the Prosecutor=s Drug Investigation Fund Checking Account, which this section authorized the Prosecutor to establish, and shall be disbursed therefrom in accordance with the procedures, guidelines, rules, and regulations adopted by the Office of the Prosecuting Attorney; but the Prosecuting Attorney shall not maintain a balance in the checking account in excess of \$5,000 at any one time.

(E) The Prosecuting Attorney is hereby authorized to invest those funds held in the Prosecutor=s Drug Investigation Fund Checking Account, in a NOW account or similar account which shall bear interest; the Prosecuting Attorney shall account to the County Auditor for all interest earned on the account; the interest earned on the account need not be turned over to Washington County by the Prosecuting Attorney, but may be kept and retained in the Prosecutor=s Drug Investigation Fund and Checking Account and used for the purposes and in the manner as are other funds deposited to the Prosecutor=s Drug Investigation Fund Checking Account.

(F) The Board of Commissioners of the county previously authorized the Auditor of the county to create and maintain a fund to be known as the Washington County Prosecutor Drug Investigation Fund (P.D.I.F. hereinafter).

(G) The purpose of the P.D.I.F. shall be expanded so as to provide monies for the use of all law enforcement agencies in the county, to aid and assist not only in the furtherance of criminal investigations, but for matters of training, prevention, and treatment, as the prosecutor in his or her sound discretion may deem appropriate under circumstances.
(BCC Ord. C2A-1986, passed 3-17-1986; BCC Ord. C2AB-1986, passed 6-2-1986; BCC Ord. 2009-02, passed 3-18-2009)

by the Prosecuting Attorney subject to the Prosecuting Attorney making a claim for the monies to the County Commissioners by setting forth on the claim that the purpose thereof is to obtain P.D.I.F. monies.

' 36.26 WASHINGTON COUNTY MEMORIAL HOSPITAL FUND.

(A) Pursuant to I.C. 16-22-3-27.5, there shall be established the County Memorial Hospital Fund.

(B) Pursuant to I.C. 16-22-3-27.5, the County Council shall annually, beginning in 1996, levy a tax upon the real estate of the property owners of the county to raise the sum of \$207,000 per year for the next 20 years or until the year 2015, to be applied toward payment of the construction loan for County Memorial Hospital (\$207,000 x 20 years = \$4,140,000).

(C) Pursuant to I.C. 16-22-3-27.5, one-half of the annual lease or loan payment of the County Memorial Hospital shall be paid semi-annually to the state authority after the semi-annual settlement of tax collections.

(D) The tax levy provided in this section shall be reviewable in the same manner that other taxes are reviewable to ascertain that the tax levy is sufficient to produce the amount of the loan payment that is required to be paid from taxes.
(CC Res. 1996-01, passed 1-2-1996)

' 36.27 NON-REVERTING INSURANCE FUND.

(A) This section shall be known as the Non-reverting Insurance Fund.

(B) The adoption of this section is authorized by the laws of the state and action of the Board of Commissioners.

(C) This Non-Reverting Insurance Fund is to be used solely for the administration of the health insurance premium of the employees of the county, and for the handling of budgeted insurance funds and

payment of claims.

(D) Balances maintained in this fund from year to year shall remain and carry over for continuing

(E) The operation of this Non-Reverting Insurance Fund shall be, consistent with state law, the County Auditor and shall be subject to the state law for administration and claims procedures.

(CC Ord. 1996-03, passed 2-5-1996)

' 36.28 HIGHWAY DEPARTMENT PETTY CASH FUND.

(A) There is hereby created in the County Highway Department a Petty Cash Fund, which Petty Cash Fund is hereby created for the purpose of making cash monies available for the payment of freight, express and drayage, for minor office supplies and for minor repairs of equipment.

(B) The Petty Cash Fund is now created in the amount of \$300, and the County Commissioners are now authorized to approve and allow a claim to the Petty Cash Fund.

(C) The Petty Cash Fund shall be used for the purposes herein expressed, and each withdrawal from the Petty Cash fund shall be evidenced by a voucher thereon, approved in advance by the County Highway Superintendent.

(D) The Petty Cash Fund may be reimbursed from time to time by a claim to the credit of the Petty Cash Fund from the various appropriations hereinbefore described, which claims shall be filed by the County Highway Superintendent as other claims are filed, advertised, and presented to the Board of County Commissioners for approval, and the Petty Cash Fund shall be reimbursed from the various appropriations so approved by the County Commissioners.

(1985 Code, ' 6-4-2) (CC Ord. adopted 2-14-1972)

Statutory reference:

Petty cash funds authorized, see I.C. 36-1-8-3

' 36.29 CUMULATIVE BRIDGE FUND.

usages under the purposes outlined hereunder exclusively.

It is desired and deemed necessary to establish a Cumulative Bridge Fund for the purpose or purposes described in I.C. 8-16-3-1. An additional tax rate of \$0.30 per \$100 of taxable property shall be levied to provide monies for the fund, the tax to be first levied and payable in 1978 and annually thereafter until reduced or rescinded as provided for in I.C. 8-16-3-3. (1985 Code, ' 6-4-3) (BCC Res. passed 6-20-1977)

' 36.30 SHERIFF=S DRUG INVESTIGATION FUND.

(A) The Board of Commissioners does hereby authorize the Auditor of the county to create and maintain a fund to be known as the County Sheriff=s Drug Investigation Fund (S.D.I.F. hereinafter).

(B) The purpose of the S.D.I.F. shall be to provide monies for the use of all law enforcement agencies in the county, to aid and assist in the furtherance of criminal investigations.

(C) The Auditor of the county is hereby authorized to accept funds, whether by way of voluntary contributions, court order, restitution, or the assessments of fines and costs, specifically designated for use as S.D.I.F. monies; the Auditor shall accept the monies, and the monies shall be made available for use by the Sheriff subject to the Sheriff making a claim for the monies to the County Commissioners by setting forth on the claim that the purpose thereof is to obtain S.D.I.F. monies.

(D) The Sheriff shall deposit warrants paid by the County Commissioners into the checking account to be known as the Sheriff=s Drug Investigation Fund Checking Account, which this section authorizes the Sheriff to establish, and shall be disbursed therefrom in accordance with the procedures, guidelines, rules, and regulations adopted by the office of the Sheriff; but that by this section the Sheriff shall not maintain a balance in the checking account in excess of \$20,000 at any one time.

(E) The Sheriff is hereby authorized to invest those funds held in the Sheriff=s Drug Investigation Fund Checking Account, in an interest bearing account; the Sheriff shall account to the Auditor of the county for all interest earned on the account; the interest earned on the account need not be turned over to the county by the Sheriff, but may be kept and retained in the Sheriff=s Drug investigation Fund and Checking Account and used for the purposes and in the manner as are other funds deposited to the Sheriff=s Drug Investigation Fund Checking Account. (BCC Ord. 2000-01, passed 7-3-2000)

' 36.31 CLERK=S RECORD PERPETUATION FUND.

(A) The County Council hereby directs the County Auditor to deposit 40% of the late payment fees collected under I.C. 33-37-5-22 in the Clerk=s Record Perpetuation Fund established under I.C. 33-19-6-1.5 and 60% of the late payment fees collected under I.C. 33-19-6-20 in the County General Fund.

(B) This section applies to late payment fees distributed to the County Auditor after January 1, 2002. (CC Ord. 2001-10, passed 12-3-2001)

' 36.32 ENHANCED 911 FUND AND WIRELESS 911 FUND.

(A) The Auditor of the county shall merge the Enhanced 911 Fund of the county and the Wireless 911 Fund of the county together so that the two funds are combined into one Fund.

(B) The use of monies in the Wireless 911 Fund upon it being merged with the Enhanced 911 Fund may both be used for the same purposes and to meet the expenditures necessary to maintain a 911 Emergency Response System within the county. (CC Ord. 2002-03, passed 11-4-2002)

' 36.33 FEES FOR ELECTRONIC MAP DATA.

(A) *Title and definitions.* This section and any parts herein shall be known as the Washington County Electronic Map Ordinance. In accordance with I.C. 5-14-3-2, **PERSON**, as used in this agreement, is defined as an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity, and **ELECTRONIC MAP DATA** as used in this agreement, is defined as copyrighted data created and provided by a public agency from an electronic geographic information system.

(B) *Fee schedule.*

(1) Pursuant to I.C. 5-14-3-8(j) the county may charge a fee, uniform to all persons for providing electronic map data that is based upon a reasonable percentage of the county=s direct cost of maintaining upgrading and enhancing the electronic map and for the direct cost of supplying the electronic map in the form requested by the person(s).

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

(3) It is hereby established by the County Commissioners and County Council that the initial fee schedule for electronic map data shall be as follows:

(a) An annual fee of \$ 1,500, paid in advance, for the transmission of available and disclosable countywide electronic map data;

(b) A fee of \$75 per hour for the preparation of one time specifically requested subsets of county electronic map data; and

(c) A fee of \$150 per hour for computer programming required to separate disclosable and nondisclosable electronic map information if this is required as a part of a one time map data request.

(4) If the county contracts with a third party contractor to handle the transmission of county electronic map data the third party contractor shall

receive two-thirds, and the county one-third of the fees charged the person for electronic map data.

