

## CHAPTER 50: SOLID WASTE

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***Cross-reference:***

*Collection, delivery and processing, see Ch. 136*

### GENERAL PROVISIONS

**§ 50.01 SOLID WASTE MANAGEMENT DISTRICT.**

(A) There is created within the county a Solid Waste Management District encompassing all of the incorporated and unincorporated territory of the county.

(B) The Board of Directors of the Solid Waste Management District shall be comprised of the following:

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- (1) Two members of the Board of Commissioners appointed from its membership.
- (2) One member appointed by the County Council as the county fiscal body from the membership of that body.
- (3) The Mayor the City of Boonville, being the municipality having the largest population in the county.
- (4) One member of the legislative body of the City of Boonville being the municipality with the largest population of the county, said member being appointed by the legislative body of the City of Boonville.
- (5) One member who is a member of the fiscal body of a town other than the City of Boonville, which said member shall be appointed by the Commissioners of Warrick County to represent the municipalities in the county other than the City of Boonville.
- (6) One additional member appointed by the Board of Commissioners from its membership.

(BC Ord. 1990-20, passed 5-7-90)

### **§ 50.02 SANITARY LANDFILL REGULATIONS ADOPTED BY REFERENCE.**

The regulations for public disposal of garbage and rubbish at county operated sanitary landfill areas and on any land which is situated outside the corporate limits of any city or town, as adopted by Ord. 72-1, are hereby adopted by reference and made a part of this code the same as if set forth in full herein. These regulations shall be in effect until the county ceases to operate the landfill.

(BC Ord. 72-1, passed 5-6-72)

## **USE OF LANDFILLS; DISPOSAL OF WASTE**

### **§ 50.15 DEFINITIONS.**

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

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**GARBAGE.** All putrescible animal solid, vegetable solid and semi-solid wastes resulting from the processing, handling, preparation, cooking, serving, or consumption of food or food materials.

**GOVERNMENTAL UNIT.** Any county, city or town or any subdivision thereof.

**LANDFILL.** A tract of land on which a landfill operation is conducted and which has been approved by the State Board of Health.

**PERSON.** Any individual, partnership, corporation, firm or association.

**REFUSE.** All putrescible and non-putrescible solid and semi-solid wastes, except human excreta, but including garbage, rubbish, ashes, street cleanings, dead animals, offal and solid commercial, industrial and institutional wastes.

**RUBBISH.** All non-putrescible solid waste, excluding ashes, such as cardboard, paper, plastic, metal or glass food containers, rags, waste metal, yard clippings, small pieces of wood, excelsior, rubber, leather, crockery, and other waste materials that ordinarily accumulate around a home, business or industry. It shall not include garbage, ashes, bulk refuse, dead animals, hazardous refuse, industrial waste or building waste resulting from the operations of a contractor.

(BC Ord. 1978-11, passed 11-6-78)

**§ 50.16 USE LIMITED TO COUNTY CITIZENS.**

(A) It shall be unlawful for any person other than the citizens of the county to use the landfill operated by the County Commissioners. This section shall not affect any existing contracts, until their termination.

(B) It shall be unlawful for any person other than county citizens to deposit refuse, garbage, or rubbish in containers used by the county in its landfill operation.

(BC Ord. 1978-11, passed 11-6-78) Penalty, see § 50.99

**§ 50.17 PERMIT REQUIRED FOR LANDFILL.**

It shall be unlawful for any person or governmental unit to operate a landfill in the county except the Board of Commissioners without having first obtained a permit from the Board of Commissioners and having had the site approved by the State Board of Health for a proper landfill.

(BC Ord. 1978-11, passed 11-6-78) Penalty, see § 50.99

**§ 50.18 PERMIT APPLICATION AND HEARING; FEE.**

(A) Any permit issued by the Board of Commissioners will be granted only after application by the proposed operator and the owner of the real estate to be used. The application shall describe the real estate to be used, along with a description, ownership and usage of all real estate within one half mile of the proposed landfill. It shall also contain a map showing the route or routes to be used coming to and from such landfill. The application shall also designate any governmental units or units the operator intends to serve. It shall also describe the type and volume of refuse to be handled.

(B) On the receipt of an application for a landfill, the Board of Commissioners shall assign the same for hearing, which hearing shall not be less than two weeks from the date of filing. Notice shall be given by publication in two newspapers of opposite political faith published in the county, plus notice by certified mail to all persons listed as living or owning real estate within one half-mile of the proposed landfill.

(C) It shall be the burden of the applicant to introduce proof that the landfill will be environmentally safe, that the routes to the landfill will not be an excessive burden on county roads, that proper precautions will be taken to prevent spillage of refuse along county roads, and that the landfill operation will comply with all laws governing landfills.

(D) A fee of \$100 shall accompany every application to cover the cost of the hearing. The fee shall not be returnable.

(BC Ord. 1978-11, passed 11-6-78)

**§ 50.19 ISSUANCE OF PERMIT; CONDITIONS.**

In the event the Commissioners are satisfied that the landfill will not be detrimental to the citizens of the county, or that the benefits to the county or its citizens outweigh any detriments the Board of Commissioners shall issue a permit. The permit shall be for a term of five years, and may be renewed. The permit shall be conditioned on the property becoming property zoned and the applicant having obtained approval from the Indiana State Board of Health. The Commissioners may also require the applicant to furnish bond. The Commissioners shall also designate the route to and from the landfill and may require the operator to maintain all or part of said route.

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(BC Ord. 1978-11, passed 11-6-78)

**§ 50.20 REVOCATION.**

In the event of a violation of the terms of the permit, or of state law, or in the event the landfill becomes a public nuisance, the Commissioners may revoke the permit, after hearing, with right of appeal to the Circuit or Superior Court of the county.

(BC Ord. 1978-11, passed 11-6-78)

**§ 50.21 BRINGING WASTE INTO COUNTY, DEPOSITING IN LANDFILL.**

(A) It shall be unlawful for any person or governmental organization to bring refuse, garbage, or rubbish from outside of the county except to an approved landfill.

(B) It shall be unlawful for any person or governmental unit to deposit refuse, garbage, or rubbish within the county except in a landfill approved by the Board of Commissioners.

(BC Ord. 1978-11, passed 11-6-78) Penalty, see § 50.99

**§ 50.22 PRIVATE LANDFILLS.**

Nothing in this subchapter shall prevent any person or corporation from operating any landfill on their premises for waste materials accumulated on his own premises and not brought from off the premises.

(BC Ord. 1978-11, passed 11-6-78)

**§ 50.23 ENFORCEMENT; INJUNCTIVE RELIEF.**

(A) The Circuit and Superior Courts of the county shall have concurrent jurisdiction to enforce the penalty provided in § 50.99.

(B) The Board of Commissioners, or any citizen aggrieved, may institute a suit for injunction to restrain any person or governmental unit from violating the provisions of this

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subchapter. Any landfill used in violation of this subchapter is declared to be a nuisance and may be abated in such a manner as nuisances are now or hereafter abated.

(BC Ord. 1978-11, passed 11-6-78)

**§ 50.24 LANDFILL FEES.**

The fees for the use of the county landfill established by ordinance of the Board of Commissioners from time to time are hereby adopted by reference and made a part of this code as if set forth in full herein.

**§ 50.99 PENALTY.**

Any person or governmental organization who violates the provisions of §§ 50.15 through 50.23 shall, on first conviction, be fined in any sum not less than \$100 nor more than \$500. For the second or subsequent conviction a violation shall be fined in any sum not less than \$500 or not more than \$1,000. Each day of violation shall be considered a separate offense.

(BC Ord. 1978-11, passed 11-6-78)

## **CHAPTER 51: PERMITS TO WORK WITHIN COUNTY RIGHT-OF-WAY**

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Section

51.01 Permits to work within county right-of- way adopted by reference

**§ 51.01 PERMITS TO WORK WITHIN COUNTY RIGHT OF WAY ADOPTED BY REFERENCE.**

The regulations for permits to allow work within the county right-of-way, as adopted by ordinance 1998-4, are hereby adopted by reference and made a part of this code the same as if set forth in full herein. (BC Ord. 1998-4, passed 5-11-98; Am. BC Ord. 1999-37, passed 10-25-99)

***Cross-reference:***

*Restrictions on work within right-of-way, see §§ 92.45 through 92.50*

## **CHAPTER 52: STORMWATER MANAGEMENT**

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Section

52.01 Policy adopted

***Cross-reference:***

*Department of Stormwater Management, see §§ 33.80 et seq.*

### **§ 52.01 POLICY ADOPTED.**

(A) The Board of Commissioners hereby adopts as policy those recommendations made by the Warrick County Drainage Board for stormwater runoff from developed real property.

(B) The following shall be required:

(1) All stormwater drainage systems shall be designed for a minimum 50-year one hour storm. A time concentration for each sub-area, based on post development conditions shall be used to determine the appropriate rainfall intensity for the sizing of all storm sewer pipes, inlets, and catch basins that will be located inside the developed area. All storm sewers shall be installed on proper backfill and with proper cover, as per manufacturer specifications for the particular materials being used.

(2) For the purpose of calculating stormwater retention basins, pre-developed run-off from the site shall be determined as a five-year storm intensity rainfall event release rate. Stormwater storage shall be then calculated as a 50-year storm storage capacity (developed) over a 5-year release rate (undeveloped). Pipes flowing into retention basins shall be designed in such a manner that the design pipe flow capacity is not restricted by the basin pool elevation. All storm water storage basins shall include a controlled discharge structure for the restricted release rate, plus an emergency surface overflow at or equal to the basin design storage elevation.

(3) The Rational Method shall be used for the purpose of calculating pre-development and post- development run-off. Run-off coefficients shall be taken from the Herpic Storm Drainage Manual. A composite coefficient for post-developed conditions shall be

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determined by using methods described in the Herpic Storm Drainage Manual.

- (4) All preliminary drainage plans submitted will show the following information on the plat:
  - (a) X-sections of all surface drains and waterways.
  - (b) Surface contour lines at intervals of not more than five feet.
  - (c) Flow direction arrows on all streets and surface waterways.
  - (d) All storm sewers within and adjacent to the subdivision by size, length, type, grade, invert and rim elevations.
  - (e) Locations, storage volumes, release rates, discharge structure details and overflow details for all retention basins.
  - (f) All sub-drainage areas inside the development shall be delineated. Off-site areas draining through the development site should also be shown.
  - (g) Certification and signature of the design engineer.
- (5) All preliminary drainage plans submitted shall be accompanied by the following:
  - (a) A copy of the drainage study and calculations for the proposed subdivision.
  - (b) A letter of certification by the design engineer stating that the drainage plan was prepared in accordance with the criteria as set forth in the Herpic County Storm Drainage Manual and the plan requirements of the Warrick County Drainage Board.

(BC Res. 2000-06, passed 12-18-00)

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## CHAPTER 53: ILLICIT DISCHARGE AND CONNECTION

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- 53.02 Definitions
- 53.03 Applicability
- 53.04 Responsibility for administration
- 53.05 Discharge prohibitions

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- 53.06 Suspension of storm drainage system access
- 53.07 Industrial or construction activity discharges
- 53.08 Monitoring of discharges
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***Cross-reference:***

*Department of Stormwater Management, see §§ 33.80 et seq.*

**§ 53.01 PURPOSE; INTENT.**

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of Warrick County, Indiana through the regulation of stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this chapter are:

- (A) To regulate the contribution of pollutants into the county's separate storm sewer system (MS4) by stormwater discharges by any user;
- (B) To prohibit illicit connections and discharges to the county's separate storm sewer system; and
- (C) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.

(BC Ord. 2006-13, passed 7-26-06)

**§ 53.02 DEFINITIONS.**

For the purposes of this chapter, the following shall mean:

**ACCIDENTAL DISCHARGE.** A discharge prohibited by this chapter which occurs by chance and without planning or consideration prior to occurrence.

**AUTHORIZED ENFORCEMENT AGENCY.** Employees or designees of the Department of Stormwater Management.

**BEST MANAGEMENT PRACTICES (BMPS).** Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. **BMPS** also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

**BOARD.** The Warrick County Stormwater Management Board.

**CONSTRUCTION ACTIVITY.** Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more, as defined in 327 IAC 15-5. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

**DEPARTMENT.** Refers to the Indiana Department of Environmental Management.

**EPA.** The Federal Environmental Protection Agency.

**HAZARDOUS MATERIALS.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**ILLEGAL DISCHARGE.** Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in § 53.05.

**ILLICIT CONNECTIONS.** An illicit connection is defined as either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any

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conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or,

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**INDUSTRIAL ACTIVITY.** Activities subject to NPDES Industrial Permits as defined in 327 IAC 15-6.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT.** A permit issued by EPA (or by a state under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**NON-STORMWATER DISCHARGE.** Any discharge to the storm drain system that is not composed entirely of stormwater.

**PERSON.** Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

**POLLUTANT.** Anything which causes or contributes to pollution. **POLLUTANTS** may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**PREMISES.** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**STATE WATERS or WATER OF THE STATE.** Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state which are not entirely confined or retained completely upon the property of an individual, partnership or corporation.

**STORM DRAINAGE SYSTEM.** Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems,

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municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

***STORMWATER.*** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

***STORMWATER POLLUTION PREVENTION PLAN.*** A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

***WASTEWATER.*** Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(BC Ord. 2006-13, passed 7-26-06)

**§ 53.03 APPLICABILITY.**

This chapter shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

(BC Ord. 2006-13, passed 7-26-06)

**§ 53.04 RESPONSIBILITY FOR ADMINISTRATION.**

The Department of Stormwater Management shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Board of Commissioners to an authorized enforcement agency.

(BC Ord. 2006-13, passed 7-26-06)

**§ 53.05 DISCHARGE PROHIBITIONS.**

(A) *Prohibition of illegal discharges.*

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(1) No person shall discharge or cause to be discharged into the storm drainage system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

(2) The commencement, conduct or continuance of any illegal discharge to the storm drainage system is prohibited except as described as follows:

(a) The following discharges are exempt from discharge prohibitions established by this chapter: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, irrigation water, street wash water, and any other water source not containing pollutants.

(b) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

(d) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(B) *Prohibition of illicit connections.*

(1) The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person shall be in violation of this chapter if the person connects a line conveying sewage to the storm drainage system, or allows such a connection to continue.

(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

**§ 53.06 SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS.**

(A) *Suspension due to illicit discharges in emergency situations.*

(1) The Department of Stormwater Management may, without prior notice, suspend storm drainage system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm drainage system or waters of the state or United States.

(2) If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the storm drainage system or waters of the state or United States, or to minimize danger to persons.

(B) *Suspension due to the detection of illicit discharge.*

(1) Any person discharging to the storm drainage system in violation of this chapter may have their storm drainage system access terminated if such termination would abate or reduce an illicit discharge.

(2) The authorized enforcement agency will notify a violator of the proposed termination of its storm drainage system access.

(3) The violator may petition the authorized enforcement agency for a reconsideration and hearing.

(4) A person commits an offense if the person reinstates storm drainage system access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

**§ 53.07 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.**

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Department of Stormwater Management prior to the allowing of discharges to the storm drainage system.