(5) This fee schedule shall be reviewed on an annual basis and may be changed on an annual basis to reflect the change in the cost of providing electronic map data.

(C) *Exceptions to fee schedule.* Pursuant to I.C. 5-14-3-8(k), the fee charged by a county to cover the costs for maintaining, upgrading, and enhancing an electronic map may be waived by the Board of Commissioners, in whole or in part at its discretion if the use of the electronic map data will be used for a noncommercial purpose, including the following: public agency program support, nonprofit activities, journalism, and/or academic research.

(D) *Third party contractor.*

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

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

(E) *Payment.* Where the county is using its own computer gateway for the provision to person(s) of electronic map data, payment shall be made by the person(s) at the time of delivery. Where the county has entered into an agreement with a third party contractor to provide electronic map data through the third party contractor's computer gateway, the third party contractor shall handle the billing and invoicing of the

fees charged and shall agree to send by U.S. mail that portion of the fee due the county to the County's Electronic Map Generation Fund within ten business days of the receipt of payment of fees to the third party contractor by the person(s) making the purchase.

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

(G) *Use restrictions and notice.*

(1) Pursuant to the provisions of I.C. 5-14-3-3(e), no person, other than those authorized in writing by the Board of Commissioners, may use the electronic map data provided by the county for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by request to any other person for these purposes. This includes the repackaging or assimilation of electronic map data for a commercial purpose in paper or electronic media.

(2) A person who uses information in a manner contrary to this section or a rule or ordinance adopted under I.C. 5-14-3-3 may be prohibited by the county from obtaining any electronic map data.

(3) The following notice regarding data ownership, restrictions, and qualifications shall be provided to every person that receives a copy of the county's electronic map data.

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

(4) Pursuant to the provisions of I.C. 5-14-3-3(e), no person, other than those authorized in writing by the Board of Commissioners may use the electronic map data provided by the county for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by request to any other person for these purposes. A person who uses information in a manner contrary to a rule or ordinance adopted under I.C. 5-14-3-3(e) may be prohibited by the Board of Commissioners from obtaining any electronic map data.

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

(H) *Use violation penalty.*

(1) Any person(s) who violates the terms and conditions of this section by failing to pay for purchased electronic map data shall be liable for total fee charged for the electronic map data plus attorney's fees and the cost of collection.

(2) Any person(s) who violates the restrictions on the use of electronic map data as set forth in division (G) above shall be guilty of an infraction and may be fined by the county up to \$2,500, and each violation shall be deemed a separate offence.

(3) Also, in the event that there is an improper use of electronic map data as set forth in division (G) above or in violation of state or federal law, the county may prohibit the person(s) (as defined by I.C. 5-14-3-2) from obtaining any electronic map data and seek injunctive relief from any misuse of electronic map data by the person(s) who originally purchased the electronic map data or any other person(s) who has received a copy of the electronic map data.

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

(1) The maintenance, upgrading, and enhancement of the electronic map; and

(2) The reimbursement of expenses incurred by a public agency in supplying an electronic map in the form requested by the person(s).

(J) *Dispute resolution.* Any person who has a dispute, or seeks relief from the terms of this section may seek resolution of that dispute or relief from the County Board of Commissioners.

(BCC Ord. 2004-01, passed 3-15-2004)

36.34 IDENTIFICATION SECURITY PROTECTION FUND.

(A) *Fund.* Pursuant to I.C. 36-2-7.5, the County Identification Security Protection Fund (AFund@) is hereby established on October 3, 2005.

(D) *Deposits.* The funds shall consist of the fees deposited in the Fund by the County Recorder pursuant to I.C. 36-2-7.5-6.

(E) *Use of fund.* The County Recorder may use money in the Funds only to purchase, upgrade, implement, or maintain redacting technology used in the office of the County Recorder.

(F) *Reversion.* Money in the Fund does not revert to the County General Fund.

(G) *Governing law.* The Fund shall be governed by and subject to the provisions of I.C. 36-2-7.5, as amended.

(BCC Ord. 2005-05, passed 10-3-2005)

36.35 FEES FOR DRAINAGE CULVERTS; HIGHWAY DEPARTMENT.

The County Highway Department is hereby authorized to sell and install drainage culverts to citizens of the county, for an amount equal to the Highway Department=s cost of the culvert, plus \$100 for additional expenses and costs of installing the culverts on properties abutting county roadways.

(BCC Ord. 2007-05, passed 5-16-2007)

36.36 BUILDING PERMIT FEE SCHEDULE.

<i>Building Permit Fee Schedule</i>	
<i>Square Foot</i>	<i>Permit Fee</i>
0 up to 500 feet	\$50
501 to 1,000	\$100
1,001 to 1,500	\$150

(B) *Administration.* The fund shall be administered by the County Recorder.

(C) *Appropriations.* Expenditures from the fund shall be subject to appropriation by the County Council.

<i>Building Permit Fee Schedule</i>	
<i>Square Foot</i>	<i>Permit Fee</i>
1,501 to 2,000	\$200
2,001 to 2,500	\$250
2,501 to 3,000	\$300
3,001 to 4,000	\$350
4,001 to 5,000	\$400
5,001 to 6,000	\$500
6,001 to 7,000	\$600
7,001 and above	\$700
*Gross square footage of enclosed areas includes basements and garages.	
*Make checks payable to: ATreasure of Washington County@.	
*A birth date is required on each check.	

(BCC Ord. 2009-03, passed - -2009)

36.37 FEES FOR ISSUING A MOBILE HOME PERMIT.

The County Treasurer is authorized to assess and collect a \$10 fee from the applying party for each mobile home permit for moving or transferring title, which fees shall be deposited by the County Treasurer into the County General Fund.

(BCC Ord. 2010-03, passed 9-15-2010)

36.38 BUILDING OR REMODELING AND FIRE EQUIPMENT FUND.

(A) The Blue River Fire District has established a basis for the development and funding of a Cumulative Fire Fund and that the establishment of such a cumulative fund is in the best interests of the citizens of the Blue River Fire District.

(B) The Blue River Fire District may establish a Cumulative Fire Fund at a tax rate of 0.0333 as permitted by I.C. 36-8-14-4(a).

(C) There is hereby established the Blue River Fire District Building or Remodeling and Fire Equipment Fund for the collection of the taxes for the Blue River Fire District.

(D) The Auditor of the county shall publish notice and advertisement of the proposed rate, schedule public hearing, and establish the Fund in accordance with the laws of the state. (BCC Ord. 2011-04, passed 10-17-2011)

36.39 PLAT BOOK MAINTENANCE FUND.

(A) The County Auditor shall collect a fee of \$4 for each deed for which the Auditor makes a real property endorsement in accordance with I.C. 36-2-11-14 to allow a deed of partition or conveyance to be placed of record.

(B) The County Auditor shall create and place the revenue received for this enforcement in a dedicated Plat Book Maintenance Fund for use in maintaining plat books, regardless of whether the maintenance is done manually or by electronic means. (BCC Ord. 2012-06, passed 10-2-2012)

36.40 FEES FOR COPIES OF PLATS.

The County Surveyor's office is authorized to establish and collect fees for the search and reproduction of records, with such fees to be as follows:

(A) Standard size 82 x 11" map shall be \$3.

(B) Large 20" x 24" black and white plat shall be \$5.

(C) Large 20" x 24" color plat shall be \$10. (BCC Ord. 2012-01, passed 2-21-2012)

CHAPTER 37: COURTS AND COURT OFFICERS

Section

- 37.01 Prosecuting Attorney authorized to perform extra-statutory functions
- 37.02 Fees and charges to be assessed by Prosecutor=s Office; special fund established
- 37.03 Bad check collection service

37.01 PROSECUTING ATTORNEY AUTHORIZED TO PERFORM EXTRA-STATUTORY FUNCTIONS.

(A) It is hereby recognized that:

(1) The Prosecuting Attorney of the 42nd Judicial Circuit of the state may from time to time wish and be able to perform certain functions and provide certain services to the public which are beyond the statutorily-defined duties and functions of the Prosecuting Attorney and his or her office;

(2) The performance of the extra-statutory functions and provision of the extra-statutory services may, in the course thereof, involve the expense of funds and an increase in the operating costs of the Prosecutor=s Office;

(3) A county or counties within a judicial circuit are obliged by law to fund the general operating expenses of the Prosecutor=s Office as essential to permit the office to perform its necessary and dispensable functions as provided by law, but have no funding liabilities beyond that point; and

(4) The funding of extra-statutory functions or services would therefore be at the discretion of the executive and fiscal bodies of any affected county under their general powers, but that certain extra-statutory functions or services of the Prosecuting Attorney would potentially be of sufficient benefit and convenience to the residents of the county to justify the nonobligatory expenditure of county funds and/or would produce revenues to the county sufficient to offset any additional expenditures.

(B) Pursuant to its powers under I.C. 36-1-3, the Board of Commissioners hereby provides that the Board may by ordinance authorize the Prosecuting Attorney to perform extra-statutory functions and provide the extra-statutory services to the public as the Board deems to be in the public interest, notwithstanding the fact the expenditure of additional county monies may be required therefor.

(1) Any additional expenses may be paid out of existing appropriations to the Prosecutor=s Office in suitable budget categories, or the County Council may make further appropriations or additional appropriations to the Prosecutor=s Office for purposes authorized by the Board of Commissioners pursuant to this section.

(2) This section may not be construed to permit the Board of Commissioners or County Council any greater control than they would otherwise have by law over the functions of the Prosecutor=s Office in respect to its statutory duties and functions, but applies only to those functions and services performed or provided by the Prosecutor=s Office above and beyond its expressed or necessarily implied statutory authority and which incur expenses to be paid by the county.

(1985 Code, ' 9-1-1) (BCC Ord. 1985-C17-A, passed 12-2-1985)

' 37.02 FEES AND CHARGES TO BE ASSESSED BY PROSECUTOR=S OFFICE; SPECIAL FUND ESTABLISHED.

(A) The Board of Commissioners, as a condition of authorizing the Prosecuting Attorney to perform any extra-statutory functions and services contemplated under ' 37.01 which involve expenditure of county monies, may stipulate that the Prosecuting Attorney assess a reasonable fee, payable to the county, in connection with functions or services so as to reimburse the county for all or part of the added expense. The Board of Commissioners may either set the fee itself, or may authorize the Prosecuting Attorney to set a fee on some uniform basis. A current schedule of all the Prosecutor=s special service fees shall be filed with the County Auditor and available for public examination. (1985 Code, ' 9-1-2)

(B) There is hereby established a special non-reverting fund to be known as the AProsecutor=s Special Fee Fund@, which fund shall be set up by the Auditor and Treasurer in the books of the county. All fees of the Prosecutor=s Office as authorized under division (A) above shall be deposited into the Prosecutor=s Special Fee Fund. For this purpose, the Prosecuting Attorney or his or her authorized designee may collect the fee, and the Auditor shall provide the Prosecuting Attorney with standard fee and cash books of the type provided to county officers under I.C. 36-2-7-15, in which shall be recorded all such fees as collected, along with other information as described by I.C. 36-2-7-15. The Prosecutor=s Office shall give a receipt for all the fees to the person paying the same. All fees collected by the Prosecutor=s Office under division (A) above shall be regularly delivered to the County Treasurer, not less than monthly, in the manner of fees collected by county officers. The County Council may only appropriate monies on deposit in the Prosecutor=s Special Fee Fund for purposes of the Prosecutor=s Office, although the appropriations may be made for any purpose for which county monies may lawfully be appropriated to the Prosecutor=s Office and need not necessarily be limited to attributable costs of the functions and services from which the fees derive. (1985 Code, ' 9-1-3) (BCC Ord. 1985-C17-A, passed 12-2-1985)

' 37.03 BAD CHECK COLLECTION SERVICE.

(A) Pursuant to I.C. 35-43-5-5, a person who knowingly or intentionally issues or delivers a check, draft, or order on a credit institution for the payment of debt, or to acquire money or other property, knowing that the instrument will not be paid or honored by the credit institution upon presentation in the usual course of business, commits check deception, which is a Class A misdemeanor. The stamped or otherwise dishonored instrument is prima facie evidence that the instrument was presented and properly dishonored, and that the person knew that he had insufficient funds or that he or she had no account with the credit institution. At the time of making or signing the instrument, to obtain the following two items of information is sufficient to establish prima facie evidence of the person=s identity:

- (1) Residence, business, or mailing address of the maker, including the maker=s name; and
- (2) Either the maker=s motor vehicle operator=s license number, Social Security number, home telephone number, or place of employment.

(B) However, if the person makes good the check, draft, or order and pays all late charges that do not exceed 5% or \$250 of the face amount, within ten days of receiving notice of insufficient funds, then the person has provided a proper defense and is not guilty of check deception. In addition, no crime is committed if the payee or holder knows that the person has insufficient funds or accepts a postdated instrument, or if the insufficiency of funds or credit results from an adjustment to the person=s account by the credit institution without notice to the person.

(C) The Prosecuting Attorney may establish through his or her office a program whereby the holder of a bad instrument who intends to prosecute may:

- (1) Authorize the Prosecuting Attorney to contact the issuer of the bad check to determine if the person wishes and intends to make the check good in accordance with I.C. 35-43-5-5(e) in lieu of suffering prosecution;

(2) Authorize the Prosecuting Attorney to collect, on behalf of the payee or holder of the bad check, a protest and service fee in an amount as the Prosecuting Attorney may stipulate and fix on a uniform basis (which may be a fixed dollar amount or a percentage of the value of the bad check) but which may not exceed the amount permitted under I.C. 35-43-5-5(e); and

(3) Authorize the Prosecuting Attorney to retain, or agree to pay over to the Prosecuting Attorney, for the benefit of the county, all protest and service fees collected by the Prosecuting Attorney pursuant to division (C)(2) above in consideration of the services provided to the payee or holder by the Prosecutor=s Office.

(D) All receipts of protest and service fees collected under this section shall be administered by the Prosecuting Attorney in accordance with ' 37.02, and shall be turned over to the County Treasurer for deposit in the Prosecutor=s Special Fee Fund established under ' 37.02(B). However, the Prosecuting Attorney may waive collection of the fee if he or she finds that probable cause for prosecution no longer exists in the case.
(1985 Code, ' 9-1-4)

(E) When the Prosecuting Attorney has implemented a bad check collection service as authorized under divisions (A) and (B) above, he or she may establish and maintain a public funds checking account (trust account) into which he or she shall deposit the principal amount of any bad check which he or she collects from the issuer thereof on behalf of the payee or holder. Checks from the account may be written to the payee or holder of the bad check to whom the money is lawfully due without appropriation.
(1985 Code, ' 9-1-5) (BCC Ord. 1985-C17-A, passed 12-2-1985)

CHAPTER 38: ELECTIONS

Section

Election Precincts

- | | | |
|-------|--|--|
| 38.01 | Single precinct townships | (H) Monroe Township; |
| 38.02 | Precincts established in Pierce Township | (I) Polk Township; and |
| 38.03 | Precincts established in Posey Township | (J) Vernon Township.
(1985 Code, ' 5-3-1) |
| 38.04 | Precincts established in Washington Township | Statutory reference:
<i>Precincts, see I.C. 3-11-1.5</i> |
| 38.05 | Precincts established in City of Salem | |
| 38.06 | Polling places | |
| 38.07 | Precinct election judges to perform duties; rights | |

' 38.02 PRECINCTS ESTABLISHED IN PIERCE TOWNSHIP.

Pierce Township is divided into two election precincts denominated and described as follows.

ELECTION PRECINCTS

' 38.01 SINGLE PRECINCT TOWNSHIPS.

The following townships have one precinct, the boundaries of which coincide with the boundaries of the respective township:

- (A) Brown Township;
- (B) Franklin Township;
- (C) Gibson Township;
- (D) Howard Township;
- (E) Jackson Township;
- (F) Jefferson Township;
- (G) Madison Township;

(A) *East Pierce Township.* The boundary of the East Pierce Township election precinct is described as follows: beginning at a point in the middle of Washington County Highway No. 51, also known as Martinsburg Road, which is located on the north Pierce Township line; thence east along the north Pierce Township line to the northeast corner of Section 1, Township 1 North, Range 4 East, being the northeast corner of the township; thence south along the east Pierce Township line to the southeast corner of Section 36, Township 1 North, Range 4 East, being the southeast corner of the township; thence west along the south Pierce Township line to a point in the middle of Indiana State Highway 335; thence northerly along the center line of the state highway to a point being the intersection of Indiana State Highway 335 and, Washington County Highway 51; thence northwesterly along the center line of Washington County Highway 51 to the place of beginning.

(B) *West Pierce Township.* The boundary of the West Pierce Township election precinct is described as follows: beginning at a point located in the middle of Washington County Highway No. 51, known as the Martinsburg Road; thence west along the Pierce Township line to the northwest corner of Section 6, Township 1 North, Range 4 East, being the northwest corner of the township; thence south along the west Pierce Township line to the southwest corner of Section 31, Township 1 North, Range 4 East, being the southwest corner of the township; thence east along the south line of Pierce Township to the middle of Indiana State Highway No. 335; thence north along the center line of the state highway to the center line of its point of intersection with Washington County Highway No. 51; thence in a northwesterly direction along the center line of the Washington County Highway No. 51 to the place of beginning. (1985 Code, ' 5-3-2) (BCC Ord. passed 2-5-1980)

' 38.03 PRECINCTS ESTABLISHED IN POSEY TOWNSHIP.

Posey Township is divided into two election precincts denominated and described as follows.

(A) *East Posey Township.* The area included in East Posey Township election precinct is described as follows: the portion of the township on the east of Kays Chapel Road, on the north side of Highway 150 from Kays Chapel Road to the county road running just east of the Lawrence Radcliff property. Also, the portion of the township on the east of that county road from Highway 150 to the boundary with Harrison County.

(B) *West Posey Township.* The area included in West Posey Township election precinct is described as follows: the portion of the township on the south side of Highway 150 from Kays Chapel Road to the county road running just east of the Lawrence Radcliff property. Also, the portion of the township on the west of that county road from Highway 150 to the boundary with Harrison County. (1985 Code, ' 5-3-3)

(A) *Salem 1.* Salem Election Precinct Number 1

' 38.04 PRECINCTS ESTABLISHED IN WASHINGTON TOWNSHIP.