(BC Ord. 2006-13, passed 7-26-06)

**§ 53.08 MONITORING OF DISCHARGES.**

(A) *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

(B) *Access to facilities.*

(1) The Department of Stormwater Management and the authorized enforcement agency shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Department of Stormwater Management and the authorized enforcement agency.

(2) Facility operators shall allow the Department of Stormwater Management ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(3) The Department of Stormwater Management shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The Department of Stormwater Management may require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Department of Stormwater Management and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the Department of Stormwater Management access to a permitted facility is a violation of a stormwater discharge permit and of this chapter.

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(7) A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.

(8) If the Department of Stormwater Management has been refused access to any part of the premises from which stormwater is discharged, and he or she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

**§ 53.09 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.**

(A) The Department of Stormwater Management will establish requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drainage system, or waters of the state or United States. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(B) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs.

(C) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system.

(D) Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section.

(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

**§ 53.10 WATERCOURSE PROTECTION.**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

**§ 53.11 NOTIFICATION OF SPILLS.**

(A) Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drainage system, or waters of the state or United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

(B) In the event of such a release of hazardous materials said person shall immediately notify all emergency response agencies of the occurrence via emergency dispatch services. As used in this section, *EMERGENCY RESPONSE AGENCIES* shall mean the EPA and the Department.

(C) In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person, by phone or facsimile no later than the next business day.

(D) Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Department of Stormwater Management within three business days of the phone notice.

(E) If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

**§ 53.12 ENFORCEMENT.**

(A) *Violation.* It shall be unlawful for any person to violate or fail to comply with any provision of this chapter. Any person who has violated or continues to violate any provision of this chapter may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

(B) *Notice of violation.*

(1) Whenever the Department of Stormwater Management finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the Department of Stormwater Management may order compliance by written notice of violation to the responsible person.

(2) Such notice of violation may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and

desist;

(d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

- (e) Payment of a fine to cover administrative and remediation costs;

and

- (f) The implementation of source control or treatment BMPs.

(3) Such notice of violation shall contain:

- (a) The names and addresses of the owner and violator;
- (b) The address when available, or a description of the building, structure of land upon which the violation has occurred;
- (c) A statement specifying the nature of the violation;

(d) A description of the remedial measures necessary to bring the illegal activity into compliance with this chapter and a time schedule for the completion of such remedial action, which may include designating the violation requires immediate action of less

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than 24 hours;

(e) A statement that should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator;

(f) A description of the remedial measures, if any, that were necessary to bring the illegal activity into compliance with this chapter that were already taken by the Department of Stormwater Management or the authorized enforcement agency, the cost thereof and a statement that the violator shall be responsible for the remedial action already taken; and

(g) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is sent.

(C) *Emergency.* In the event that an emergency exists and immediate action is required, the Board of Commissioners, the authorized enforcement agency and the Department of Stormwater Management may abate or remedy the violation and said notice may be given after said abatement or remediation has occurred. In the event of such emergency, the Department of Stormwater Management may enter onto the subject property and may take any and all measures necessary to abate the violation. It shall be unlawful for any person to refuse to allow access to the government agency or designated contractor to enter upon the property for the purposes set forth above.

(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

**§ 53.13 APPEAL OF NOTICE OF VIOLATION.**

(A) Any person receiving a notice of violation may appeal a notice of violation by filing a notice of appeal with the Department of Stormwater Management.

(1) The notice of appeal must be received within ten days from the date of the notice of violation is issued.

(2) Hearing on the appeal before the Stormwater Department shall take place within 30 days from the date of receipt of the notice of appeal.

(B) A decision of the Department of Stormwater Management may be appealed to the Board of Commissioners.

(1) A notice of appeal must be received by the Board of Commissioners with ten days of the decision of the Department of Stormwater Management.

(2) Hearing on the appeal before the Board of Commissioners shall take place

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within 30 days from the date of receipt of the notice of appeal.

(C) A decision of the Board of Commissioners may be taken as provided by Indiana law.

(BC Ord. 2006-13, passed 7-26-06)

**§ 53.14 ENFORCEMENT MEASURES AFTER APPEAL.**

(A) If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within ten days after all appeals have been exhausted, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property.

(B) It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

**§ 53.15 COST OF ABATEMENT OF THE VIOLATION.**

Within 30 days after the abatement of the violation by authorized enforcement agency, the owner of the premises shall be billed for the cost of abatement, including administrative costs. The notification will include copies of all invoices paid by the county, and a log of all hours spent by county personnel (or its designated contractor). If the amount contained in the notification is not paid within 30 days of the receipt of the bill, the county may certify to the County Auditor the amount of the bill, plus any additional administrative costs incurred in the certification, and said amounts shall be collected as delinquent taxes are collected pursuant to I.C. 36-1-6-2.

(BC Ord. 2006-13, passed 7-26-06)

**§ 53.16 INJUNCTIVE RELIEF.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of

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this chapter, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(BC Ord. 2006-13, passed 7-26-06) Penalty, see § 53.99

**§ 53.17 COMPENSATORY ACTION.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(BC Ord. 2006-13, passed 7-26-06)

**§ 53.18 VIOLATIONS DEEMED A PUBLIC NUISANCE.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(BC Ord. 2006-13, passed 7-26-06)

**§ 53.19 REMEDIES NOT EXCLUSIVE.**

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(BC Ord. 2006-13, passed 7-26-06)

**§ 53.99 PENALTY.**

(A) Any person that has violated or continues to violate this chapter shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to \$2,500 per

violation per day. Each day a violation continues after the original notification shall be deemed a separate offense under this chapter.

(B) The authorized enforcement agency may recover all attorney's fees, court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

(BC Ord. 2006-13, passed 7-26-06)

## **CHAPTER 54: CONSTRUCTION SITE AND POST-CONSTRUCTION SITE STORMWATER CONTROL**

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### Section

- 54.01 Purpose; intent
- 54.02 Definitions
- 54.03 Applicability
- 54.04 Responsibility for administration
- 54.05 Responsibility of construction site owner
- 54.06 General requirements for stormwater quality control
- 54.07 General requirements for individual building lots within a permitted project
- 54.08 Monitoring of discharges
- 54.09 Requirement to prevent, control, and reduce stormwater pollutants by the use of Best Management Practices
- 54.10 Post-construction controls for new development or redevelopment
- 54.11 Enforcement
- 54.12 Injunctive relief
- 54.13 Compensatory action
- 54.14 Violations deemed a public nuisance
- 54.15 Remedies not exclusive
  
- 54.99 Penalty

### ***Cross-reference:***

*Department of Stormwater Management, see §§ 33.80 et seq.*

### **§ 54.01 PURPOSE; INTENT.**

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(A) *Site construction control.* The purpose of this chapter relative to post-construction control is to establish requirements for stormwater discharges from construction activities of one acre or more so as to protect the public health, existing water uses, and aquatic biota. This chapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this chapter are:

(1) To regulate construction activities disturbing more than one acre of land as governed by 327 IAC 15-5.

(2) To require construction site operators to develop and implement a construction plan including a stormwater pollution prevention plan in order to receive a grading permit from the county.

(B) *Post-construction control.* The purpose of this chapter relative to post-construction control is to implement planning procedures that promote and improve water quality. The planning procedures will include, at a minimum, the post-construction requirements of 327 IAC 5-5-6.5(a)(8). The county may require the use of any storage, infiltration, filtering, and/or vegetative practices to reduce the impact of pollutants on stormwater runoff. Where appropriate, and to the extent of the MS4 operator's authority, the planning procedures may also include the following:

(1) Buffer strip and riparian zone preservation;

(2) Filter strip creation;

(3) Minimization of land disturbance and surface imperviousness;

(4) Minimization of directly connected impervious areas;

(5) Maximization of open space; and

(6) Directing the community's growth away from sensitive areas and towards areas that can support growth without compromising water quality.

(BC Ord. 2006-14, passed 7-26-06)

**§ 54.02 DEFINITIONS.**

For the purposes of this chapter, the following shall mean:

***AGRICULTURAL LAND DISTURBING ACTIVITY.*** Tillage, planting, cultivation, or

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harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tile. The term does not include land disturbing activities for the construction of agricultural related facilities, such as:

- (1) Barns;
- (2) Buildings to house livestock;
- (3) Roads associated with infrastructure;
- (4) Agricultural waste lagoons and facilities;
- (5) Lakes and ponds;
- (6) Wetlands; and
- (7) Other infrastructure.

**AUTHORIZED ENFORCEMENT AGENCY.** Employees or designees of the County Commissioners of Warrick County, Indiana.

**BEST MANAGEMENT PRACTICES (BMPS).** Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. **BMPs** also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

**BOARD.** The Warrick County Stormwater Management Board.

**CLEAN WATER ACT.** The Federal Water Pollution Control Act (33 USC 1251 *et seq.*), and any subsequent amendments thereto.

**CONSTRUCTION ACTIVITY.** Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more, as defined in 327 IAC 15-5. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

**CONSTRUCTION PLAN.** A representation of a project site and all activities associated with the project. The plan includes the location of the project site, buildings and other infrastructure, grading activities, schedules for implementation, and other pertinent information related to the project site. A stormwater pollution prevention plan is a part of the construction plan.

**CONSTRUCTION PROJECT or PROJECT.** An organized effort to start, conduct,

manage, and complete a single construction activity, or a series of construction activities.

**CONSTRUCTION PROJECT SITE.** The physical location or locations where a construction project is being accomplished, or the physical or legal boundaries within which a construction activity or a series of construction activities is planned to be or is being accomplished.

**CONSTRUCTION SITE ACCESS.** A stabilized stone surface at all points of ingress or egress to a project site for the purpose of capturing and detaining sediment carried by tires of vehicles or other equipment entering or exiting the project site.

**CONSTRUCTION SITE OPERATOR.** Shall have the same meaning as project site operator.

**CONTRACTOR or SUBCONTRACTOR.** An individual or company hired by the project site or individual lot owner, their agent, or the individual lot operator to perform services on the project site.

**DEPARTMENT.** The Indiana Department of Environmental Management.

**DEVELOPER.**

- (1) Any person financially responsible for construction activity; or
- (2) An owner of property who sells or leases, or offers for sale or lease, any lots in a subdivision.

**DRAIN.** An open channel or a pipe, or a combination thereof, implemented to gather, store, convey and release stormwater runoff.

**ECM or EROSION CONTROL MEASURE.** An activity, a material application, or a structure that prevents, arrests, or lessens the wearing away of soil, sediment, or rock by water, wind, or ice.

**EROSION.** The detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.

**EROSION AND SEDIMENT CONTROL MEASURE.** A practice, or a combination of practices, to control erosion and resulting sedimentation.

**EROSION AND SEDIMENT CONTROL SYSTEM.** The use of appropriate erosion and sediment control measures to minimize sedimentation by first reducing or eliminating erosion at the source and then, as necessary, trapping sediment to prevent it from being discharged from or within a project site.

**FINAL STABILIZATION.** The establishment of permanent vegetative cover or the

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application of a permanent nonerosive material to areas where all land disturbing activities have been completed and no additional land disturbing activities are planned under the current permit.

**HAZARDOUS MATERIALS.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**ILLEGAL DISCHARGE.** Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Chapter 53 of this Code of Ordinances.

**ILLICIT CONNECTIONS.** An illicit connection is defined as either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or,

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**INDUSTRIAL ACTIVITY.** Activities subject to NPDES Industrial Permits as defined in 327 IAC 15-6.

**INDIVIDUAL BUILDING LOT.** A single parcel of land within a multi-parcel development.

**INDIVIDUAL LOT OPERATOR.** A contractor or subcontractor working on an individual lot.

**INDIVIDUAL LOT OWNER.** A person who has financial control of construction activities for an individual lot.

**LAND DISTURBING ACTIVITY.** Any manmade change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT.** A permit issued by EPA (or by a state under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general

area-wide basis.

**NON-STORMWATER DISCHARGE.** Any discharge to the storm drain system that is not composed entirely of stormwater.

**NOTICE OF INTENT LETTER** or **NOI LETTER.** A written notification from the project site owner sent to the Director of IDEM and to the Department of Stormwater Management at least 48 hours prior to initiating construction activities at the construction site.

**NOTICE OF TERMINATION LETTER** or **NOT LETTER.** A written notification from the project site owner to the Director of IDEM and to the Department of Stormwater Management that the construction activities for a site have been terminated and have met the requirements of this chapter.

**PERSON.** Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

**POLLUTANT.** Anything which causes or contributes to pollution. **POLLUTANTS** may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations that may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any other kind.

**PREMISES.** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**PROJECT SITE OWNER.** The person required to submit an NOI under 327 IAC 15-5 (Rule 5) and includes the following entities: a developer, or a person who has financial and operational control of construction activities, project plans and specifications, and the ability to modify or cause modification of project plans and specifications.

**RUNOFF.** An accumulation of stormwater flow that is moving across the surface of the earth as sheet flow or concentrated flow in natural surface watercourses, drains, or waterways.

**SEDIMENT.** Solid material (both mineral and organic) that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface.

**SEDIMENTATION.** The settling and accumulation of unconsolidated sediment carried by stormwater run-off.

**STORM DRAINAGE SYSTEM.** Publicly-owned facilities by which stormwater is

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collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

***STORMWATER.*** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

***STORMWATER POLLUTION PREVENTION PLAN.*** A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

***STORMWATER QUALITY MEASURE.*** A practice, or a combination of practices, to control or minimize pollutants associated with stormwater run-off.

***STRUCTURAL STORMWATER CONTROL.*** A structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

***TRAINED INDIVIDUAL.*** An individual who is trained and experienced in the principles of stormwater quality, including erosion and sediment control as may be demonstrated by state registration, professional certification, experience, or completion of coursework that enable the individual to make judgments regarding stormwater control or treatment and monitoring.

***UNDISTURBED PROPERTY.*** Real property, which has not been altered from its natural state by dredging, filling, removal of trees and vegetation or other activities, which have disturbed or altered the topography or soils on the property.

***WASTEWATER.*** Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(BC Ord. 2006-14, passed 7-26-06)

**§ 54.03 APPLICABILITY.**

(A) *Applicability.*

(1) This chapter applies to any new development or re-development construction site resulting in the disturbance of one acre or more of total land area. For such

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construction sites, persons must meet the general permit rule applicability requirements under 327 IAC 15-2-6.

(2) This chapter also applies to disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land within the corporate limits of the county.

(3) All terms, conditions, definitions, and other measures defined in 327 IAC 15-5 shall apply except for state permitting process references and submittal deadlines of construction plans.

(B) *Exclusions.*

(1) This chapter does not apply to persons who obtain an individual NPDES permit under 327 IAC 15-2-6.

(2) This chapter does not apply to the Indiana Department of Transportation when it conducts its business within the county corporate limit under its NPDES permit pursuant to 327 IAC 15.

(3) This chapter does not apply to the following types of activities:

- (a) Agricultural land disturbing activities; and
- (b) Forest harvesting activities.

(4) This chapter does not apply to the following activities, provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:

- (a) Landfills that have been issued a certification of closure under 329 IAC 10.
- (b) Coal mining activities permitted under I.C. 14-34.
- (c) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

(BC Ord. 2006-14, passed 7-26-06)

**§ 54.04 RESPONSIBILITY FOR ADMINISTRATION.**

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The county shall administer, implement, and enforce the provisions of this chapter. Any powers granted, or duties imposed, may be delegated to an authorized enforcement agency.