Election precincts are established in Washington Township (outside of the corporate limits of the City of Salem) as follows.

(A) *Washington 1.* Washington Township Election Precinct Number 1 is hereby established, and shall consist of all that part of Washington Township located outside the municipal corporation limits of the City of Salem and that lies east of Indiana State Highway 135 and that lies south of Indiana State Highway 160.

(B) *Washington 2.* Washington Township Election Precinct Number 2 is hereby established, and shall consist of all that part of Washington Township located outside the municipal corporation limits of the City of Salem and that lies west of Indiana State Highway 135 and that lies south of Indiana State Highway 56 to its intersection with Mount Tabor Road and that lies south of Mount Tabor Road.

(C) *Washington 3.* Washington Township Election Precinct Number 3 is hereby established and shall consist of all that part of Washington Township located outside the municipal corporation limits of the City of Salem and that lies west of Indiana State Highway 135 and that lies north of Indiana State Highway 56 to its intersection with Mount Tabor Road and that lies north of Mount Tabor Road.

(D) *Washington 4.* Washington Township Election Precinct Number 4 is hereby established, and shall consist of all that part of Washington Township located outside the municipal corporation limits of the City of Salem that lies east of Indiana State Highway 135 and that lies north of Indiana State Highway 160. (1985 Code, ' 5-3-4) (BCC Ord. 1982-1, passed 2-1-1982)

' 38.05 PRECINCTS ESTABLISHED IN CITY OF SALEM.

Election precincts are established within the corporate limits of the City of Salem as follows.

is hereby established, and shall consist of that area

presently comprising Salem City Council District Number 1 which is all that area located within the municipal corporation limits of the city that lies south of East Market Street in the city; that lies east of South Main Street to its intersection with Tucker Street; that lies north of Tucker Street to its intersection with Martinsburg Road; and that lies east of Martinsburg Road to its intersection with the corporate limits of the City of Salem.

(B) *Salem 2.* Salem Election Precinct Number 2 is hereby established, and shall consist of the area presently comprising Salem City Council District Number 2 which is all that area located within the municipal corporation limits of the city that lies south of West Market Street to its intersection with South Harrison Street; that lies west of Harrison Street to its intersection with Bristol Street; that lies south of Bristol Street to its intersection with West Mulberry Street and Cox Ferry Road; that lies south of the Cox Ferry Road to its intersection with the corporate limit of the City of Salem; and that lies west of South Main Street to its intersection with Tucker Street; that lies south of Tucker Street to its intersection with Martinsburg Road; that lies west of Martinsburg Road to its intersection with the corporate limit of the City of Salem.

(C) *Salem 3.* Salem Election Precinct Number 3 is hereby established, and shall consist of the area presently comprising Salem City Council District Number 3 which is all that area located within the municipal corporation limits of the city that lies west of North Main Street and that lies north of West Market Street to its intersection with South Harrison Street; that lies east of Harrison Street to its intersection with Bristol Street; that lies north of Bristol Street to its intersection with West Mulberry Street and Cox Ferry Road; that lies north of Cox Ferry Road to its intersection with the corporate limit of the City of Salem.

(D) *Salem 4.* Salem Election Precinct Number 4 is hereby established, and shall consist of the area presently comprising Salem City Council District Number 4 which is all that area located within the municipal corporation limits of the city that lies east of North Main Street and that lies north of East Market Street.

(1985 Code, ' 5-3-5) (BCC Ord. 1982-1, passed 2-1-1982)

' 38.06 POLLING PLACES.

The County Clerk shall maintain a current list of all polling places for each of the county=s 22 election precincts. The list shall be posted in the Clerk=s office; and copies of the list shall be made available to anyone upon request.

' 38.07 PRECINCT ELECTION JUDGES TO PERFORM DUTIES; RIGHTS.

(A) *Purpose.* The purpose of this section is to order judges of each precinct named herein to perform duties and have the rights of elections sheriffs within the precincts hereinafter named pursuant to I.C. 3-6-6-5(b).

(B) *Order.* The Board of Commissioners hereby orders that judges in each precinct of the county shall perform the duties and shall have the rights of the election sheriffs within the following named precincts:

- (1) Salem 1;
- (2) Salem 2;
- (3) Salem 3;
- (4) Salem 4;
- (5) Washington 1;
- (6) Washington 2;
- (7) Washington 3;
- (8) Washington 4;

Washington County - Administration

(9) Brown;

(10) Franklin;

(11) Gibson;

(12) Howard;

(13) Jackson;

(14) Jefferson;

(15) Madison;

(16) Monroe;

(17) East Pierce;

(18) West Pierce;

(19) Polk;

(20) East Posey;

(21) West Posey; and

(22) Vernon.

(BCC Ord. 2002-01, passed 1-7-2002)

CHAPTER 39: COUNTY POLICIES

Section

Policies Generally

- 39.01 Nondiscrimination with respect to disabled persons
- 39.02 Equal opportunity policy
- 39.03 Fees
- 39.04 Healthcare co-payments by inmates
- 39.05 Reward for theft or destruction of county property
- 39.06 Poor relief

Purchasing Practices and Policies

- 39.20 Designation of Purchasing Agency
- 39.21 Powers of the Purchasing Agency
- 39.22 Small purchase procedures
- 39.23 Preference for supplies manufactured in the United States
- 39.24 Purchase of services

employment to persons of disability status on or before October 17, 1984.
(1985 Code, ' 5-2-2)

(C) The county shall develop a three-year transitional plan for any required structural changes so that persons of disability status can have appropriate access to its programs, services and employment, on or before October 17, 1984. The county shall complete all necessary and feasible structural changes in its facilities so as to provide appropriate access to persons of disability status to its services, programs and employment by October 17, 1986.

(1985 Code, ' 5-2-3)

(D) The County Auditor shall annually post a legal notice in newspapers or qualified publication, and announce over other information media that the county does not discriminate on the basis of disability status.

POLICIES GENERALLY

' 39.01 NONDISCRIMINATION WITH RESPECT TO DISABLED PERSONS.

(A) The county shall not discriminate on the basis of disability status in relation to its programs, services, and activities.
(1985 Code, ' 5-2-1)

(B) The county shall conduct a self-evaluation of policies and practices in regard to the access of persons of disability status to its programs, services and employment on or before October 17, 1984, and shall make any necessary nonstructural changes to achieve accessibility to its services, programs and

' 39.03 FEES.

' 39.02 EQUAL OPPORTUNITY POLICY.

(A) It is the public policy of the county to support and encourage equal education and employment opportunities and equal access to and use of public accommodations, and equal opportunity for the acquisition of real property in accordance with the State Civil Rights Law (I.C. 22-9-1).

(B) The county designates the State Civil Rights Commission as the agency appropriated to implement the purposes and objectives of the State Civil Rights Law and to enforce the provisions thereof.
(BCC Ord. 92-03, passed 3-2-1992)

Cross-reference:

Fair Housing, see Chapter 92

The county shall charge fees for records searches and copying records in amounts, if any, as may be set

from time to time by county ordinance or resolution. Copies of fees schedules shall be available for public inspection in the office of the County Clerk.

39.04 HEALTHCARE CO-PAYMENTS BY INMATES.

(A) *Title.* This section, and all ordinances supplemental or amendatory hereto shall be known as healthcare co-payments by inmates of the County Detention Center.

(B) *Purpose.* The purpose of this section is to establish healthcare co-payments by inmates who are confined to the County Detention Center pursuant to the provisions of I.C. 11-12-5-5.

(C) *Authority.* This section is authorized by I.C. 11-12-5-5 which requires that the rules for the implementation of the healthcare co-payments by inmates of the County Detention Center be approved by the county legislative body.

(D) *Provisions.*

(1) There is hereby established a \$15 co-pay requirement for all county inmates, who do not have and maintain a policy of insurance covering the following:

- (a) Medical care;
- (b) Dental care;
- (c) Eye care; or
- (d) Any other health care related services.

(2) Further, this \$15 co-pay is not required of a person confined to a county jail if:

(a) The person does not have funds in the person=s commissary account or trust account at the time the service is provided;

(C) *State law.* The State Criminal Law provides that the theft of any property is a Class D felony and that the destruction of property is also a criminal violation.

(b) The person does not have funds in the person=s commissary account or trust account within 60 days after the service is provided;

(c) The service is provided in an emergency;

(d) The service is provided as a result of an injury received in the county jail; or

(e) The service is provided at the request of the Sheriff or jail administrator.

(3) All monies collected pursuant to this division (D) shall be deposited into the Washington County Medical Care for Inmates Fund.

(E) *Deposit of funds.* Money collected under this co-payment provision must be deposited into the County Medical Care for Inmates Fund established and administered in the office of the County Auditor.

(F) *Administration.* Administration and application of this section and the health care co-payments provided herein shall be the responsibility of the County Sheriff. (BCC Ord. 96-05, passed 3-4-1996; BCC Ord. 2003-07, passed 10-6-2003)

39.05 REWARD FOR THEFT OR DESTRUCTION OF COUNTY PROPERTY.

(A) *Title.* This section, and all ordinances supplemental or amendatory hereon shall be known as the AOrdinance Creating a Reward for Theft or Destruction of County Property@.

(B) *Purpose.* The purpose of this section is to provide incentives to citizens of the county and other counties to produce evidence which will lead to the arrest and conviction of person or persons who are responsible for the theft of county property or the destruction of county property.

(D) *Scope.* The scope of this section is to include a reward to be granted by the county to any person or persons who will produce evidence to law

enforcement officers of the county or the prosecutor=s office of the county which information will lead to the arrest and conviction of that person or persons for the theft of property which belongs to the county or the destruction of property which belongs to the county.

(E) *Amount of reward.* The Board of Commissioners does now establish a reward of \$1,000 per incident to be granted to the person or persons who produce evidence to the law enforcement officers of the county or the prosecutor=s office of the county which evidence leads to the arrest and conviction of any persons responsible for the theft of county property or the destruction of county property.

(F) *Restitution amount.* The Board of Commissioners by this section does request that the prosecuting attorney of the county pursue as part of any criminal penalty for such person convicted of the theft of county property or the destruction of county property a restitution figure adequate to cover the cost of materials and labor, but not to exceed a total of \$1,000, to be payable into the county General Fund. (BCC Ord. 96-11, passed 10-7-1996)

‘ 39.06 POOR RELIEF.

(A) If a township trustee denies poor relief to an applicant for assistance, that applicant may, within 15 days of the issuance of the trustee=s written denial, appeal to the Board of County Commissioners.

(B) The County Commissioners shall, within ten days of receiving a notice of appeal, hold a hearing and make a decision pursuant to I.C. 12-20-15-6.

(C) The County Commissioners may hold the hearing themselves, or may appoint a qualified hearing officer who is a resident of the county.

(D) Pursuant to I.C. 12-20-15-3(b), the County Commissioners shall develop uniform written hearing procedures, which are available from the hearing officer or the County Auditor. An appeal hearing shall

(G) The County Circuit Court Judge is hereby designated as the Purchasing Agent for the County Circuit Court;

(H) The County Superior Court Judge is hereby

be governed by the township=s poor relief standards for determining eligibility, provided that the standards are legally sufficient. Otherwise, the hearing shall be guided by the circumstances in each case.

PURCHASING PRACTICES AND POLICIES

‘ 39.20 DESIGNATION OF PURCHASING AGENCY.

The County Board of Commissioners is hereby designated as the Purchasing Agency for all boards, offices, commissions, councils, departments, or other establishments of the county. The County Board of Commissioners hereby designates the following Purchasing Agents:

(A) The County Highway Superintendent is hereby designated as the Purchasing Agent for the County Highway Department;

(B) The County Auditor is hereby designated as the Purchasing Agent for the County Court House and Court House Annex;

(C) The Sheriff of the county is hereby designated as the Purchasing Agent for the County Detention Center;

(D) All elected officers and elected office holders are hereby designated as the Purchasing Agent for the office held;

(E) The County Prosecutor is hereby designated as the Purchasing Agent for the County Prosecutor=s Office;

(F) The County Probation Officer is hereby-designated as the Purchasing Agent for the County Probation Office;

designated as the Purchasing Agent for the County Superior Court;

(I) The Emergency Management Officer is hereby designated as the Purchasing Agent for the

Emergency Management Office;

(J) The Veterans Officer is hereby designated as the Purchasing Agent for the Veterans Office; and

(K) The Building Commissioner is hereby designated as the Purchasing Agent for the Building Commissioner's Office.

(BCC Ord. 98-04, passed 8-3-1998)

' 39.21 POWERS OF THE PURCHASING AGENCY.

The Purchasing Agency designated in ' 39.20 shall:

(A) Assume the duties, powers and responsibilities assigned to purchasing agencies under the Act;

(B) Establish procedures, not inconsistent with the Act or this subchapter, for obtaining supplies or services in a manner which will obtain the greatest economic value for the county;

(C) Prepare specifications and notice to bidders and ascertain that required notices are published where bidding and publication of notices are required by law;

(D) Designate in writing a Purchasing Agent to carry out the purposes of this subchapter. The Purchasing Agent shall act as the agent for the Purchasing Agency in the administration of the duties of the Purchasing Agency under the Act. The Purchasing Agent may not make purchases except as provided in ' 39.22(C); and

(E) Designate in writing the Limited Purchasing Agents as the Purchasing Agency deems appropriate and define in writing the limitations of their authority consistent with ' 39.21(D).

(BCC Ord. 98-04, passed 8-3-1998)

' 39.24 PURCHASE OF SERVICES.

As used in this section, the term **SERVICES** means the furnishing of labor, time, or effort by a person, not involving the delivery of specific supplies other than printed documents or other items that are

' 39.22 SMALL PURCHASE PROCEDURES.

(A) A Small purchase is a purchase of supplies with an estimated cost of less than \$25,000.

(B) The Purchasing Agency may make a small purchase on the open market without inviting or receiving quotes or bids.

(C) A Purchasing Agent is authorized to purchase supplies with an estimated cost of less than \$25,000 on the open market without inviting or recovering quotes or bids.

(BCC Ord. 98-04, passed 8-3-1998)

' 39.23 PREFERENCE FOR SUPPLIES MANUFACTURED IN THE UNITED STATES.

Supplies manufactured in the United States shall be specified for all purchases by the Purchasing Agency and shall be purchased unless the Purchasing Agency determines in writing that:

(A) The supplies are not manufactured in the United States in reasonably available quantities;

(B) The price of supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured elsewhere;

(C) The quality of the supplies manufactured in the United States is substantially less than quality of comparably priced available supplies manufactured elsewhere; or

(D) The purchase of supplies manufactured in the United States is not in the public interest.

(BCC Ord. 98-04, passed 8-3-1998)

merely incidental to the required performance, including, but not limited to, legal, medical, architectural, accounting, engineering, appraisal and insurance services. The Purchasing Agency may purchase services in whatever manner the Purchasing Agency determines to be reasonable and appropriate.

(BCC Ord. 98-04, passed 8-3-1998)

CHAPTER 40: CODE ENFORCEMENT

Section

- 40.01 Enforcement policy
- 40.02 Enforcement responsibility of County Sheriff; other enforcement officers
- 40.03 Procedure for issuance of citation; service in person
- 40.04 Issuance and service of citation by mail
- 40.05 Notice to appear; refusal to sign; security for release
- 40.06 Conditional citation
- 40.07 Warning instead of official citation
- 40.08 Statute of limitations on issuance of citation
- 40.09 Form of citation and summons
- 40.10 Administrative procedure on issuance of citation
- 40.11 Procedure for fixing requested fine
- 40.12 Compromise and settlement of complaint without trial
- 40.13 Filing and prosecution of violation complaint
- 40.14 Appearance for defendant and for the county
- 40.15 Payment of fines, other costs and prosecutor=s fee
- 40.16 Records of conviction or compromise
- 40.17 Further or collateral actions
- 40.18 Allocation and deposit of receipted fines, fees and costs
- 40.19 Other rules and procedures

' 40.01 ENFORCEMENT POLICY.

(A) Whenever any provision of this code requires or mandates any person to perform some act or to bring about or maintain some circumstance or state of affairs; or prohibits, restrains, or regulates the behavior of any person or the commission of any act or the bringing about or maintaining of any circumstance or state of affairs on the part of any person; and a penalty of fine or some other procedure to compel compliance with the provision is prescribed in this code, then the provision shall be considered an enforcement provision.

(B) Unless some different procedure is expressly set forth and prescribed by the particular article, chapter, or section of this code containing the enforcement provision, the enforcement of any such provision shall be administered in accordance with the provisions of this chapter.
(1985 Code, ' 1-3-1)

' 40.02 ENFORCEMENT RESPONSIBILITY OF COUNTY SHERIFF; OTHER ENFORCEMENT OFFICERS.

(A) Unless some other official, board, commission, or similar entity is expressly designated as the primary enforcement officer or authority responsible for the administration and enforcement of a particular enforcement provision, it is the duty of the Sheriff, acting himself or herself or through the county police, to take all steps necessary for the effective enforcement and bringing about of compliance with all enforcement provisions. Whenever the Sheriff, based upon his or her own vigilance or upon the information or complaint of any other official or any citizen, has probable cause to believe that a violation or failure to comply with any enforcement provision has occurred or is occurring, he or she shall with due diligence investigate the matter, ascertain the facts, and collect the testimony, information, or other evidence as in his or her judgment may be necessary to support the facts. If, incident upon the investigation, the Sheriff determines with a degree of certainty sustained by a preponderance of the evidence that some known person has violated or failed to comply with, or is violating or failing to comply with, any enforcement provision, he or she shall issue and serve upon the alleged offender, in person or by mail if so provided, a citation for the violation comprising a complaint and summons to appear and answer to the charge of the violation as hereafter prescribed in this chapter; or else he or she shall initiate or cause to be initiated other enforcement procedures as may alternatively be prescribed in the event of a violation of the particular enforcement provision.