(BC Ord. 2006-14, passed 7-26-06)

**§ 54.05 RESPONSIBILITY OF CONSTRUCTION SITE OWNER.**

(A) The project site owner has the following responsibilities:

- (1) Ensure that a sufficient construction plan is completed and submitted.
- (2) Complete a notice of intent letter.
- (3) Make application for a grading permit.
- (4) Ensure compliance with this chapter during construction activity and the implementation of the construction plan.
- (5) Ensure that all persons engaging in construction activities, on a permitted project site, comply with the applicable requirements of this rule and the approved construction plan.
- (6) Notify the county with a sufficient notice of termination letter and send a copy to the Indiana Department of Environmental Management.

(B) For off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a permitted project site, these off-site activity areas must be considered a part of the permitted project site when the activity is under the control of the project site owner.

(C) For an individual lot where land disturbance is expected to be one acre or more, and the lot lies within a project site permitted under this rule, the individual lot owner shall:

- (1) Ensure that a sufficient construction plan is completed and submitted in accordance with procedures established by the county.
- (2) Complete a notice of intent letter.
- (3) Apply for a building permit in accordance with the procedures established by the county.

(D) For an individual lot where the land disturbance is less than one acre and the lot lies within a project site permitted under this rule, the individual lot operator shall:

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- (1) Comply with the provisions and requirements of the plan developed by the project site owner in accordance with the procedures established by the county.
- (2) Comply with the provisions set forth in § 54.09.
- (3) Apply for a building permit in accordance with the procedures established by the county. (NOTE: There is no need to submit a notice of intent letter under this division (D).)

(BC Ord. 2006-14, passed 7-26-06) Penalty, see § 54.99

**§ 54.06 GENERAL REQUIREMENTS FOR STORMWATER QUALITY CONTROL.**

(A) All stormwater quality measures and erosion and sediment controls necessary to comply with this chapter must be implemented in accordance with the construction plan and sufficient to satisfy the following conditions.

(B) A project site owner shall meet the following minimum requirements:

(1) Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation.

(2) Appropriate measures shall be implemented to minimize or eliminate wastes or unused building materials, including garbage, debris, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by run-off or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable statutes and regulations.

(3) A stable construction site access shall be provided for all traffic ingress and egress to the project site.

(4) Public or private roadways shall be kept cleared of accumulated sediment that is a result of run-off or tracking. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations.

(5) Stormwater run-off leaving a project site must be discharged in a manner that is consistent with applicable state or federal law.

(6) The project site owner shall post a notice near the main entrance of the project site. For linear project sites, such as a pipeline or highway, the notice must be placed in a

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publicly accessible location near the project field office. The notice must be maintained in a legible condition and contain the following information:

(a) The completed NOI letter and the NPDES permit number, where applicable.

(b) Name, company name, telephone number, e-mail address (if available), and address of the project site owner or a local contact person.

(c) Location of the construction plan if the project site does not have an on-site location to store the plan.

(7) This permit, and posting of the notice under division (B)(6) of this section, does not provide the public with any right to trespass on a project site for any reason, nor does it require that the project site owner allow members of the public access to the project site.

(8) The stormwater pollution prevention plan shall serve as a guideline for stormwater quality, but should not be interpreted as the only requirements for implementation of stormwater quality measures for a project site. The project site owner is responsible for implementing, in accordance with this rule, all measures necessary to adequately prevent polluted stormwater run-off.

(9) The project site owner shall inform all general contractors, construction management firms, grading or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots, of the terms and conditions of this rule and the conditions and standards of the stormwater pollution prevention plan, and the schedule for proposed implementation.

(10) Phasing of construction activities shall be used, where possible, to minimize disturbance of large areas.

(11) Appropriate measures shall be planned and installed as part of an erosion and sediment control system.

(12) All stormwater quality measures must be designed and installed under the guidance of a trained individual.

(13) Collected run-off, leaving a project site, must be either discharged directly into a well-defined and stable receiving channel or diffused and released to adjacent property without causing an erosion or pollutant problem to the adjacent property owner.

(14) Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet.

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(15) Natural features, including wetlands and sinkholes, shall be protected from pollutants associated with stormwater run-off.

(16) Unvegetated areas that are scheduled, or likely to be left inactive for 15 days or more, must be temporarily or permanently stabilized with measures appropriate for the season to minimize erosion potential. Alternative measures to site stabilization are acceptable if the project site owner, or their representative, can demonstrate they have implemented erosion and sediment control measures adequate to prevent sediment discharge. Vegetated areas, with a density of less than 70%, shall be restabilized using appropriate methods to minimize the erosion potential.

(17) During the period of construction activities, all stormwater quality measures necessary to meet the requirements of this rule shall be maintained in working order.

(18) A self-monitoring program that includes the following must be implemented:

(a) A trained individual shall perform a written evaluation of the project site at a minimum of one time per week and by the end of the next business day following each 0.5 inch of rain.

(b) The evaluation must address the maintenance of existing stormwater quality measures to ensure they are functioning properly and identify additional measures necessary to remain in compliance with all applicable laws and ordinances.

(c) Written evaluation reports must include the name of the individual performing the evaluation, the date of the evaluation, problems identified at the project site, and details of corrective actions recommended and completed.

(d) All evaluation reports for the project site must be made available to the inspecting authority within 48 hours of a request.

(19) Proper storage and handling of materials, such as fuels or hazardous wastes, and spill prevention and clean-up measures, shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.

(20) Final stabilization of a project site is achieved when:

(a) All land disturbing activities have been completed and a uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed; and

(b) Construction projects on land used for agricultural purposes are returned to its preconstruction agricultural use and disturbed areas, not previously used for

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agricultural production, such as filter strips and areas that are not being returned to their preconstruction agricultural use, meet the final stabilization requirements in subdivision (a) above.

(BC Ord. 2006-14, passed 7-26-06) Penalty, see § 54.99

**§ 54.07 GENERAL REQUIREMENTS FOR INDIVIDUAL BUILDING LOTS WITHIN A PERMITTED PROJECT.**

(A) All stormwater quality measures, including erosion and sediment control, necessary to comply with this chapter must be implemented in accordance with the plan and sufficient to satisfy the following conditions.

(B) Provisions for erosion and sediment control on individual building lots regulated under the original permit of a project site owner must include the following requirements:

(1) The individual lot operator, whether owning the property or acting as the agent of the property owner, shall be responsible for erosion and sediment control requirements associated with activities on individual lots.

(2) Installation and maintenance of a stable construction site access for ingress and egress.

(3) Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.

(4) Sediment discharge and tracking from each lot must be minimized throughout the land disturbing activities on the lot until permanent stabilization has been achieved.

(5) Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable laws and ordinances.

(6) Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.

(7) For individual residential lots, final stabilization meeting the criteria in § 54.06(B)(20) will be achieved when the individual lot operator completes final stabilization or has installed appropriate erosion and sediment control measures for an individual lot prior to occupation of the home by the homeowner and has informed the homeowner of the requirement

for, and benefits of, final stabilization.

(BC Ord. 2006-14, passed 7-26-06) Penalty, see § 54.99

**§ 54.08 MONITORING OF DISCHARGES.**

The county shall have the authority to monitor discharges from construction sites covered under this chapter as described in Chapter 53 of this Code of Ordinances.

(BC Ord. 2006-14, passed 7-26-06)

**§ 54.09 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.**

(A) The owner or operator of a construction site shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the county's storm drainage system or watercourses through the use of these structural and non-structural BMPs. These BMPs shall be part of a Stormwater Pollution Prevention Plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(B) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at the responsible person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system.

(C) Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section.

(BC Ord. 2006-14, passed 7-26-06) Penalty, see § 54.99

**§ 54.10 POST-CONSTRUCTION CONTROLS FOR NEW DEVELOPMENT OR REDEVELOPMENT.**

(A) On areas that undergo new development or redevelopment, site construction resulting in disturbance of one acre or more total land area, post-construction control measures in the form of structural and/or non-structural best management practices are required. Specifically, post-construction stormwater pollutant loading should not exceed pre-construction pollutant

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loading. Pre-construction refers to the site immediately before the planned land disturbance and development activities occur. Pre-construction is not intended to be interpreted as that period before any human-induced land disturbance activity has occurred. Post-construction pollutant loadings will be controlled through the six minimum control measures under the county's stormwater NPDES permit. Post-construction stormwater best management practices (BMPs) shall follow Indiana's Stormwater Quality Manual as a guidance document. The county shall have full technical and administrative approval authority on the application and design of all post-construction BMPs, conditions, definitions, and submittal requirements of construction plans and specifications and other related documents. The minimum measures are implemented to meet the terms defined in 327 IAC 15-5-6.5(a)(8) which are enumerated below.

(B) The post-construction stormwater pollution prevention plan (SWP3). The SWP3 must include the following information:

(1) A description of potential pollutant sources from the proposed land use that may reasonably be expected to add a significant amount of pollutants to stormwater discharges.

(2) Location, dimensions, detailed specifications, and construction details of all post-construction stormwater quality measures.

(3) A description of measures that will be installed to control pollutants in stormwater discharges that will occur after construction activities have been completed. Such practices include infiltration of run-off, flow reduction by use of open vegetated swales and natural depressions, buffer strip and riparian zone preservation, filter strip creation, minimization of land disturbance and surface imperviousness, maximization of open space, and stormwater retention and detention ponds.

(4) A sequence describing when each post-construction stormwater quality measure will be installed.

(5) Stormwater quality measures that will remove or minimize pollutants from stormwater run-off.

(6) Stormwater quality measures that will be implemented to prevent or minimize adverse impacts to stream and riparian habitat.

(7) Stormwater quality measures that will be implemented to prevent or minimize adverse impacts to stream or riparian habitat.

(8) A narrative description of the maintenance guidelines for all post-construction stormwater quality measures to facilitate their proper long term function. This narrative BMP description shall be made available to future parties who will assume responsibility for the operation and maintenance of the post-construction stormwater quality

measures.

(BC Ord. 2006-14, passed 7-26-06) Penalty, see § 54.99

**§ 54.11 ENFORCEMENT.**

(A) Enforcement of this chapter shall be subject to the severity of the infraction and the construction site operator's efforts to comply. Tiered enforcement will be practiced at the county's discretion. The tiered enforcement may include:

(1) Verbal warning to the construction site operator to make corrections.

(2) Written warning to the construction site operator to make corrections within a specified period of time. The period of time shall take into account issues such as the severity of the problem, pending weather, seasonal conditions, and the level of effort necessary to correct the problem.

(3) Warning of non-compliance with directions to the construction site operator that site conditions require immediate action.

(4) Stop work order.

(B) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work may be done by a designated governmental agency or a contractor and the expense thereof, including court costs and attorney fees, shall be charged to the violator.

(C) The notification will include copies of all invoices paid by the county, and a log of all hours spent by county personnel (or its designated contractor). If the amount contained in the notification is not paid within 30 days of the receipt of the bill, the county may certify to the County Auditor the amount of the bill, plus any additional administrative costs incurred in the certification, and said amounts shall be collected as delinquent taxes are collected pursuant to I.C. 36-1-6-2.

(BC Ord. 2006-14, passed 7-26-06)

**§ 54.12 INJUNCTIVE RELIEF.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated, or continues to violate, the provisions

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of this chapter, the authorized enforcement agency may petition any court of competent jurisdiction for a preliminary or permanent injunction restraining the person from activities which would create further violations. Such enforcement may also include compelling the person to perform abatement or remediation of the violation. Costs, including attorney fees, for injunctive relief may be assessed against the violator.

(BC Ord. 2006-14, passed 7-26-06) Penalty, see § 54.99

### **§ 54.13 COMPENSATORY ACTION.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the authorized enforcement agency may impose upon a violator alternative compensatory action, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(BC Ord. 2006-14, passed 7-26-06)

### **§ 54.14 VIOLATIONS DEEMED A PUBLIC NUISANCE.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter may be deemed a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. Costs, including attorney fees, for injunctive relief may be assessed against the violator.

(BC Ord. 2006-14, passed 7-26-06)

### **§ 54.15 REMEDIES NOT EXCLUSIVE.**

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(BC Ord. 2006-14, passed 7-26-06)

**§ 54.99 PENALTY.**

Any person that has violated or continues to violate this chapter shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to \$2,500 per violation per day. Each day a violation continues after the original notification shall be deemed a separate offense under this chapter.

(BC Ord. 2006-14, passed 7-26-06)

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## **CHAPTER 55: STORMWATER UTILITY RATES**

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**Section**

- 55.01 Purpose and objective
- 55.02 Definitions
- 55.03 Stormwater service charge
- 55.04 Stormwater service charge establishment procedures
- 55.05 Stormwater service charge structure and calculation
- 55.06 Billings; terms of payment
- 55.07 Appeals of ERU determination
- 55.08 Stormwater Revenue Fund
- 55.09 Delinquent charges and penalties as liens; collection
- 55.10 Violations and enforcement

***Cross-reference:***

*Department of Stormwater Management, see §§ 33.80 et seq.*

**§ 55.01 PURPOSE AND OBJECTIVE.**

(A) The mission of the Department of Stormwater Management shall be to develop, implement, operate and adequately and equitably fund the acquisition, construction, operation, maintenance and regulation of stormwater collection and drainage systems and activities in the county, including without limitation, stormwater quality, separate storm sewers, neighborhood drainage, flood control, flood pumping, stormwater conveyance, sewer separation, and other improvements to the existing and future storm sewers.

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(B) The Department of Stormwater Management shall safely and efficiently control stormwater runoff, insure compliance with the National Pollutant Discharge Elimination System Stormwater Discharge permit, enhance public health and safety, protect lives and property, facilitate mobility and enable access to homes and businesses throughout the county during storms, control the discharge of pollutants in stormwater to receiving waters and enhance the natural resources of the county.

(SWM Ord. 2007-01, passed 8-29-07)

**§ 55.02 DEFINITIONS.**

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

**BOARD.** The Board of Directors of the Department of Stormwater Management.

**COMBINED SEWER.** Pipe or conduit primarily used to convey sanitary sewage and secondarily intended to convey stormwater.

**COMMERCIAL PROPERTY.** A lot or parcel of real estate encompassing State Land Use Code 3, 4 and 8, including but not limited to: commercial, industrial and retail.

**COUNTY.** Territory within the corporate boundaries of Warrick County that is not located in a municipality or is excluded under MS4 - NPDES Permitting Program 327 IAC 15-13.

**CUSTOMER or USER.** A property owner benefitting from the stormwater system.

**DEPARTMENT.** The Department of Stormwater Management.

**DETENTION.** The temporary storage of storm runoff in a basin, pond or other structural or non-structural device to control the peak discharge rates by holding the stormwater for a lengthened period of time, which also provides for the gravity-settling of pollutants.

**DEVELOPED.** The condition of real property altered from its natural state by the addition to, or construction on such property of impervious surfaces or physical improvements such that the hydrology of the property, or a portion thereof, is affected.

**DITCH, LEGAL.** Any drainage system under the jurisdiction of the County Drainage Board.

**DITCH, OPEN.** A relatively deep drainage channel that may have a continuous water flow. Open ditches are outlets for both surface, subsurface or storm sewer drainage systems.