(1985 Code, ' 1-3-2)

(B) Whenever in this code any official, board, commission, or similar entity is given responsibility instead of or concurrent with that of the Sheriff for the administration and enforcement of any enforcement provision, he or she or they shall perform the same duties and functions with respect to the enforcement of the provision as are prescribed for the Sheriff under division (A) of this section, and the term enforcement officer shall mean and include other officials, boards, commissions, or similar entities or their properly authorized agents.

(1985 Code, ' 1-3-3)

' 40.03 PROCEDURE FOR ISSUANCE OF CITATION; SERVICE IN PERSON.

(A) Whenever an enforcement officer issues a citation for violation of any enforcement provision, the enforcement officer may, pursuant to I.C. 34-28-5-3, detain the person for a sufficient time to:

(1) Inform the person of the allegation;

(2) Obtain the person's name, address, and date of birth, or driver's license if in his or her possession, for purposes of identification;

(3) Allow the person to execute a notice to appear in court to answer the charges of the violation, except as provided in ' 40.06 of this chapter.

(B) If the person being charged refuses to provide the information or driver's license as required by division (A)(2) above, the enforcement officer shall inform the person that the refusal constitutes a violation of state law and commits a Class C misdemeanor pursuant to I.C. 34-28-5-3, and may subject the person to arrest and further penalties as may be provided for the offense. If the person continues to refuse to provide the information or driver's license, the enforcement officer, if a duly constituted police officer, may immediately arrest the person on a charge of having committed a Class C misdemeanor; if the enforcement officer is not a duly constituted police officer authorized to exercise power of arrest, he or she shall continue to detain the person for a period of time as is reasonably necessary to summon the duly constituted police officer, who shall arrest the person on a charge of having committed a Class C misdemeanor.

(C) If the person being charged with a violation is a corporation, partnership, company, or other organization, other than a natural person, the enforcement officer shall serve the citation upon the resident agent for a service of process, a director, principal, or principal officer of the corporation, company or other organization having the power and authority under the organizing documents, charter, or rules of the corporation, company or other organization to accept process and execute a notice to appear on behalf of the organization.

(D) If the offense charged is one arising out of the condition or use of any real or personal property for which the person owning or holding the property is

made liable, and the property is owned or held by more than one person in joint tenancy or partnership, it shall be sufficient to issue and serve the citation on any one

(E) If the person being charged with a violation is a minor child and in the opinion of the enforcement officer, the child is of a young age or immature character so as not to fully understand the significance of the citation and notice to appear and his or her responsibilities and obligations thereunder, the enforcement officer shall ascertain the name and address of a parent or legal guardian of the child and shall serve the citation upon and cause the parent or legal guardian to execute the notice to appear on behalf of the child.

(1985 Code, ' 1-3-4)

' 40.04 ISSUANCE AND SERVICE OF CITATION BY MAIL.

(A) Whenever it is found by an enforcement officer that any identifiable person has violated or is violating any enforcement provision, or is liable and accountable for the violation, but the person cannot be conveniently confronted and served in person with a citation as provided in ' 40.03, then it is permissible for the enforcement officer to issue the citation for violation and cause it to be served by registered or certified mail with return receipt of delivery to the last known address of the alleged offender.

(B) When a citation is served in this manner, the person upon whom it is served is not required to execute a notice to appear nor to deposit any security as guarantee for appearance as would or might otherwise be required pursuant to ' 40.05, but in addition to any other information and notices to be included with the citation as hereafter provided, a citation served by mail shall include a statement that failure to appear in court at the time and place indicated to answer the charge or to compromise and settle the complaint within the allotted time may subject the offender to further proceeding and additional costs.

(1985 Code, ' 1-3-5)

' 40.05 NOTICE TO APPEAR; REFUSAL TO SIGN; SECURITY FOR RELEASE.

of the joint tenants or partners.

Any person who is a resident of the state and is detained by an enforcement officer for the purpose of issuing and serving a citation for violation of an enforcement provision, and who provides the enforcement officer with a satisfactory identification in accordance with ' 40.03(A)(2) and executes a signed notice to appear in court in accordance with ' 40.03(A)(3), shall thereupon be released from the detention without other bond or security for appearance; however, if the person is not a resident of the state and/or refuses to sign a notice to appear in court, the following additional procedures and requirements apply before the enforcement officer releases the person from detention, as the appropriate case may be.

(A) If the person is a resident of the state and the offense charged is violation of an enforcement provision constituting a moving traffic offense or a nonmoving traffic offense required by law or regulation to be reported to the State Commissioner of Motor Vehicles, and the person refuses to sign the notice to appear, the enforcement officer before releasing the person shall inform him or her that notwithstanding his or her refusal to sign the notice, he or she is obliged by law to appear at the time and place indicated in the citation or to previously compromise and settle the complaint in the manner hereafter provided, and that failure to do so will result in his or her arrest on warrant of the court and/or suspension of his or her driver=s license in accordance with I.C. 9-30-3-8(a) and 9-30-3-8(c), respectively.

(B) If the person is a nonresident of the state and the offense charged is violation of an enforcement provision constituting a moving traffic offense or a nonmoving traffic offense required by law or regulation to be reported to the State Commissioner of Motor Vehicles, the enforcement officer shall, before releasing the person:

(1) Require the person to deposit a security for appearance and to execute a security deposit agreement, in accordance with the provisions of I.C. 9-30-2-5, unless the person is exempt from the requirements under I.C. 9-28-2; and

(2) If the person refuses to sign a notice to appear, the enforcement officer shall also inform the person that notwithstanding his or her refusal to sign the notice, he or she is obliged by law to appear at the time and place indicated in the citation or to previously compromise and settle the complaint in the manner hereafter provided, and that failure to do so will result not only in the forfeiture of the security provided but will also cause the court to notify the Commissioner of Motor Vehicles of his or her failure to appear which will result in the suspension of driving privileges in the state and that a copy of the order of suspension will also be sent to the equivalent authority of the person's home state in accordance with I.C. 9-30-3-8-(b) and (d); or else

(3) The enforcement officer shall accompany the offender to the nearest U.S. Postal Service receptacle and see that the offender mails to the Clerk of the Circuit Court:

(a) A copy of the citation with a signed admission of guilt; and

(b) A check or money order in the amount of fine requested, as determined pursuant to ' 40.11 of this chapter, plus court costs; thus compromising and settling the complaint in accordance with ' 40.12(B).

(C) If the person is a nonresident of the state, or is a resident of the state, but refuses to sign a notice to appear in court, and the offense charged is of a kind other than a traffic offense required to be reported to the State Commissioner of Motor Vehicles, the person shall be released upon either:

(1) Depositing with the County Clerk (either directly or by mail) a security as guarantee for appearance, the security being a deposit of cash, traveler's checks, or other valuable securities or property acceptable to the Clerk and at least equal in value to the amount of fine requested in the complaint plus costs which could be imposed by the court were the person to appear and be convicted, for which security the person shall be provided with a proper receipt and shall sign an agreement that should he or she fail to appear to answer the charge or fail to compromise and settle the complaint before the appearance as hereafter provided, the security thus

deposited will be forfeit in favor of the county and in settlement of the complaint, but will be fully refunded or restored to the person if he or she does appear at the place and time prescribed or does previously compromise and settle the complaint; or

(2) Compromising and settling the complaint at the time in the manner provided by ' 40.12(A) of this chapter. (1985 Code, ' 1-3-6)

' 40.06 CONDITIONAL CITATION.

Notwithstanding any other provisions of this chapter, whenever any enforcement provision of this code stipulates that: a person cited for violation of the enforcement provision is allowed some definite period of time to correct the violation and comply with the enforcement provision before being subject to any penalty; or the person cited for the violation is entitled to an administrative appeal or investigatory hearing before any administrative officer, board, or similar entity to determine whether the citation is valid and justified; then the citation or a written notice attached thereto shall, as the case may be, state the period of time permitted for compliance or the procedure to be followed to exercise the right to administrative, appeal or investigatory hearing, and the complaint be filed and docketed with the court, nor shall the time period permitted for compromise and settlement of the complaint under ' 40.12(A) of this chapter commence until, as appropriate:

(A) The time period allowed for compliance has elapsed, and it is found that the person has not complied;

(B) The person has waived the right to administrative appeal or investigatory hearing, or has failed to invoke and exercise that right within any applicable time period; or

(C) The administrative appeal proceeding or investigatory hearing has been conducted and has affirmed the citation. (1985 Code, ' 1-3-7)

' 40.07 WARNING INSTEAD OF OFFICIAL

CITATION.

(A) Notwithstanding the provisions of ' 40.02(A) of this chapter, if any enforcement officer has cause to believe that a person has violated or is violating an enforcement provision of this code, but also has cause to believe that the person is of law-abiding character and has not knowingly, wantonly, or repeatedly violated the provision, and the violation is a minor violation not posing imminent jeopardy to life, limb, property, or the public welfare, the enforcement officer at his or her discretion may issue a warning instead of an official citation.

(B) The warning shall inform the person that they are in violation of an enforcement provision and the enforcement officer shall order the person to forthwith cease or correct the violation.

(C) At the discretion of the enforcement officer, the warning may be either an informal verbal warning or a formal written warning.