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***DRAIN.*** Relative to stormwater drainage, any sewer, tile, ditch, stream or other stormwater runoff conveyance channel or conduit.

***DRAINAGE EASEMENT.*** The land required for the installation of stormwater sewers or drainage ditches, or required along a natural stream or water course for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

***DRAINAGE FACILITIES.*** All ditches, channels, conduits, retention-detention systems, tiles, drainage swales, sewers, and other natural or artificial means of draining stormwater from land.

***DRAINAGE REQUIREMENTS.***

- (1) Minimum drainage standards as established by county ordinance;
- (2) Obligations and requirements relating to drainage established under the County Subdivision Control Ordinance;
- (3) Requirements contained in the County Zoning Ordinance, including floodway zoning requirements;
- (4) Obligations and requirements relating to drainage established under the County Drainage Board; and
- (5) Conditions relating to drainage attached to a grant of variance by the Board of Zoning Appeals.

***DRAINAGE, SUBSURFACE.*** A system of pipes, tile, conduit or tubing installed beneath the ground used to collect underground water from individual parcels, lots, building footings or pavements.

***DRAINAGE, SURFACE.*** A system by which the stormwater runoff is conducted to an outlet. This would include the proper grading of parking lots, streets, driveways and yards so that storm runoff is removed without ponding, and flows to a drainage swale, open ditch, or a storm sewer.

***DRAINAGE, SWALE.*** A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, used to conduct surface water from a field, diversion, or other site feature.

***DRAINAGE, SYSTEM.*** Any combination of surface and/or subsurface drainage components fulfilling all applicable drainage requirements.

***EASEMENT.*** A grant by the property owner of the use of a strip of land by the public, a corporation or other legal entity for specified purposes.

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**ENGINEER.** The Warrick County Engineer.

**EQUIVALENT RESIDENTIAL UNIT or ERU.** An amount equal to the average amount of impervious area found on a typical single-family residential parcel, which is 3,100 square feet. Therefore, one **ERU** equals 3,100 square feet of impervious area.

**IMPERVIOUS AREA.** The area within developed land that prevents or significantly impedes the infiltration of stormwater into the soil. Included in this definition are areas that have been paved and/or covered with buildings and materials, including but not limited to, concrete, asphalt, rooftop and blacktop, such that the infiltration of water into the soil is prevented. Excluded from this definition are undisturbed land, lawns and fields.

**INFILTRATION.** A complex process of allowing runoff to penetrate the ground surface and flow through the upper soil surface.

**LAND ALTERATION.** Any action taken relative to land that either: (1) changes the contour; (2) increases the runoff rate; (3) changes the elevation; (4) decreases the rate of which water is absorbed; (5) changes the drainage pattern; (6) creates or changes a drainage facility; (7) involves construction, enlargement or location of any building on a permanent foundation; or (8) creates an impoundment. **LAND ALTERATION** includes (by way of example and not of limitation) terracing, grading, excavating, constructing earthwork, draining, installing drainage tile, filling and paving.

**MAINTENANCE.** Cleaning out of, spraying, removing obstructions from, and making minor repairs in a drainage facility so that it will perform the function for which it was designed and constructed.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM or NPDES.** The EPA program initiated to reduce and eliminate pollutants reaching water bodies of all types.

**NPDES PERMIT.** The stormwater management permit required of municipalities and certain industries by the EPA pursuant to Section 402 of the Clean Water Act.

**OTHER PROPERTY.** All properties not encompassed within the definitions of residential property or commercial property, including but not limited to, governmental, institutional, schools and churches.

**PEAK DISCHARGE.** The maximum rate of flow of water passing a given point during or after a rainfall event, sometimes called "peak flow".

**PRIVATE STORMWATER FACILITIES.** Various stormwater and drainage works not under the control or ownership of the county, the state, or the federal government, which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport,

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move or regulate stormwater.

**PROPERTY OWNER.** The individual, partnership, corporation or other legal entity holding the deed or record title to real property.

**PUBLIC DRAINAGE SYSTEM.** Various storm water and drainage works under the control and/or ownership of the county, the state, or the federal government, which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater

**RESIDENTIAL PROPERTY.** A lot or parcel of real estate encompassing State Land Use Codes 101 and 500 through 599, on which a building or house trailer is situated that contains a group of rooms forming an inhabitable dwelling unit, with facilities used or intended to be used primarily for living, sleeping, cooking and eating.

**RETENTION.** The holding of stormwater runoff in a constructed basin or pond or in a natural body of water with a controlled release rate.

**RIGHT-OF-WAY.** Any highway, street, avenue, boulevard, road, lane or alley, including the entire right-of-way for public use thereof, and all surface and subsurface improvements thereon, including without limitation, sidewalks, curbs, shoulders, utility lines and mains.

**STATE LAND USE CODES.** The classification system used by Indiana counties for purposes of classification of the assessment of real property.

**STORM SEWER.** A sewer designed or intended to convey only stormwater, surface runoff, street wash waters and drainage, and not intended for sanitary sewage and industrial wastes. A storm sewer begins at the grating or opening where water enters the sewer, through the sewer and any other conduits to the outlet structure, where water enters a channel, natural watercourse or combined sewer.

**STORMWATER CONVEYANCES.** Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to: any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

**STORMWATER SERVICE CHARGE.** A charge imposed on users of the stormwater system.

**STORMWATER SYSTEM.** All constructed facilities, including separate storm sewers and conveyances, combined sewers, structures and natural watercourses owned by or under the

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jurisdiction of the county, the state, or the federal government used for collecting and conducting stormwater to, through and from drainage areas to the point of final outlet, including but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins and pumping stations.

(SWM Ord. 2007-01, passed 8-29-07; Am. SWM Ord. 2008-1, passed 4-9-08)

**§ 55.03 STORMWATER SERVICE CHARGE.**

(A) A stormwater service charge shall be imposed on each and every lot and parcel of land within the county that directly or indirectly contributes to the stormwater system of the county.

(B) This charge shall be assessed against the property owner thereof, who shall be considered the user for the purposes of this chapter.

(C) This charge is deemed reasonable and necessary to pay for the repair, replacement, extension, planning, improvement, operation, regulation and maintenance of the existing and future stormwater system.

(SWM Ord. 2007-01, passed 8-29-07)

**§ 55.04 STORMWATER SERVICE CHARGE ESTABLISHMENT PROCEDURES.**

(A) *Stormwater service charge per ERU.* The stormwater service charge shall be \$5 per ERU per month.

(1) For the purpose of this chapter, a *MONTH* shall be considered 25 through 35 days.

(2) Any billings for stormwater service outside this time shall be on a per diem basis.

(B) *Basis for charge.*

(1) The stormwater service charge is designed to recover the cost of rendering stormwater service to the users of the stormwater system, and shall be the basis for assessment of the stormwater service charge.

(2) This service charge is established so as to maintain adequate fund reserves

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to provide for reasonably expected variations in the cost of providing services, as well as variations in the demand for services.

(SWM Ord. 2007-01, passed 8-29-07)

**§ 55.05 STORMWATER SERVICE CHARGE STRUCTURE AND CALCULATION.**

(A) *Generally.* There is hereby assessed a stormwater service charge for each property owner owning land situated within the county that contributes directly or indirectly to the stormwater system of the county, in an amount as determined below.

(B) *Impervious area.*

(1) For any such property, lot, parcel of land, building or premises that contributes directly or indirectly to the storm water system of the county, such charge shall be based upon the quantity of impervious area, as measured on the records of the County Assessor or site examination, mapping information, aerial photographs, and other reliable information.

(2) Impervious area of public rights-of-way and railroad lines (which shall not be deemed to include adjacent property, such as a rail yard operated by a railroad) will not be included in the determination of a storm water service charge.

(3) In addition, the Department shall establish policies and procedures to make determinations whether commonly-owned, adjoining properties with separate plat or legal descriptions should be treated as a single parcel of land for purposes of calculating the storm water service fees to be charged for such properties.

(C) *Classification of property.*

(1) *Residential properties.* A monthly flat-rate charge for storm water service rendered to residential properties shall be assessed to each parcel of residential property within the county. Each parcel of residential property is hereby assigned one ERU.

(2) *Commercial properties.* A monthly flat-rate charge for storm water service shall be rendered to properties with impervious area other than residential properties, based on the total amount of impervious area on the property (measured in square feet).

(3) *Other properties.* A monthly flat-rate charge for storm water service shall be rendered to properties with impervious area other than residential properties, based on the total amount of impervious area on the property (measured in square feet) as follows:

<i>Calculated ERU</i>	<i>ERU Charged to Property</i>

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Between 1 and 4	1
Between 4 and 9	2
9 or greater	3

(D) *Land alterations.*

(1) The issuance of any building permit or other action that results in a land alteration of a property other than a residential property, or a property that currently only contains residential properties but will be no longer used for such purpose, shall be cause for an adjustment of the stormwater service charge determined under this section.

(2) The property owner shall have the obligation of informing the Department of any such changes.

(E) *Exceptions/exemptions.*

(1) Agricultural properties with an impervious area under State Land Use Code 100-199, with the exception of those properties that qualify as residential properties, shall be exempt from the assessment of stormwater service charges.

(2) Except for public rights-of-ways and railroad lines, and agricultural properties as defined herein, there shall be no exceptions or exemptions from the assignment of gross stormwater ERUs for any property with impervious area, except that properties other than single-family residential parcels with impervious area of less than 500 square feet shall be exempted from the assignment of an ERU.

(F) *Contractual billing and collection.* The Department of Stormwater Management may delegate the billings to the County Treasurer to be forwarded to customers semiannually.

(SWM Ord. 2007-01, passed 8-29-07; Am. SWM Ord. 2008-1, passed 4-9-08)

**§ 55.06 BILLINGS; TERMS OF PAYMENT.**

(A) *Billings.*

(1) All stormwater service bills shall be rendered on a semiannual basis, unless additional or prorated billing is required to reflect customer changes, initial billings or is otherwise required to adjust billing cycles.

(2) Charges for miscellaneous services or work performed on behalf of a

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stormwater customer by the Department shall be assessed at the time the work is completed, and shall be included in the customer's next stormwater service bill.

(3) Stormwater billing for a new property shall commence with the date the property is assessed for purposes of property taxes, or date of occupancy, whichever shall first occur.

(4) Additional stormwater charges for an established service address necessitated by a change in the amount of impervious area at the property shall commence on the date the new certificate of occupancy or compliance is issued.

(5) Billing adjustments required to correct impervious area measurements shall be applied retroactively to the date of the customer's initial protest.

(B) *Rights and responsibilities of the property owner.*

(1) Charges for stormwater service shall remain the ultimate responsibility of the property owner, including all penalties, recording fees, attorney's fees, interest, and court costs.

(2) Other than the property owner, no other person shall be permitted to inspect, examine or otherwise obtain confidential information, including the Social Security number of the property owner, obtained by the Department for the sole purpose of billing for stormwater system service.

(3) Stormwater service charges attach to the property.

(C) *Terms of payment.*

(1) The stormwater service charges shall be due on the payment date set out on the bill.

(2) It shall be a violation of this chapter to fail to pay a stormwater service bill when due.

(3) All bills for stormwater services not paid on or before the due date shall be subject to a collection or deferred payment charge of 10% on the outstanding balance.

(4) Moving from one location to another in no way absolves the customer from responsibility for any unpaid charges incurred at a previous location.

(D) *Collection.* Delinquent stormwater service charges, along with reasonable attorney fees and court costs, may be collected in a civil action.

(SWM Ord. 2007-01, passed 8-29-07) Penalty, see § 10.99

**§ 55.07 APPEALS OF ERU DETERMINATION.**

(A) If, in the opinion of any single-family residential property owner, the ERU multiple assigned to the property of such owner is inaccurate in light of the amount of impervious area contained on the property, such property owner shall have the right to contest such ERU determination.

(B) The Department shall develop and promulgate policies and procedures to resolve any such contests, including if necessary, the conducting of hearings and the making of determinations with respect to the measurement of impervious area contained on any property.

(SWM Ord. 2007-01, passed 8-29-07)

**§ 55.08 STORMWATER REVENUE FUND.**

All revenues earned and fees collected for stormwater service, including but not limited to, drainage service charges, permit and inspection fees, direct charges and interest earnings on any unused funds, shall be deposited pursuant to this chapter. Disbursements from this account shall be authorized by the Department. Such disbursements shall be used exclusively for the operation, maintenance, improvement and debt service of the county's stormwater system.

(SWM Ord. 2007-01, passed 8-29-07)

**§ 55.09 DELINQUENT CHARGES AND PENALTIES AS LIENS; COLLECTION.**

Delinquent charges for stormwater services, and applied penalties, recording fees and service charges constitute a lien upon the property, and may be collected in accordance with the provisions of I.C. 36-9-25-11.

(SWM Ord. 2007-01, passed 8-29-07)

**§ 55.10 VIOLATIONS AND ENFORCEMENT.**

Failure to pay a stormwater service charge when due shall constitute a violation of this chapter, which shall be enforced by the Department and such agents as it may appoint for such

purposes.

(SWM Ord. 2007-01, passed 8-29-07)

## TITLE VII: TRAFFIC CODE

### Chapter

- 70. TRAFFIC RULES
- 71. VEHICLE TAXES
- 72. TRAFFIC SCHEDULES
- 73. OFF-ROAD VEHICLES

## CHAPTER 70: TRAFFIC RULES

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### Section

- 70.01 Vehicle speed limits
- 70.02 Traffic-control devices
- 70.03 General parking regulations
- 70.04 Parking regulations for county parking site
- 70.05 Weight restrictions
  
- 70.99 Penalty

### § 70.01 VEHICLE SPEED LIMITS.

(A) It shall be unlawful for any person to operate, or move, a motor vehicle on and across county highways at a speed limit greater than 35 miles per hour except as hereinafter provided.

(B) Whenever road conditions and traffic conditions warrant, the Board of Commissioners shall reserve the right by resolution to post highways at different speed limits than as hereinabove set forth and when said limits are so posted, said posted limits shall prevail

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as the existing speed limit on the highway.

(BC Ord. 1984-4, passed 2-6-84)

(C) The state traffic laws regulating the speed of vehicles shall be applicable on all roads within the county, except as the Board of County Commissioners shall declare and determine certain speed regulations as applicable on specified roads or in certain areas, from time to time. Such declarations and determinations shall be made upon the recommendation of the County Highway Engineer that the maximum speed permitted by the state traffic laws is greater or less than reasonable and safe under the conditions found to exist after engineering and traffic investigation in accordance with I.C. 9-21-5-6.

(1) The County Highway Department shall have the power to place and maintain all necessary signs when and as required in order to regulate traffic in accordance with the declarations and determinations of the Board of Commissioners posting the necessary signs on or at the entrances to the roads or part or parts thereof affected in a position most appropriate.

(2) It shall be a violation of this division (C) for any person to drive a vehicle at a speed in excess of any speed so declared by the Board of County Commissioners when signs are in place giving notice thereof.

(BC Ord. 1992-24, passed 12-7-92)

Penalty, see § 70.99

**§ 70.02 TRAFFIC-CONTROL DEVICES.**

(A) The state traffic laws regulating traffic-control signs, signals and devices used to regulate traffic, including intersection control, truck routes, weight restrictions on bridges and roads and road use restrictions for trucks, semi-tractors, and semi-trailers, shall be applicable on all roads within the county, except as the Board of County Commissioners shall declare and determine certain regulations concerning such traffic-control signs, signals and devices as applicable on specified streets or in certain areas, from time to time. Such declarations and determinations shall be made upon the recommendation of the County Highway Engineer that, under conditions found to exist after engineering and traffic investigations, certain traffic control signs, signals and devices are needed in order to regulation traffic.

(B) The County Highway Department shall have the power to place and maintain traffic-control signs, signals and devices when and as required in order to regulate traffic in accordance with the declarations and determinations of the Board of County Commissioners.

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(C) It shall be a violation of this section for any driver of a vehicle to fail to obey any traffic-control sign, signal or device so declared by the Board of County Commissioners when signs, signals or devices are in place unless otherwise directed to proceed by a police officer.

(BC Ord. 1992-24, passed 12-7-92) Penalty, see § 70.99

**§ 70.03 GENERAL PARKING REGULATIONS.**

(A) The state traffic laws regulating parking shall be applicable upon all roads within the county, except as the Board of Commissioners shall determine certain regulations concerning the prohibition or regulation of parking applicable upon specified roads or in certain areas. Such declarations and determinations shall be made upon the recommendation of the County Highway Engineer that, under the conditions found to exist after engineering and traffic investigations, certain prohibitions or regulations are needed in order to regulate parking.

(B) The County Highway Department shall have the power to place and maintain painted signs or markers on the curb and on avenues, streets or lots to designate parking spaces. Each vehicle parked along side of, or adjacent to, any curb or parking area shall park within the lines or marks so established. It shall be a violation of this section to park any vehicle across any such line or mark or to park any such vehicle in such a way that the vehicle shall not be within the area so designated by the lines or marks.

(C) No owner or person in control of a vehicle shall allow that vehicle to occupy, in whole or in part, more than one parking space at a time.

(D) It shall be a violation of this section for any person in control of a vehicle to fail to obey any sign or marker so declared by the Board of County Commissioners when such signs or markers are in place giving notice thereof.

(BC Ord. 1992-24, passed 12-7-92)

**§ 70.04 PARKING REGULATIONS FOR COUNTY PARKING SITE.**

(A) Parking on the parking site on the premises defined herein on the weekdays Monday through Friday and during the hours of 7:30 a.m. to 4:30 p.m. shall be reserved for the employees and office holders of the county and that the right to park an automobile on said parking site shall be evidenced by the issuance to the owner thereof of a parking permit sticker which shall be affixed to the rear of any such motor vehicle.

(B) No motor vehicle shall be parked within or upon said parking site unless said

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motor vehicle shall display a parking permit sticker as provided herein.

(C) Any unauthorized vehicle parked on the parking site defined herein may be towed away at the owner's expense.

(D) Signs shall be erected and maintained on the parking site defined herein, which said signs shall inform the general public of the restricted nature of parking therein on the above mentioned days and during the above mentioned hours and unauthorized vehicles parked therein may be towed at the owners expense, and the owner of an unauthorized vehicle parked therein may be subject to criminal prosecution.

(E) The jurisdiction to enforce this and all other parking regulations upon the parking site defined herein is hereby granted to the county, or any police officer of the county, and to the City of Boonville, or any police officer of the City of Boonville.

(BC Ord. 1979-20, passed 12-17-79) Penalty, see § 70.99

**§ 70.05 WEIGHT RESTRICTIONS.**

(A) No vehicle with a gross weight in excess of ten tons or 20,000 pounds shall be operated on or across any county highway which has been posted as to said weight restriction without the express permit of the Board of Commissioners.

(B) This section shall not apply to fire trucks, ambulances, school buses or emergency vehicles.

(BC Ord. 1989-6, passed 5-1-89) Penalty, see § 70.99

***Cross-reference:***

*Specific roads designated, see Ch. 72, Sched. II*

**§ 70.99 PENALTY.**

(A) Any person violating the provisions of § 70.01(A) or (B) shall be fined not more than \$100. (BC Ord. 1984-4, passed 2-6-84)

(B) Any person violating §§ 70.01(C), 70.02 or 70.03 shall be punished by a fine not to exceed \$2,500. (BC Ord. 1992-24, passed 12-7-92)

(C) Whoever violates § 70.04 shall be guilty of a Class C infraction. (BC Ord.

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1979-20, passed 12-17-79)

(D) A person, company or corporation who violates § 70.05 shall be fined in an amount not to exceed \$1,000 for the first offense and in an amount not to exceed \$2,500 for each subsequent offense. (BC Ord. 1989-6, passed 5-1-89)

## CHAPTER 71: VEHICLE TAXES

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### Section

- 71.01 County wheel tax
- 71.02 Motor vehicle excise surtax

### *Cross-reference:*

*Taxation generally, see Ch. 36*

### § 71.01 COUNTY WHEEL TAX.

(A) There is hereby imposed a county wheel tax per vehicle on the following vehicles registered in the county on or before December 31, 2000, as follows, all as defined in I.C. 6-3.5-5-1. (The tax does not apply to any vehicle exempted as provided by I.C. 6-3.5-5-4.):

- (1) Buses \$15.00
- (2) Recreation vehicles \$25.00
- (3) Semi trailers \$25.00
- (4) Tractors \$30.00
- (5) Trailers \$10.00
- (6) Trucks \$20.00

(B) The tax rates for vehicles registered after December 31, 2000, shall be as follows:

- (1) Buses \$7.50
- (2) Recreation vehicles \$12.50
- (3) Semi trailers \$12.50

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- (4) Tractors \$15.00
- (5) Trailers \$5.00
- (6) Trucks \$10.00

(C) The tax shall be paid and collected in accordance with the procedures set forth in I.C. 6-3.5-5-1 *et seq.*

(BC Ord. WT-1-82, passed 4-6-82; Am. CC Ord. 2000-2, passed 3-2-00)

**§ 71.02 MOTOR VEHICLE EXCISE SURTAX.**

(A) There is imposed an annual license excise surtax on each motor vehicle as defined in I.C. 6-3.5-4-1 registered in the county, on or before December 31, 2000, at the rate of 10%.

(B) For motor vehicles registered after December 31, 2000, the rate of the excise surtax shall be 10%. The surtax on a vehicle shall not be less than \$7.50. The license excise tax applies to all vehicles described in I.C. 6-3.5-4-2(b).

(C) The county vehicle excise surtax shall be paid and collected in accordance with the procedures set forth in I.C. 6-3.5-4-1 *et seq.*

(BC Ord. ES-1-82, passed 4-6-82; Am. CC Ord. 2000-3, passed 3-2-00; Am. CC Ord. 2013-01, passed 8-1-13)

**CHAPTER 72: TRAFFIC SCHEDULES**

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Schedule

- I. Speed limits
- II. Weight restrictions

**SCHEDULE I. SPEED LIMITS.**

(A) It shall be unlawful for any person to operate or move a motor vehicle over the following county roads at a speed greater than that indicated:

<i>Street</i>	<i>Location</i>	<i>Speed Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
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<i>Street</i>	<i>Location</i>	<i>Speed Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Arbor Creek Drive	River Ridge Subdivision	20 m.p.h.	BC Res. 2015-10	10-26-15
Arbor Lake Drive	River Ridge Subdivision	20 m.p.h.	BC Res. 2015-10	10-26-15
Arbor Pointe Drive	River Ridge Subdivision	20 m.p.h.	BC Res. 2015-10	10-26-15
Boonville Highway (S 50)	From State Road 62 to the Vanderburgh County line	40 m.p.h.	BC Ord. 1990-28	12-26-90
Bullocktown Road (E 75, S 300 and E 100)	From the intersection of Bullocktown Road and Old Rockport Road south to approximately one quarter mile north of Myers Road (S 400)	40 m.p.h.	BC Ord. 1991-6	2-4-91
Deerwood Court	All portions in Ohio Township (Linwood Subdivision)	20 m.p.h.	BC Res. 2011-09	10-10-11
East 525	From its intersection with State Highway 161 and State Route 62 to the Spencer County line	35 m.p.h.	BC Ord. 1992-20	7-27-92
East 1000 Road	From the intersection of East 1000 Road and Lincoln Trail Road (North 600) to the Spencer County line	35 m.p.h.	BC Ord. 1992-20	7-27-92
Elberfeld Road (N 800)	From the railroad track crossing to the Warrick County line	40 m.p.h.	BC Ord. 1991-2	1-28-91
Epworth Road (W 1050)	From County Road S 300 to County Road S 200	45 m.p.h.	BC Res. 2009-11	6-8-09
Estate Drive	All portions in Ohio Township (Linwood Subdivision)	20 m.p.h.	BC Res. 2011-09	10-10-11
Fall Creek Drive	Ohio Township	25 m.p.h.	BC Res.	7-9-12

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<i>Street</i>	<i>Location</i>	<i>Speed Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Fall Creek Drive	Ohio Township	25 m.p.h.	BC Res. 2012-11	7-9-12
Folsomville Highway (E 400, N 650)	From the Boonville city limits to State Road 68	40 m.p.h.	BC Ord. 1990-28	12-26-90
Folsomville Road	From County Road W 100 (Eby Road) to 1,000 feet west of County Road N 600 (Lincoln Trail Road)	45 m.p.h.	BC Res. 2011-09	10-10-11
Folsomville Road	From 1,000 feet west of County Road N 600 (Lincoln Trail Road) to County Road N 700 (Gentry Road)	30 m.p.h.	BC Ord. 1989-2-B; Am. BC Res. 2011-09	2-27-89; 10-10-11
Folsomville Road	From County Road N 700 (Gentry Road) to State Road 68	45 m.p.h.	BC Res. 2011-09	10-10-11
Heim Road (North 50)	From the intersection of Heim Road and Inderrieden Road (West 700) westerly to its intersection with Stevenson State Road (West 1025)	35 m.p.h.	BC Ord. 1992-20	7-27-92
Heritage Drive	From State Road 66 to Martin Road	30 m.p.h.	BC Ord. 1984-7	5-7-84
Imperial Drive	Ohio Township	25 m.p.h.	BC Res. 2012-11	7-9-12
Kaiser Road	From its intersection with Yankeetown Highway to its intersection with Indiana State Highway 61	30 m.p.h.	BC Ord. 1989-8	6-5-89
Kaiser Road	From State Road 61 east approximately one-half mile to	20 m.p.h.	BC Ord. 1991-6	2-4-91

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<i>Street</i>	<i>Location</i>	<i>Speed Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
(S 500)	approximately one-half mile to the centerline of the Southern Railroad tracks, commonly known as Yankeetown Dock Corporation railroad tracks		1991-6	
Kaiser Road (S 500)	From Yankeetown Highway west approximately one-half mile to the center lien of Taylor Road (W 250)	20 m.p.h.	BC Ord. 1991-6	2-4-91
Kaiser Road (S 500)	From State Road 61 to County Road (W 250)	30 m.p.h.	BC Res. 2009-9	4-27-09
Lakeridge Drive	From its beginning at State Road 261 to its intersection with Woodbridge Drive in the Lakeridge Subdivision	25 m.p.h.	BC Res. 2015-07	5-26-15
Lincoln Trail Road (North 600)	From the intersection of State Road 161 East to the intersection of East 1000 Road	35 m.p.h.	BC Ord. 1992-20	7-27-92
Mansfield Drive	Ohio Township	25 m.p.h.	BC Res. 2012-11	7-9-12
Marble Court	Ohio Township	25 m.p.h.	BC Res. 2012-11	7-9-12
Marble Drive	Ohio Township	25 m.p.h.	BC Res. 2012-11	7-9-12
Merimac Drive	Ohio Township	25 m.p.h.	BC Res. 2012-11	7-9-12
Midway Drive	Ohio Township	25 m.p.h.	BC Res. 2012-11	7-9-12
Miranda Drive	Ohio Township	25 m.p.h.	BC Res. 2012-11	7-9-12

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<i>Street</i>	<i>Location</i>	<i>Speed Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
			2012-11	
North Road	From the northern city limits of the Town of Elberfeld to State Road 68	40 m.p.h.	BC Ord. 1995-23	12-11-95
Oak Grove Road	From the intersection of Libbert Road westerly to the intersection of Epworth Road	50 m.p.h.	BC Res. 2014-08	10-13-14
Outer Lincoln Avenue	From Bell Road westerly to the Warrick/Vanverburgh County line	35 m.p.h.	BC Res. 2014-07	5-27-14
Overland Drive	Ohio Township	25 m.p.h.	BC Res. 2012-11	7-9-12
Pelzer Road	From County Road N/S 0 (Maple Grove Road) to County Road S 300 (New Hope Road)	40 m.p.h.	BC Res. 2011-09	10-10-11
Pelzer Road	Where not otherwise specified in this schedule	30 m.p.h.	BC Ord. 1985-6; Am. BC Res. 2011-09	2-4-85; 10-10-11
Penrose Drive	Ohio Township	25 m.p.h.	BC Res. 2012-11	7-9-12
Ridgeview Avenue	Greer Township	20 m.p.h.	BC Res. 2013-03	1-28-13
River Ridge Drive	River Ridge Subdivision	20 m.p.h.	BC Res. 2015-10	10-26-15
Sandal Way	From its beginning at Telephone Road to its intersection with Sandalwood Drive in the Sandals	20 m.p.h.	BC Res. 2015-09	7-27-15

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<i>Street</i>	<i>Location</i>	<i>Speed Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
	Subdivision			
Taylor Drive	Between Ande Drive and Park Place Drive	20 m.p.h.	BC Res. 2016-03	1-25-16
Tecumseh Drive	Ohio Township	25 m.p.h.	BC Res. 2012-11	7-9-12
Telephone Road (S 200)	From Bell Road (W 850) to State Road 62	40 m.p.h.	BC Ord. 1990-28	12-26-90
Telephone Road (S 200)	From County Road (W 1050) to County Road (W 900)	50 m.p.h.	BC Res. 2009-12	6-8-09
Titan Drive	Ohio Township	25 m.p.h.	BC Res. 2012-11	7-9-12
Treemont Drive	From the intersection with Vann Road to the intersection with Kingston Drive	20 m.p.h.	BC Res. 2014-09	10-27-14
Vanada Road (West 550)	From the intersection of Vanada Road (West 550) and State Highway 66 to the intersection of Vanada Road (West 550) and Ferstel Road (South 600)	35 m.p.h.	BC Ord. 1992-20	7-27-92
Yankeetown Road	From County Road S 75 (Rudolph Road) to State Road 66	45 m.p.h.	BC Res. 2011-09	10-10-11
Yankeetown Road (W 200, 250)	From the Boonville city limits to Red Brush Road (S 650) except as otherwise specified in this schedule	40 m.p.h.	BC Ord. 1990-28; Am. BC Res. 2011-09	12-26-90; 10-10-11
Yorkridge Drive		20 m.p.h.	BC Ord.	8-27-90

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<i>Street</i>	<i>Location</i>	<i>Speed Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
			1990-24	

(B) Any person violating the provisions of this schedule shall be fined in any amount not to exceed \$500.

**SCHEDULE II. WEIGHT RESTRICTIONS.**

(A) It shall be unlawful for any person to operate, or move, or for the owner to cause or knowingly permit to be operated on the county highways designated below any vehicle or combination of vehicles having a total gross weight in excess of the limit indicated.