(D) A formal written warning shall be issued on the same form ordinarily used for an official citation of the offense committed, but all copies thereof shall be clearly marked AWarning Only@.

(E) Issuance of a warning shall not require the offender to pay any fine or compromise any settlement, nor to appear in court; however, if a formal written warning is issued, a copy shall be kept on file for at least one year in the office of the County Clerk and the office of the enforcement officer.

(F) The issuance of a warning shall in no way bar the subsequent issuance of an official citation for the same offense if it should later be determined that the offender in fact did knowingly or wantonly violate the enforcement provision, is a repeat offender, or has failed to comply with the warning order.

(1985 Code, ' 1-3-8)

' 40.08 STATUTE OF LIMITATIONS ON ISSUANCE OF CITATION.

Pursuant to the provisions of I.C. 34-28-5-1(d)(2), no citation for the violation of any enforcement provision of this code shall be issued and served if more than two years have elapsed since the alleged violation has occurred.

(1985 Code, ' 1-3-9)

' 40.09 FORM OF CITATION AND SUMMONS.

The form of citation and summons used for an ordinance violation shall be in accordance with this section, as appropriate to the nature of the violation.

(A) *Traffic offenses.* In all cases where a citation is issued and served for the violation of an ordinance constituting a moving traffic offense or a nonmoving traffic offense required by law or regulation to be reported to the State Commissioner of Motor Vehicles, the form of complaint and summons prescribed by I.C. 9-4-7-4(b) shall be used for the purpose of issuing the citation; provided, however, that the enforcement officer shall clearly indicate in the space provided on the form that the violation charged is a violation of a county ordinance and not of state law, and provided further that in that section of the form dealing with ACourt Action and Other Orders@ and in that subsection thereof concerning the finding of the court, the enforcement officer shall delete the word Astate@ and substitute the word Acounty@ so that the form shall read AJudgment for the County@ rather than AJudgment for the State@ in the event that the form has not been already so modified and preprinted.

(B) *Other cases.* In all other cases where a citation is issued and served for violation of an enforcement provision of this code, the form of complaint and summons prescribed by I.C. 9-30-3-6 may be used for the purpose of issuing the citation, subject to the same stipulations and modifications as when the form is used for a traffic offense as described above; however, if the traffic citation form is not deemed suitable and convenient for use with respect to any other enforcement provision, the chief officer of the department or other agency responsible for enforcement may prescribe an alternative form of complaint and summons to be used for issuing the citation; provided that any such alternative form of complaint and summons shall consist of at least four copies as required for the administration of ' 40.10 of this chapter, and that the form shall be examined and approved by the County Attorney who shall ascertain that it is of proper legal form and satisfies all necessities for judicial processing in accordance with the rules and regulations of the court for the filing of ordinance violation complaints, and that it meets all administrative requirements as stipulated in this chapter or in the particular enforcement provision to which it pertains.

(1985 Code, ' 1-3-10)

' 40.10 ADMINISTRATIVE PROCEDURE ON ISSUANCE OF CITATION.

Whenever a citation is issued for violation of any enforcement provision of this code, the enforcement officer issuing the citation shall provide one copy thereof to the offender, including or accompanied by the notices as prescribed in ' 40.06 and ' 40.12 of this chapter, as appropriate; shall retain one copy for the records of his or her own department or agency; and as soon after issuance as possible shall deliver all other copies to the County Clerk for the purpose of administering the further provisions of this section. The Clerk shall examine each such citation so received and shall determine from the records available whether or not the person charged with the violation

has previously been convicted of or has admitted guilt to a violation of the same provision or of a substantially similar provision of any ordinance in effect prior to the implementation of this code, and shall note this information on the citation for the information of the court, and shall accordingly fix or adjust, as may be necessary, the amount of fine to be requested in the complaint in accordance with ' 40.11 of this chapter, if the amount has not been previously determined accurately and entered in the citation by the enforcement officer issuing the same. The amount of fine so determined shall be entered on the complaint form by the enforcement officer or by the Clerk in the space provided, if any, or else shall be clearly noted and firmly attached to the copies of the complaint to be filed with the court or kept by the Clerk. Thereupon:

(A) If the violation cited in the complaint is a violation of any enforcement provision other than a moving traffic offense or a nonmoving traffic offense required by a law or regulation to be reported to the State Commissioner of Motor Vehicles, the Clerk shall retain the citation for the period of time allowed for the offender to compromise and settle the complaint as provided by ' 40.12(A) of this chapter; and if the complaint is not compromised and settled within that period of time, the Clerk shall as soon as possible thereafter docket the complaint for prosecution in accordance with ' 40.13 of this chapter; or

(B) If the violation cited in the complaint is a violation of an enforcement provision constituting a moving or nonmoving traffic offense required by law or regulation to be reported to the Indiana Commissioner of Motor Vehicles, the Clerk shall forthwith docket the complaint with the court in accordance with ' 40.13 of this chapter.

(1985 Code, ' 1-3-11)

' 40.11 PROCEDURE FOR FIXING REQUESTED FINE.

(A) When an enforcement officer issues and serves a citation, other than a warning citation, for the violation of any enforcement provision, he or she shall if practicable determine from the records available the status of the person under this section and shall determine and fix a fine to be requested in accordance with the provisions of this section, and shall enter the amount of the fine on the copy of the citation given to the offender or on a written attachment thereto and also on all other copies of the citation; however, if it is not practicable for the enforcement officer to check the available records at the time, or if doing so would require detaining the person cited for an unreasonable period of time, the enforcement officer may inquire of the person being cited if he or she has previously been convicted or has admitted guilt to the same offense being charged (exclusive of similar offenses committed in other jurisdictions), and the enforcement officer may rely on the response of the person for the purpose of this section until a time as the available records can be consulted by the enforcement officer, or by the Clerk, pursuant to ' 40.10; however, should it subsequently prove that the person has given the enforcement officer inaccurate information as to his previous convictions or admissions of guilt, the enforcement officer or the Clerk shall adjust the fine requested to accord with the provisions of this section, and the Clerk shall mail to the offender written notice of the adjustment. The amount of fine to be requested in the complaint shall be determined in the following manner:

(1) If any provision of this code establishes a fixed penalty for violation of the provision or of a related provision, then the amount of fine requested in the complaint shall be the fixed amount so specified; however, if no fixed amount is specified but a minimum and maximum penalty are provided, then;

(2) If the violation is a first offense against the provision, the fine requested in the complaint shall be the minimum penalty so established or \$1, whichever is greater;

(3) If the violation is a second offense in violation of the same provision, then the fine requested in the complaint shall be the minimum penalty so established plus 50% of the difference between the maximum penalty provided for violation of the provision and the minimum penalty; and

(4) If the violation is a third or subsequent offense in violation of the same provision, then the fine requested in the complaint shall be the maximum penalty provided for violation of the provision.

(B) Should any person commit two or more separate offenses against any one enforcement provision by virtue of any singular and substantially simultaneous act or circumstance, and singular and simultaneous act or circumstance is the person's first or second instance of committing any offense against the particular provision, then each separate offense shall be severally treated as a first offense or as a second offense, as the case may be, for purposes of fixing a requested fine for each offense in accordance with this section, irrespective of the other offenses concurrently committed.

(1985 Code, ' 1-3-12)

' 40.12 COMPROMISE AND SETTLEMENT OF COMPLAINT WITHOUT TRIAL.

Any person who has been cited for violation of any enforcement provision of this code, whether or not having signed a notice to appear in court, shall have a right to compromise and settle the complaint without trial or appearance in court in accordance with the following procedures.

(A) If the offense cited is other than a moving or nonmoving traffic offense of the kind described in ' 40.10(A) of this chapter, the offender may compromise and settle the complaint in accordance with the provisions of a notice, which shall be imprinted on or attached to the copy of the citation provided to the person cited.

(B) If the offense cited is a moving or nonmoving traffic offense of the kind described in ' 40.10(B) of this chapter, the offender may compromise and settle the complaint in the manner prescribed by I.C. 34-28-5-11, and a notice and compromise execution form or a substantially similar notice and form serving the same purpose as may be prescribed by the court or other competent authority shall be imprinted on or attached to the copy of the

citation provided to the person cited.

' 40.13 FILING AND PROSECUTION OF VIOLATION COMPLAINT.

(A) When a citation has been issued for violation of an enforcement provision of this code and the violation is a traffic offense as described in ' 40.10(B), or is some other kind of offense and the time period allowed for compromise and settlement of the complaint as provided by ' 40.12(A) and ' 40.06 has elapsed, the County Clerk shall file and docket the complaint in the name of the county with the County

(C) The prosecutor=s fee shall be assessed whether or not the County Attorney actually makes a personal appearance at the trial of the cause of the complaint.

(1985 Code, ' 1-3-14)

' 40.14 APPEARANCE FOR DEFENDANT AND FOR THE COUNTY.

(A) Unless the court pursuant to I.C. 9-30-2-5 or other applicable law orders otherwise, the defendant in the trial for violation of an enforcement provision may appear in person or by attorney, and an appearance by attorney satisfies any notice to appear signed by the defendant.