(B) When a person is apprehended operating or causing to be operated a vehicle or combination of vehicles on the described highways with a weight in excess of the limitation set out below, the vehicle or combination of vehicles shall be detained until its weight is so reduced to comply with the said limitation; the vehicle or combination of vehicles shall, while detained, be kept in the custody of a law enforcement officer and shall be moved only as directed by the officer having custody or by direction of the circuit or superior court.

<i>Street</i>	<i>Location</i>	<i>Weight Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Bell Road (W 850)		20,000 pounds	BC Ord. 1982- FL-2	2-22-82
Boonville-New Harmony Road	From Millersburgh to Vanderburgh County line	20,000 pounds	BC Ord. 1982- F4-1	2-1-82
Boonville-New Harmony Road	From Millersburgh west to County Road W. 1050 (Putler School Road) thence south on County Road 1050 to County Road N. 250 (Kansas Road), thence east on County Road N. 250 to County Road W. 1025 (Stevenson Station Road), thence south on County Road	20,000 pounds	BC Ord. 1979-13	5-7-79

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<i>Street</i>	<i>Location</i>	<i>Weight Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
	W. 1025 to County Road N. 150			
County Road N 600 (Lincoln Trail Road)	East of State Highway 161 to Wire Road (E 800)	20,000 pounds	BC Ord. 1982- WR-1	2-22-82
County Road East 700	From its intersection with County Road North 1300 north to the Pike County line which road is part of the road commonly called Yellow Banks Road	12,000 pounds	BC Ord. 1979-15	6-6-79
County Road W. 700	From County Road N. 400 South to State Route 62	20,000 pounds	BC Ord. 1979-11	5-7-79
County Road W. 725 (Fuquay Road)	From County Road S. 50 south to State Route 261	20,000 pounds	BC Ord. 1979-10	5-7-79
Degonia-Folsomville Road (County Road E 300, N 400, E 400)	From Degonia to Folsomville	20,000 pounds	BC Ord. 1982- F4-1	2-1-82
Epworth Road (W 1050)		20,000 pounds	BC Ord. 1982- FL-2	2-22-82
Folsomville Road (County Road E 400 north of Folsomville, no number from south of Folsomville)	From Eby Road to State Road 68	20,000 pounds	BC Ord. 1982- F4-1	2-1-82
Folsomville Road (County Road E. 400)	From Boonville city limits north to Old State Highway 68 from Folsomville north to Old Highway 68	20,000 pounds	BC Ord. 1979-12	5-7-79
Fuquay Road		20,000	BC Ord.	2-22-82

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<i>Street</i>	<i>Location</i>	<i>Weight Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Fuquay Road (W 725)		20,000 pounds	BC Ord. 1982- FL-2	2-22-82
Gardner Road (S 50)		20,000 pounds	BC Ord. 1982- FL-2	2-22-82
Hart-Moss Road (County Road E 350)	From Folsomville-Degonia Road to Kelley Road	20,000 pounds	BC Ord. 1982- F4-1	2-1-82
Heim Road (County Road N 50)	From Stevenson Station- Elberfeld Road to Vanderburgh county line	20,000 pounds	BC Ord. 1982- F4-1	2-1-82
Heritage Drive	From State Road 66 to Martin Road	20,000 pounds	BC Ord.	5-7-84
Kansas Road (County Road N 200, N 250)	From Stevenson Station- Elberfeld Road to Vanderburgh County line	20,000 pounds	BC Ord. 1982- F4-1	2-1-82
Lincoln Avenue (S 450)		20,000 pounds	BC Ord. 1982- FL-2	2-22-82
Maurer Road (County Road E 100)	From State Road 62 to Old Tennyson Road	20,000 pounds	BC Ord. 1982- F4-1	2-1-82
Millersburg Road (County Road N 175, N 250)	From Boonville to Decker Road	20,000 pounds	BC Ord. 1982- F4-1	2-1-82
North Elberfeld Road	From Elberfeld to State Road	20,000	BC Ord.	2-1-82

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<i>Street</i>	<i>Location</i>	<i>Weight Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
(County Road W 1100)	68	pounds	1982- F4-1	
Oak Grove Road (S 300)		20,000 pounds	BC Ord. 1982- FL-2	2-22-82
Old Degonia Road (County Road N 100)	From Boonville to Otter Creek	20,000 pounds	BC Ord. 1982- F4-1	2-1-82
Old Plank Road		20,000 pounds	BC Ord. 1982- FL-2	2-22-82
Old Tennyson Road (County Road N 150, E 75, N 200, E 175, N 250)	From Boonville to Degonia- Folsomville Road	20,000 pounds	BC Ord. 1982- F4-1	2-1-82
Old Yankeetown Highway (W 200)		20,000 pounds	BC Ord. 1982- FL-2	2-22-82
Phillips-Hible Road (County Road N 475)	From Folsomville Road to State Road 161	20,000 pounds	BC Ord. 1982- F4-1	2-1-82
Pollack Avenue (S 600, W 975)		20,000 pounds	BC Ord. 1982- FL-2	2-22-82
Red Brush Road (S 650)		20,000 pounds	BC Ord. 1982- FL-2	2-22-82
Roy Wright Road (County Road N 1200, W 225, N 1225, W 200)	From State Road 68 to State Road 61	20,000 pounds	BC Ord. 1982- F4-1	2-1-82
Rudolph Road (South 75)	From Yankeetown Road to State Highway 61	4 tons	BC Ord. 1991-19	7-21-91
Seitz Road (County Road)	From Old Degonia Road to Tennyson Road	20,000 pounds	BC Ord. 1982- F4-1	2-1-82

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<i>Street</i>	<i>Location</i>	<i>Weight Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Road E 150)	Tennyson Road	pounds	1982- F4-1	
Shelton Road (County Road N 400)	From Folsomville Road to Smith Road	20,000 pounds	BC Ord. 1982- F4-1	2-1-82
Smith Road (County Road E 75, E 100)	From Old Tennyson Road to Folsomville Road	20,000 pounds	BC Ord. 1982- F4-1	2-1-82
Stevenson Station- Elberfeld Road (County Road  W 1025, N 75, W 1075, W 1100, N 450, W 1125, N 625, W 1100)	From Heim Road to Elberfeld	20,000 pounds	BC Ord. 1982- F4-1	2-1-82
Telephone Road (S 200)		20,000 pounds	BC Ord. 1982- FL-2	2-22-82
Yankeetown Road	From the intersection of said highway with the city limits of the City of Boonville to and including the intersection of said highway with Indiana State Highway 66	ten tons	BC Ord. 1989-5	4-24-89

(C) Any person who violates this schedule shall be fined in an amount not to exceed \$2,500.

(D) Farm machinery and grain transport vehicles are exempted from the 20,000 pounds weight restriction on Epworth Road as listed within this schedule.

(Am. BC Ord. 2011-25, passed 9-12-11)

## CHAPTER 73: OFF-ROAD VEHICLES

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### Section

73.01	Definitions
73.02	Use and operation on county roads and highways
73.03	Registration requirements
73.04	Headlights, taillights, brakes and pennant
73.05	Statutory restrictions on use
73.06	Duties in event of accident
73.07	Liability insurance
73.08	Possession of registration and certificate of insurance
73.09	Restriction on operation between 10:00 p.m. and 6:00 a.m.
73.10	Other laws and regulations
73.11	Disturbance of roadway
73.12	Emergencies
73.13	Enforcement
73.99	Penalty

### § 73.01 DEFINITIONS.

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

**ATV ROADS.** All country roads and highways outside of any town or city, except "Restricted Roads".

#### **OFF-ROAD VEHICLE.**

(1) For purposes of I.C. 14-16-1, means a motor driven vehicle of at least four wheels capable of cross-country travel:

- (a) Without benefit of a road; and
- (b) On or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain.

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(2) **OFF-ROAD VEHICLE** does not include a snowmobile, any other vehicle properly registered by the Bureau of Motor Vehicles, any watercraft that is registered under Indiana statutes, or a golf cart vehicle.

**OPERATOR.** An **OPERATOR** of an off-road vehicle must be at least 18 years of age and possess a valid driver's license pursuant to I.C. 14-16-1-20(c).

**RESTRICTED ROADS.**

(1) Those roads and highways in the following described area of the county: Starting the point of beginning, being a point at the southwestern corner of Warrick County, which is a point formed by the intersection of the Ohio River and the western boundary of the county; then running in a northerly direction along the western border of Warrick County to State Road 62; then running east along State Road 62 to State Road 61; then running south along State Road 61 to State Road 66, and then directly south to the Ohio River; then running in a westerly direction along the Ohio River to the Point of Beginning.

(2) Yankeetown Road from the Boonville city limits to State Road 66.

(3) Any road or highway posted by the Board of Commissioners or its designee for non-use by off-road vehicles.

(BC Ord. 2009-04, passed 5-18-09)

**§ 73.02 USE AND OPERATION ON COUNTY ROADS AND HIGHWAYS.**

(A) Operators of off-road vehicles may use ATV roads, as those terms are defined in § 73.01, subject to the terms and conditions of this chapter.

(B) Off-road vehicles may not be operated on restricted roads, except that farmers may operate off- road vehicles, for farm production purposes, on ATV roads or restricted roads.

(BC Ord. 2009-04, passed 5-18-09) Penalty, see § 73.99

**§ 73.03 REGISTRATION REQUIREMENTS.**

Off-road vehicles must be registered under I.C. 14-16-1-8, as amended.

(BC Ord. 2009-04, passed 5-18-09) Penalty, see § 73.99

**§ 73.04 HEADLIGHTS, TAILLIGHTS, BRAKES AND PENNANT.**

The off-road vehicle must meet those standards of headlights, taillights, and brakes required under I.C. 14-16-1-21. In addition, the off-road vehicle operated on a county roadway or highway pursuant to this chapter must have an orange pennant or flag at least 12 inches but not more than 24 inches long, affixed to a staff or pole measuring at least four feet but not more than 10 feet in height. The pole or staff height shall be measured from the top of the seat.

(BC Ord. 2009-04, passed 5-18-09) Penalty, see § 73.99

**§ 73.05 STATUTORY RESTRICTIONS ON USE.**

Nothing in this chapter modifies, alters or changes the restrictions on operation established under I.C. 14-16-1-23.

(BC Ord. 2009-04, passed 5-18-09)

**§ 73.06 DUTIES IN EVENT OF ACCIDENT.**

Nothing in this chapter modifies, alters or changes the duties under I.C. 14-16-1-24 placed on the operator of an off-road vehicle in the event of an accident.

(BC Ord. 2009-04, passed 5-18-09)

**§ 73.07 LIABILITY INSURANCE.**

An operator operating an off-road vehicle on a county highway or roadway shall have liability insurance specifically for such off-road vehicle in accordance with the minimum insurance required for the operation of other motor vehicles on public highways, in the minimum amount of \$25,000 per person/\$50,000 per accident.

(BC Ord. 2009-04, passed 5-18-09) Penalty, see § 73.99

**§ 73.08 POSSESSION OF REGISTRATION AND CERTIFICATE OF INSURANCE.**

Any operator of an off-road vehicle shall carry on his or her person any registration required under I.C. 14-16-1 and the certificate of insurance required under this chapter for the off-road vehicle being operated.

(BC Ord. 2009-04, passed 5-18-09) Penalty, see § 73.99

**§ 73.09 RESTRICTION ON OPERATION BETWEEN 10:00 P.M. AND 6:00 A.M.**

In furtherance of the restriction established under I.C. 14-16-1-23(a)(7) prohibiting the operation of off- road vehicles within 100 feet of a dwelling between midnight and 6:00 a.m., an off-road vehicle may not be operated on any county roads or highways, outside the corporate limits of any town or city, between 10:00 p.m. and 6:00 a.m.

(BC Ord. 2009-04, passed 5-18-09)

**§ 73.10 OTHER LAWS AND REGULATIONS.**

Nothing in this chapter modifies, alters or changes the requirements of the operation of vehicles on public roadways in Indiana, and all operators of off-road vehicles must obey and follow all rules and regulations applicable to the operation of vehicles on roadways in Indiana.

(BC Ord. 2009-04, passed 5-18-09)

**§ 73.11 DISTURBANCE OF ROADWAY.**

No person shall operate an off-road vehicle on Warrick County highways in such a manner which causes damage to the roadway or highway or disturbs the surface of the roadway or highway. Any violator of this section, in addition to such penalties set forth in § 73.99 below, shall be responsible for all costs of repair of such damage or disturbance.

(BC Ord. 2009-04, passed 5-18-09) Penalty, see § 73.99

**§ 73.12 EMERGENCIES.**

Any county or state law enforcement officer may prohibit operation of an off-road vehicle on a county highway or roadway during emergencies.

(BC Ord. 2009-04, passed 5-18-09)

**§ 73.13 ENFORCEMENT.**

All law enforcement officers in the county shall have the power and it shall be their duty to enforce the provisions of this chapter unless otherwise prevented by state statutes regarding the enforcement of state laws.

(BC Ord. 2009-04, passed 5-18-09)

**§ 73.99 PENALTY.**

(A) Any person who violates any provision of this chapter shall be deemed guilty of a violation and, upon conviction, shall be fined pursuant to the following schedule:

- (1) First offense in a calendar year: \$50.
- (2) Second offense in a calendar year: \$100.
- (3) Third offense in a calendar year: \$150.

(B) Each day that a violation occurs constitutes a separate offense.

(BC Ord. 2009-04, passed 5-18-09)

## **TITLE IX: GENERAL REGULATIONS**

Chapter

- 90. EMERGENCY TELEPHONE SYSTEM**
- 91. FAIR HOUSING**

**92. ROADS AND HIGHWAYS**

**APPENDIX A: APPLICATION TO WORK IN COUNTY  
ROAD RIGHT OF WAY**

**CHAPTER 90: EMERGENCY TELEPHONE SYSTEM**

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Section

90.01	Establishment of fee; state law controlling
90.02	Definitions
90.03	Monthly fee; service supplier fee
90.04	Remittal of fee; commencement of collection
90.05	Establishment of fund
90.06	Use of fees
90.07	Delinquent fee report

**§ 90.01 ESTABLISHMENT OF FEE; STATE LAW CONTROLLING.**

(A) Under the authority of and subject to the provisions of I.C. 36-8-16 an emergency telephone system fee is hereby established for the funding of the installation and operation of the enhanced emergency telephone system in the county. The fee shall be collected from the telephone service users of Warrick County, Indiana, and administered in accordance with I.C. 36-8-16 and the following terms as set forth in this chapter.

(B) This chapter shall be applied, construed and administered in accordance with I.C. 36-8-16. In the event that I.C. 36-8-16 shall be amended by the State of Indiana in such a manner as to become inconsistent and in conflict with the provisions hereof, this chapter shall be amended to include and adopt the amendatory provisions of I.C. 36-8-16 as if the same were fully incorporated herein.

(CC Res. 1996-9, passed 9-5-96)

**§ 90.02 DEFINITIONS.**

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

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clearly indicates or requires a different meaning.

**EMERGENCY ACCESS FACILITY.** The access from a particular service user's premises to a telephone system, which shall include an access line; a private branch exchange (PBX) trunk; a centrex line trunk equivalent all of which are provided by the service supplier; and a mobile telephone system access trunk, whether the trunk is provided by a telephone system or a radio common carrier. The term does not include a service supplier owned and operated telephone pay station line; a wide area telecommunications service (WATS); a foreign exchange (F) line; or an incoming only line.

**ENHANCED EMERGENCY TELEPHONE SYSTEM.** A telephone system that uses the three digit 911 number to send automatic number identification and automatic location identification for reporting police, fire, medical or other emergency situations.

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

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

(CC Res. 1996-9, passed 9-5-96)

**§ 90.03 MONTHLY FEE; SERVICE SUPPLIER FEE.**

(A) A monthly fee of \$1.83 per telephone access line or other exchange access facility shall be collected by the service supplier for each month or part of a month an exchange access facility is in service as a part of its normal billing process.

(B) Each service supplier that collects the enhanced emergency telephone system fee on behalf of the county shall be entitled to a 3% administrative fee as compensation for collecting the monthly fee.

(CC Res. 1996-9, passed 9-5-96)

**§ 90.04 REMITTAL OF FEE; COMMENCEMENT OF COLLECTION.**

(A) Each service supplier shall remit all monthly fees collected, except for the 3% administrative fee, to the County Treasurer, within ten days of the last day of each calendar-year quarter. At the same time the fees are remitted, the service supplier shall provide a fee collection report to the County Auditor on a form approved or provided by the Auditor.

(B) Each service supplier shall commence collection of the enhanced emergency

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telephone system fee as soon as is administratively practicable after the effective date of this chapter.

(CC Res. 1996-9, passed 9-5-96)

**§ 90.05 ESTABLISHMENT OF FUND.**

The County Treasurer shall establish a separate fund for the deposit of collected fees. The fund shall be known as "The Warrick County Enhanced Emergency Telephone System Fund." All fees remitted by the service supplier shall be deposited in said fund. The County Treasurer may invest said money in said fund in the same manner that other money of the county may be invested. All income earned from such investments shall be deposited in said fund.

(CC Res. 1996-9, passed 9-5-96)

**§ 90.06 USE OF FEES.**

(A) The fees imposed in the Enhanced Emergency Telephone System Fund shall be used only for the payment of the following:

- (1) The lease, purchase, or maintenance of enhanced emergency telephone equipment, including necessary computer hardware, software, and data base provisioning;
- (2) The rates associated with the service suppliers' enhanced emergency telephone system network services; and
- (3) The personnel expenses of the emergency telephone system.

(B) The County Council may appropriate money in the fund only for such expenditures.

(CC Res. 1996-9, passed 9-5-96)

**§ 90.07 DELINQUENT FEE REPORT.**

During January of each year, each service supplier that collects the fee for the county shall provide the County Treasurer with a delinquent fee report. The service supplier shall list the name and address of each service user who is two or more months delinquent in paying the fee. The service supplier shall also indicate the amount of delinquent fees for which each person

included on the list is liable.

(CC Res. 1996-9, passed 9-5-96)

## CHAPTER 91: FAIR HOUSING

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### Section

91.01	Policy statement
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91.03	Unlawful practice
91.04	Discrimination in the sale or rental of housing
91.05	Discrimination in residential real estate-related transactions
91.06	Discrimination in the provision of brokerage services
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91.08	Prevention of intimidation in fair housing cases
91.09	Exemptions
91.10	Administrative enforcement
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### § 91.01 POLICY STATEMENT.

It shall be the policy of the county to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the Federal Civil Rights Act of 1968, as amended, being 42 USC 2000e *et seq.*, the Federal Housing and Community Development Act of 1974, as amended, being 42 USC 5301 *et seq.*, and I.C. 22-9.5-1 *et seq.*

(BC Ord. 1995-5, passed 2-22-95)

### § 91.02 DEFINITIONS.

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

**AGGRIEVED PERSON.** Any person who:

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- (1) Claims to have been injured by a discriminatory housing practice; or
- (2) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

(I.C. 22-9.5-2-2)

**COMMISSION.** The Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4 *et seq.* (I.C. 22-9.5-2-3)

**COMPLAINANT.** A person, including the Commission, who files a complaint under I.C. 22-9.5-6. (I.C. 22-9.5-2-4)

**DISABILITY.**

- (1) With respect to a person:
  - (a) A physical or mental impairment which substantially limits one or more of such person's major life activities,
  - (b) A record of having such an impairment, or
  - (c) Being regarded as having such an impairment,
  - (d) An impairment described or defined pursuant to the Federal Americans with Disabilities Act of 1990, being 42 USC 12101 *et seq.*
  - (e) Any other impairment defined under I.C. 22-9.5-2-10.
- (2) The term **DISABILITY** shall not include current illegal use of or addiction to a controlled substance as defined in 21 USC 802; nor does the term include an individual solely because that individual is transvestite (I.C. 22-9.5-2-10(b), (c)).

**DISCRIMINATORY HOUSING PRACTICE.** An act that is unlawful under §§ 91.04 through 91.08 of this chapter or I.C. 22-9.5-5.

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

**FAMILIAL STATUS.** One or more individuals (who have not attained the age of 18 years) being domiciled with a parent or another person having legal custody of such individual or the written permission of such parent or other person. The protections afforded against discrimination on this basis of familial status shall apply to any person who is pregnant or is in

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the process of securing legal custody of any individual who has not attained the age of 18 years.

**FAMILY.** Includes a single individual, with the status of such family being further defined above in this section. Also, pursuant to 24 CFR Part 5, the definition is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members. (I.C. 22-9.5-2-9)

**PERSON.** Includes one or more individuals, corporations, limited liability companies, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under USC Title 11, receivers, and fiduciaries. (I.C. 22-9.5-2-11)

**TO RENT.** Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy the premises not owned by the occupant. (I.C. 22-9.5-2-13)

(BC Ord. 1995-5, passed 2-22-95; Am. BC Ord. 2012-25, passed 8-27-12)

### § 91.03 UNLAWFUL PRACTICE.

Subject to the provisions of division (B) of this section, § 91.09 of this chapter and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth in I.C. 22-9.5-5-1 and in § 91.04 of this chapter shall apply to:

- (A) All dwellings except as exempted by division (B) and I.C. 22-9.5-3.
- (B) Other than the provisions of division (C) of this section, nothing in § 91.04 shall apply to:

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

- (a) Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesman, or person and

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(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of § 91.04(C), but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title, or

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

(C) For the purposes of division (B), a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) He has, within the preceding 12 months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(3) He is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.

(BC Ord. 1995-5, passed 2-22-95)

**§ 91.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.**

As made applicable by § 91.03 and except as exempted by §§ 91.03(B) and 91.09, it shall be unlawful:

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

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

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

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

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

(F) (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of

(a) That buyer or renter;

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

(c) Any person associated with that person.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of:

(a) That person; or

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

(c) Any person associated with that person.

(3) For purposes of this division, discrimination includes:

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

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

(c) In connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 1988, a failure to design and construct those dwellings in such a manner that:

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1. The public use and common use portions of such dwellings are readily accessible to and usable by persons with disabilities;

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

3. All premises within such dwellings contain the following features of adaptive design:

a. An accessible route into and through the dwelling;

b. Light, switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

c. Reinforcements in bathroom walls to allow later installation of grab bars; and

d. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements Americans With Disabilities Act of 1990 and of the American National Standard for buildings and facilities providing accessibility and usability for persons with physical disabilities (commonly cited as “ANSI A117.1”) suffices to satisfy the requirements of division (3)(c)3.

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

(BC Ord. 1995-5, passed 2-22-95)

**§ 91.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.**

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

(B) As used in this section, the term “residential real estate-related transaction” means

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any of the following:

- (1) The making or purchasing of loans or providing other financial assistance:
  - (a) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
  - (b) Secured by residential real estate.
- (2) The selling, brokering, or appraising of residential real property.

(C) Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into considerations factors other than race, color, religion, national origin, sex, disability, or familial status.

(BC Ord. 1995-5, passed 2-22-95)

**§ 91.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.**

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

(BC Ord. 1995-5, passed 2-22-95)

**§ 91.07 INTERFERENCE, COERCION OR INTIMIDATION.**

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by §§ 91.03 through 91.06 of this chapter.

(BC Ord. 1995-5, passed 2-22-95)

**§ 91.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.**

No person shall, whether or not acting under color of law, by force or threat of force

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willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with:

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

(B) Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

(1) Participating, without discrimination on account of race, color, religion, sex, disability, familial status, or national origin, in any of the activities, services, organizations or facilities described in division (A) of this section; or

(2) Affording another person or class of persons opportunity or protection so to participate; or

(C) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, disability, familial status, or national origin, in any of the activities, services, organizations or facilities described in division (A), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate.

(BC Ord. 1995-5, passed 2-22-95)

**§ 91.09 EXEMPTIONS.**

(A) Exemptions defined or set forth under I.C. 22-9.5-3 *et seq.* shall be exempt from the provisions of this chapter to include those activities or organizations set forth under divisions (B) and (C) of this section.

(B) Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving

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preference to its members.

(C) (1) Nothing in this chapter regarding familial status shall apply with respect to housing for older persons.

(2) As used in this section, “housing for older persons” means housing:

(a) Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the State Civil Rights Commission determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program); or

(b) Intended for, and solely occupied by, persons 62 years of age or older; or

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

(BC Ord. 1995-5, passed 2-22-95)

**§ 91.10 ADMINISTRATIVE ENFORCEMENT.**

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commission as set forth in division (B) hereof shall be vested in the chief elected official of the county.

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the county, because of a lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this chapter, herein elects to refer all formal complaints of violation of the articles of this chapter by complainants to the Indiana Civil Rights Commission (“Commission”) for administrative enforcement actions pursuant to I.C. 22-9.5-6 and the chief elected official of the county shall refer all said complaints to the Commission as provided or under division (A) of this section to said Commission for purposes of investigation, resolution and appropriate relief as provided for under I.C. 22-9.5-6.

(C) All executive departments and agencies of the county of, shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the chief elected official and the Commission to further such purposes.

(D) The chief elected official of the county, or the chief elected official's designee, shall provide information on remedies available to any aggrieved person or complainant

requesting such information.

(BC Ord. 1995-5, passed 2-22-95)

**§ 91.99 PENALTY.**

Whoever violates the provisions of § 91.08 shall be fined according to local, state and federal law; and if bodily injury or death results shall be fined not more than \$2,500.

(BC Ord. 1995-5, passed 2-22-95)

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## CHAPTER 92: ROADS AND HIGHWAYS

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Section

*Road Names Index*

92.01 Road names index adopted by reference

*Restrictions for Private Drives Connection*

92.10 Permit required; classes  
92.11 Permit application and fees  
92.12 Review and approval requirements  
92.13 Required surety  
92.14 Exception  
92.15 Maintenance and repair

*Cutting of Rights-of-Way*

92.25 Permit required  
92.26 Utility company exception  
92.27 Application and fee  
92.28 Issuance of permit  
92.29 Security; unacceptable restoration  
92.30 Utility company security  
92.31 Guarding the work site  
92.32 Minimum repair requirements  
92.33 Inspection

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*Restrictions on Work within Right-of-Way*

- 92.45 Permits for work within right-of-way
- 92.46 Permit bonding requirements
- 92.47 Traffic control standards
- 92.48 Guidelines for use of flaggers by utilities and contractors
- 92.49 Standard permit conditions for pole lines and underground cables and utility lines
- 92.50 Permitted work in county right-of-way
  
- 92.99 Penalty

**ROAD NAMES INDEX**

**§ 92.01 ROAD NAMES INDEX ADOPTED BY REFERENCE.**

The *Official Street and Road Index for Warrick County, Indiana*, adopted by the Area Plan Commission on February 13, 1995, is hereby adopted by reference and made a part of this code the same as if set forth in full herein.

(BC Ord. passed 2-13-95; Am. BC Ord. 1995-3, passed 2-22-95; Am. BC Ord. 1997-03, passed 1-27-97)

**RESTRICTIONS FOR PRIVATE DRIVES CONNECTION**

**§ 92.10 PERMIT REQUIRED; CLASSES.**

(A) No person, firm, or corporation shall construct any private entrance, driveway, or approach connecting with any highway nor shall any curb along such highway be cut or removed without a written permit from the County Commissioners.

(B) The permit shall be in two classes. Class I shall be any driveway or approach that serves commercial or industrial property and shall be designed in accordance with *Indiana Department of Highways Driveway Permit Handbook, 1996 Edition*. Class II shall be any driveway or approach that serves residential or agricultural property.

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(BC Ord. 1997-4, passed 4-14-97; Am. BC Ord. 2002-03, passed 2-13-02)

**§ 92.11 PERMIT APPLICATION AND FEES.**

(A) No application will be accepted unless accompanied with a drawing of the layout of such driveway or approach. The drawing shall be to proper engineer's scale. Application and drawing shall be filed in triplicate with the County Area Plan Commission.

(B) Each application shall be accompanied by a fee made payable to the County Area Plan Commission as follows:

- (1) Class I \$50
- (2) Class II \$10

(C) No part of any filing fee shall be returnable to the applicant.

(BC Ord. 1997-4, passed 4-14-97; Am. BC Ord. 2002-03, passed 2-13-02)

**§ 92.12 REVIEW AND APPROVAL REQUIREMENTS.**

(A) No permit for a Class I permit shall be issued without review and approval of the County Highway Engineer. Any application for a Class I drive must include a dollar amount to cover the cost of the driveway or approach which must be approved by the County Highway Engineer.

(B) No Class II permit shall be issued without review and approval of the County Highway Engineer.

(BC Ord. 1997-4, passed 4-14-97; Am. BC Ord. 2002-03, passed 2-13-02)

**§ 92.13 REQUIRED SURETY.**

A performance bond, irrevocable letter of credit, certified check or surety to the Board of County Commissioners to cover the cost of the driveway or approach shall be submitted in the amount agreed upon by the County Highway Engineer. Should surety be required it shall not be for a time limit to exceed one year. The driveway or approach may be constructed prior to the issuance of the improvement location permit being issued in place of submitting surety. The completion must be certified to by the submitting engineer/surveyor and approved by the County

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Highway Engineer and County Commissioners. Upon approval of the driveway or approach, any required funds guaranteeing the cost of the driveway or approach shall be released upon completion. Should the Board of County Commissioners find the driveway or approach not built in accordance to the approved plan, the Board of County Commissioners may secure the funds.

(BC Ord. 1997-4, passed 4-14-97; Am. BC Ord. 2002-03, passed 2-13-02)

**§ 92.14 EXCEPTION.**

No Class II permit will be required in the residential subdivisions with streets with rolled type curbs. In such cases the County Area Plan Commission shall cause to have fixed the statement "No Driveway Permits Required" to appear on the plat which has final approval.

(BC Ord. 1997-4, passed 4-14-97; Am. BC Ord. 2002-03, passed 2-13-02)

**§ 92.15 MAINTENANCE AND REPAIR.**

The owners and occupants of the abutting property shall maintain and keep in repair all such private entrances, driveways, and approaches thereto, but no such private entrances, driveway, and approaches shall be constructed or maintained in such a manner as to obstruct or interfere with the highway, the traffic thereon, or with any drain or ditch which has been constructed on or which serves such highway. Said owner or occupant of the abutting property shall remove such private entrances, driveways, and approaches at said owner's expense, when requested to do so by the County Highway Engineer and Board of County Commissioners.