(B) Appearance on behalf of the county may be made by the County Attorney personally or, with his or her consent and approval, another attorney who is retained by the County or by the County Attorney for that purpose, or who is retained as counsel by any board, commission, or similar authority responsible for the enforcement of the enforcement provisions.

(1985 Code, ' 1-3-15)

' 40.15 PAYMENT OF FINES, OTHER COSTS AND PROSECUTOR=S FEE.

(A) Whenever a court enters judgment in favor of the county in the trial of an ordinance violation complaint, the court shall fine the violator in an amount not exceeding the penalty requested in the complaint; however, the judge of the court shall have

Circuit Court or other court of competent jurisdiction, and shall give notice to the County Attorney that the complaint is pending prosecution.

(B) It shall be the duty of the County Attorney to prosecute the complaint in accordance with I.C. 13-30 and applicable rules of the court. For the services and functions of the County Attorney as provided in this section, the court, upon conviction of the offender, shall assess a part of the judgment in favor of the county, and in addition to any fine imposed, a prosecutor=s fee in the amount prescribed by I.C. 33-37.

discretion to impose a lesser fine than that requested if, in the judgment of the court, there exist extenuating or mitigating circumstances warranting a lesser penalty; but if the judgment is entered by the clerk of the court upon waiver of trial and admission of guilt by the defendant, the clerk does not have discretion to impose a lesser penalty unless so ordered by the judge.

(B) The court shall also tax and assess as part of the judgment in favor of the county the prosecutor=s fee as prescribed by ' 40.13 and by law, and any other costs incurred and stipulated by the county in connection with the filing and prosecution of the complaint and which are recoverable pursuant to any statute or ordinance. The Clerk of the court shall regularly pay to the Auditor for forwarding to the Treasurer all fines, costs, and that portion of the prosecutor=s fee owing to the county and collected by the Clerk, and the Auditor and Treasurer shall allocate and deposit the monies in accordance with ' 40.18.

(1985 Code, ' 1-3-16)

' 40.16 RECORDS OF CONVICTION OR COMPROMISE.

(A) Whenever a person is charged with the violation of an enforcement provision and either compromises and settles the complaint pursuant to ' 40.12, or is found guilty by a court in accordance with ' 40.15, the Clerk shall make and keep a record of the compromise or conviction, organized for reference by name of the offender and according to any other means of identification which the Clerk deems dispensable for the purpose of administering ' 40.11 of this chapter.

(B) The record constitutes presumptive evidence of guilt of any violation whether or not the offender has made any admission to a violation for purposes of fixing a fine pursuant to ' 40.15, and no such offender shall be permitted to plead for a lesser fine than any subsequently requested on the advent of a repeat violation on the grounds that he or she was not in fact guilty of any prior offense which he or she has compromised or of which he or she has had judgment entered against him or her by a court.

(1985 Code, ' 1-3-17)

(A) The compromise and settlement of a complaint for the violation of any enforcement provision of this code pursuant to ' 40.12 of this chapter, or an action upon the complaint initiated and prosecuted pursuant to ' 40.13, and any fines, fees, or costs imposed and collected in connection therewith are in consequence of the penal violation of the respective enforcement provision per se, and the compromise and settlement of any such complaint or judgment of a court in favor of the county does not prevent the county from initiating and pursuing any or all of the following further or collateral civil actions:

(1) An action to recover costs incurred by the county to bring any property or the use thereof into compliance with an enforcement provision pursuant to I.C. 36-1-6-2;

(2) An action seeking a civil injunction against a violator to ensure current or future enforcement of and compliance with any enforcement provision pursuant to I.C. 36-1-6-4;

(3) An action to recover damages to county property or any other pecuniary loss to the county arising out of the violation of any enforcement provision; and/or

(4) An action to recover stipulated costs incurred by the county in any action described in divisions (A)(1), (2), or (3), including but not limited to attorney=s fees and any filing fees paid by the county in any such action.

(B) It shall be the duty of the County Attorney if so instructed by the Board of Commissioners to initiate and prosecute any such further actions as the

' 40.17 FURTHER OR COLLATERAL ACTIONS.

case may warrant.

(1985 Code, ' 1-3-18)

' 40.18 ALLOCATION AND DEPOSIT OF RECEIPTED FINES, FEES AND COSTS.

When the Auditor and Treasurer for violation of an enforcement provision receives payment of any fines, fees, or costs pursuant to ' ' 40.12, 40.15, and 40.17(A)(1) or (4) of this chapter; or possesses on behalf of the county any forfeited security deposit as undischarged bond for appearance pursuant to ' 40.05(B)(1) or (C)(1) of this chapter; or receives payment of recovered damages or loss pursuant to ' 40.17(A)(3) of this chapter and to the extent that any such payment does not escheat to an insurance company which has previously made compensatory payment to the county; the monies or property so received shall be administered and allocated by the Auditor and Treasurer in accordance with the following provisions of this section:

(A) In the case of monies paid as fines for penal violations of any enforcement provisions, or the county=s portion of applicable court costs, such monies shall be deposited in the General Fund unless the particular enforcement provision stipulates that any fines be deposited in some other designated fund.

(B) In the case of any forfeited security deposit, the Clerk shall record the complaint as having been compromised and settled upon taking possession thereof, and disposition shall be made of the possessed security as provided in this division:

(1) If the deposit has been made and

forfeited pursuant to ' 40.05(C)(1) of this chapter, and;

(a) The security is a deposit of cash or a directly depositable cash instrument such as a traveler=s check or certified check, then the Treasurer shall allocate and deposit the possessed security as

(b) If the security deposit is a negotiable instrument such as a bond, note, or debenture, having a convertible cash value but which is not directly depositable, the Treasurer shall proceed to convert the instrument, or may sell the instrument on the securities market for the price as it will bring, and the net proceeds from the conversion or sale after deduction of any applicable sale commissions or transaction fees shall be allocated and deposited as though they were an ordinary payment of the fine and costs owing, in the same manner as provided in division (A) of this section, and notwithstanding the fact that the net proceeds may exceed the amount of fine originally requested in the complaint plus applicable costs; provided further, however, that if the security is an investment instrument of the kind which it is lawful for the county to own and hold as an investment of public funds pursuant to I.C. 5-13-9 or any other law authorizing the investment of public funds, and the Treasurer determines that it would be of greater financial advantage and benefit to the county, the Treasurer may keep the security as an investment asset of the county instead of converting or selling the security, and the principal amount thereof shall be allocated and credited to the appropriate fund or funds to which a cash receipt would be allocated and deposited pursuant to division (A), and the interest or other earnings therefrom shall be allocated and deposited in the fund or funds as would ordinarily be the case for other county investments; or if,

(c) The security deposit is any other valuable personal or real property, the Treasurer shall provide for the same to be offered for sale as surplus property of the county in accordance with the provisions of I.C. 36-1-11, and the net proceeds of such sale after deduction of the costs of conducting the sale shall be allocated and deposited as though they were an ordinary payment of the fine and costs owing in the same manner as provided in division (A) of this section, and notwithstanding the fact that such net proceeds of the sale may exceed the amount of fine originally requested in the complaint plus applicable

though it were an ordinary payment of the fine and costs owing, in the same manner as provided in division (A) of this section, and notwithstanding the fact that the cash value of the security deposit may exceed the amount of fine originally requested in the complaint plus applicable costs; or

costs.

(2) In all events there shall either initially be retained by the Clerk, or shall be paid back to the Clerk out of the proceeds of liquidation of a security deposit or out of the appropriate fund or funds as a credit against the cash value of a security retained pursuant to division (B)(1)(b) above, an amount sufficient to permit the Clerk to remit to the state all state docket, motor vehicle, and judicial fees owing by law, and that portion of the prosecutor=s fee owing pursuant to I.C. 33-37-7-10.

(C) In the case of a payment of stipulated costs recovered pursuant to ' ' 40.15 and 40.17(A)(1) or (A)(4) of this chapter, the payments shall be allocated and deposited to the fund or funds from which the stipulated costs themselves were originally paid or obligated.

(D) In the case of a payment for recovery of damage or loss occasioned by the violation of an enforcement provision pursuant to ' 40.17(A)(3) of this chapter, any such payment shall be proportionally allocated to the fund or funds from which:

(1) Payment will or has been made to repair or replace the damaged property, or to the General Fund if the property will not be repaired or replaced; or

(2) Any other pecuniary loss has occurred, has or will be debited, or from which the loss has or will be made up, if the specific fund or funds are identifiable; and if not, to the General Fund.
(1985 Code, ' 1-3-19)

' 40.19 OTHER RULES AND PROCEDURES.

The County Clerk, Circuit Court Judge, County Attorney, Sheriff, and the chief officer of any other department, board, commission, or similar agency

which has been given responsibility for the administration and enforcement of any enforcement provision of this code, may stipulate or prescribe any other rules or procedures, not inconsistent with law, applicable state regulations, or the expressed provisions of this chapter, as they may deem necessary or desirable to promote the orderly, efficient, and expeditious carrying out of their respective enforcement duties; and the rules and procedures so stipulated and prescribed by the officers shall have the same effect and force as if they had been expressly adopted and made a part of the provisions of this chapter.

(1985 Code, ' 1-3-20)