(BC Ord. 1997-4, passed 4-14-97; Am. BC Ord. 2002-03, passed 2-13-02)

**CUTTING OF RIGHTS-OF-WAY**

**§ 92.25 PERMIT REQUIRED.**

No street, highway or highway right-of-way under the jurisdiction of the county shall be dug up, cut or removed for any purpose unless a permit for such action has first been obtained from the county.

(BC Ord. 1991-22, passed - - 91) Penalty, see § 92.99

**§ 92.26 UTILITY COMPANY EXCEPTION.**

Section 92.25 shall not apply to any public utility company when such company is required to take immediate action to preserve life or property, or, to make an inspection in an emergency, or, to make an emergency repair. However, such utility shall acquire the required permit on the first working day after such work has commenced.

(BC Ord. 1991-22, passed - -91)

**§ 92.27 APPLICATION AND FEE.**

(A) The application for a permit shall be filed on forms provided by the county, shall be accompanied by the fee required by this chapter and shall designate the method proposed by the applicant to meet the security requirement of § 92.29.

(B) There is imposed a permit fee of \$100 paid to the county to defray the cost of processing applications for permits. Each separate location sought to be dug up, cut or removed shall require a separate application and a separate fee.

(BC Ord. 1991-22, passed - -91)

**§ 92.28 ISSUANCE OF PERMIT.**

Upon compliance with the permit requirements of this chapter and the payment of the fee required, the County Commissioners shall issue a permit to dig up, cut or remove the right-of-way, highway and/or sidewalk. Such permit shall describe the action allowed to be taken, the extent of the disturbance permitted and the period of time within which the permit is valid. A copy of said permit shall be retained by the County Commissioners and the permit shall be kept at the location of the work while work is being undertaken.

(BC Ord. 1991-22, passed - -91)

**§ 92.29 SECURITY; UNACCEPTABLE RESTORATION.**

(A) Each person, firm or corporation filing an application for a permit shall provide

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security to the county, guaranteeing that the area sought to be disturbed will be restored. Such security may be provided by a two-year corporate surety bond; irrevocable letter of credit drawn on a bank or trust company acceptable to the county, such letter of credit to be irrevocable for a period of two years after the completion of the work; or, a cash deposit.

(B) The security required shall be equal to the estimated cost of the work required to restore the disturbed area as required by this subchapter, except that cash security shall be not less than \$200. If the security provided is a cash deposit, such shall be held by the County Auditor in the street cut fund for a period of two years after the restoration is completed; shall be refundable upon certification that the restoration has been completed according to the requirements of this subchapter; and, has been inspected and accepted by the county. Such deposit shall be returned without the payment of interest on said sum by the county.

(C) The county shall, in the event that the repair or restoration has not been completed, or completed in an unacceptable manner, cause the area to be repaired and charge the cost for such work against the security held by the county. If such security is insufficient to cover the cost of repair, the applicant shall promptly remit the difference to the county.

(D) No payment of any fine levied hereunder for violation of any provision of this subchapter shall in any way diminish the obligation of said person violating this subchapter to pay the county an amount equal to the cost to the county of repairing any damage caused by such violation, and such payment of such cost shall be in addition to any fine assessed hereunder.

(BC Ord. 1991-22, passed - -91)

### **§ 92.30 UTILITY COMPANY SECURITY.**

In lieu of the security required by § 92.29, any public utility company may file with the county a bond in the sum of \$2,500 payable so as to indemnify the county for the cost of repair or restoration of an area, or areas, disturbed by said company.

(BC Ord. 1991-22, passed - -91)

### **§ 92.31 GUARDING THE WORK SITE.**

The person, firm or corporation to whom a permit has been issued, and their agents, servants or employees working at the site, shall bear the sole responsibility and expense of guarding the work with necessary barriers, lights, flagmen or other safety devices which shall be maintained by the permittee until the work has been completed. The permittee shall indemnify

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and hold the county harmless from all loss and damage, including attorney fees arising out of permittee's work in county's right-of-way.

(BC Ord. 1991-22, passed - -91)

**§ 92.32 MINIMUM REPAIR REQUIREMENTS.**

(A) Upon completion of the work the permittee shall refill the trenches or sub-grade areas with sand, pea-size gravel or crushed white rock of a size numbered 53, 63 or 73; provided, however, if an area to be filled will not be covered with street pavement or is a sidewalk, and is not an alley, then the area shall be filled with sand or dirt. All fill material shall be free of rubbish and vegetation and shall be compacted throughout in six-inch layers while being installed. All streets shall, where possible, be restored, under the pavement area, with at least six inches of concrete and above that a four-inch final surface of concrete or asphalt. All sidewalks shall be restored with compacted dirt or aggregate as a base and the sidewalk surface shall be of a material and design equal to the adjoining undisturbed sidewalk.

(B) In all cases where fill has been placed but a final surface has not yet been completed, the permittee shall lay a suitable temporary surface to provide for the safe transit of the work area by the public.

(BC Ord. 1991-22, passed - -91)

**§ 92.33 INSPECTION.**

The County Highway Engineer may inspect the work from time to time and shall inspect the work during filling and final restoration. Such work shall also be inspected by the county within 30 days before the two-year security period shall expire. Any deterioration of the repair or restoration other than that normally anticipated by reasonable use shall be repaired by permittee before release of the security.

(BC Ord. 1991-22, passed - -91)

**RESTRICTIONS ON WORK WITHIN RIGHT-OF-WAY**

**§ 92.45 PERMITS FOR WORK WITHIN RIGHT-OF-WAY.**

(A) Permits to allow work within the county road right-of-way shall be submitted to the County Highway Engineer and Board of Commissioners no later than one week prior to the next scheduled Commissioners Meeting. The Board of Commissioners meetings are held on the second and fourth Mondays of each month at 4:30 P.M.

(B) Upon approval of the application for permit and prior to commencement of the proposed work within the road right-of-way, all applicants shall be required to give a minimum of 24 hours and a maximum of 72 hours notification prior to beginning of work.

(BC Ord. 1998-4, passed 5-11-98) Penalty, see § 92.99

**§ 92.46 PERMIT BONDING REQUIREMENTS.**

(A) All bonds shall name "The Board of Commissioners of the County of Warrick" as beneficiary of the bond and shall run for a minimum of one year. A certificate of insurance is not acceptable for bonding purposes. The bond must name the Board of Commissioners exclusively and not be subordinate to any other claims against the bond. The bond amount will be set by the Board of Commissioners. In general, the following are minimum bond amounts that will be required by the Board of Commissioners. Where there is a higher risk to county infrastructure, or the permitted work is much larger or more complex than normal permitted work, the Board of Commissioners reserve the right to increase the bond requirement after reviewing the application for permit and before approving the permit. The minimum bonding amounts are as follows:

- (1) Open road cut: \$25,000
- (2) Underground construction, grading, trenching or excavation parallel to the road: \$25,000
- (3) Push or bore: \$25,000
- (4) Placement/removal of poles/overhead lines: \$25,000
- (5) Tap pit (including a directly associated push or bore): \$5,000 per tap pit
- (6) House moving: \$30,000 per move
- (7) Vehicle weight restriction exemption: \$40,000 per mile

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(8) Maintenance bonds: equal to the initial permit bond amount

(B) The Board of Commissioners will allow applicants who intend to file for multiple permits to have an annual permit bond for utility work in county right-of-way. The minimum annual permit bond amount requirement is currently \$25,000. The annual permit bond shall be written so that it automatically renews, unless the surety gives a written notice 60 days prior to the annual expiration date. The written notice must be by certified mail to the Warrick County Board of Commissioners, ATTN: County Administrator. At the discretion of the County Commissioners, an annual permit bond may be allowed for house moving and vehicle weight restrictions in a minimum amount of \$100,000.

(BC Ord. 1998-4, passed 5-11-98; 1999-37, passed 10-25-99) Penalty, see § 92.99

**§ 92.47 TRAFFIC CONTROL STANDARDS.**

Anyone performing work within the county road right-of-way must conform with the requirements set out in the latest edition of the *Indiana Manual on Uniform Traffic Control Devices* or the latest edition of the *Handbook for Traffic Control in Construction and Maintenance Areas* which is published by HERPICC at Purdue University. The traffic control procedures must be followed even if a permit is not required for work in the right-of-way. A permit holder must also provide all traffic control as set out in the conditions of the permit. A road must not be completely closed to traffic at any time unless it has been requested as a part of the permit and a traffic detour plan has been approved by the Board of Commissioners for Warrick County. When working on a low volume road, the guidelines in § 92.48 may be used to determine if flaggers are not required on the project.

(BC Ord. 1998-4, passed 5-11-98) Penalty, see § 92.99

**§ 92.48 GUIDELINES FOR USE OF FLAGGERS BY UTILITIES AND CONTRACTORS.**

(A) When traffic lane is fully or partially obstructed by a maintenance or construction operation, a flagger or flaggers will not be required only when all of the following are met:

(1) The ADT of the given section of road is less than 400 vehicles per day. If the ADT is not on record at the Warrick Highway Engineering Department, the County Highway Engineer shall determine if this criterion is met, and:

(2) The work zone on any road (except a local residential street) must be more

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than 400 feet from an intersection. On local residential streets the work zone must be greater than 100 feet from an intersection, and;

(3) Motorists in both directions can see approaching motorists from the opposite direction with no sight obstruction. In order for a vehicle to stop, this means that the motorists shall have an unob-structed view from "d" feet from their end of the work zone to "d" feet from the far end of the work zone (where "d" = length of maximum # of cars in storage + distance required for driver to react + distance required for vehicle to stop), and:

<i>Posted ** Speed</i>	<i>d (feet) *</i>
20	310
25	370
30	430
35	495
40	555
45	615
50	670
55	755

\* These shall be increased for wet pavement, gravel or on descending grades.

\*\* Use 55 MPH if not posted.

\*\*\* These are guidelines based on the Handbook for Traffic Control - HERPICC, the Indiana Manual on Uniform Traffic Control Devices - 1988 IDOH and the Handbook of Traffic Control Practices for Low-Volume Roads in Indiana - HERPICC 1984. These are only guidelines and as specified in the manuals, good judgment should be used in determining when flaggers should be used but may not be required by these guidelines.

(4) The work activity does not create congestion or backup of more than five vehicles at any time.

(B) The work zone shall include all cones making the taper protecting the actual work area. Traffic control devices, placement of traffic control devices and requirements for flaggers (including clothing, procedures and locations) shall be detailed in the HERPICC - Handbook for

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Traffic Control in Construction and Maintenance Areas. A lane shall be considered partially obstructed when a ten-foot lane for each direction of traffic can be maintained.

(BC Ord. 1998-4, passed 5-11-98) Penalty, see § 92.99

**§ 92.49 STANDARD PERMIT CONDITIONS FOR POLE LINES AND UNDERGROUND CABLES AND UTILITY LINES.**

Due to widespread inconsistencies in the location and depth of buried cables, buried pipes and pole lines, these provisions will be standard condition of approval of most all utility permits where we have a right-of-way less than the recommended county thoroughfare plan right-of-way. Plans should reflect these requirements when submitted for permit approval. These requirements are necessary due to the limited right-of-way along many of our county roads and the problems associated with multiple utilities in the right-of-way. The location of poles and guy anchors in the flowline of ditches and the insufficient burial depth of cables and pipes has become a major problem for the County Highway Department when maintaining ditches, shoulders, installing signs and other safety related items. Where sufficient right-of-way exists, utility locations shall be as shown on the standard detail sheets elsewhere in this manual.

(A) *Pole lines.* All poles shall be located within one foot of the edge of right-of-way. All new pole installations and guy line locations shall be marked and notification made to the County Engineering Department a minimum of 96 hours before construction begins. Field adjustments shall be made at the Superintendent or County Highway Engineer's request for poles and guy lines presenting drainage and safety problems.

(B) *Buried cable and utility lines.* All buried cables and utility lines shall be located within two feet of the edge of the right-of-way with all pedestals being located a distance of two feet from the edge of right-of-way. All cables and utility lines shall be located a minimum of 48 inches below ground level. Any variances shall be requested in writing and have explicit written approval by the County Highway Engineer. This requirement is needed to allow for the installation of signs, guardrail and the maintenance and reestablishment of roadside ditches. If the permittee does not install his cables or lines at this depth, he or she shall waive all rights to damages incurred to his lines or cables made by the County Highway Department or its contractors during its routine maintenance activities and the installation of guardrail at hazardous locations.

(C) *All permits.* Any permittee or permittee's contractor who cuts an underground drain tile, whether it appears abandoned or not, shall notify the County Engineering Department immediately upon cutting the tile. The permittee shall then repair the tile as directed by the inspector.

(BC Ord. 1998-4, passed 5-11-98; Am. BC Ord. 1999-37, passed 10-25-99) Penalty, see § 92.99

**§ 92.50 PERMITTED WORK IN COUNTY RIGHT-OF-WAY.**

(A) *Definitions.* The following definitions apply only to this subchapter of the Warrick County Ordinance. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**EMERGENCY.** A situation where there is an immediate need to perform repair work on an existing utility service which has been interrupted or damaged and where the failure to perform such work would result in an immediate danger to life or property.

**CONSTRUCTION MATERIALS.** Those items commonly used in the construction of roads, buildings, landscaping and the like, including but not limited to stone, gravel, soil, mulch, timbers, brick, block, trusses, lumber, sod and the like.

(B) All persons who desire to perform construction operations or other work within the county's right-of-way shall, prior to start of construction, apply for and receive approval from the Board of Commissioners or its designee. Permit Application forms, supplied by the Board of Commissioners Office or the Highway Engineering Department, and related exhibits shall be submitted to the Highway Department to be reviewed and approved by the appropriate agencies as specified by the County Commissioners.

(C) In the event of an emergency, the repairs of a utility may be undertaken without first receiving a permit. However, in an emergency situation, the entity making the emergency repairs must notify the County Engineering Department as soon as possible. In the event of an emergency during non-work hours, a faxed notification must be made to the Board of Commissioners or County Highway Engineer as soon as possible on a county supplied form. A regular permit must be filed with the Highway Engineering Department within 72 hours of the time the work is begun in an emergency situation. Any work completed as emergency work which does not meet the definition of emergency as set out in this section is a violation of this section; any work completed without a permit when one is required is also a violation of this section.

(D) Any applicant, as required by the County Board of Commissioners, shall provide a permit bond running to "The Board of Commissioners of Warrick County" in an amount designated by the County Commissioners. The bond shall not expire in less than one year. Prior to the release of any permit bond, the County Highway Engineer will require inspections during and at the completion of construction. The bond shall insure that the applicant on the permit will complete all permitted work in accordance with the requirements of this section of the County Ordinance and any other applicable sections of the County Ordinance. In the event a permit bond

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expires or the bond company cancels the permit bond and all work authorized by any permits already issued using the permit bond have not been completed and the County Board of Commissioners has not released the bond, then the bond shall become immediately due and payable to the County Board of Commissioners. Applicants who desire to do so may post an annual or continuous permit bond for utility work in an amount designated by the County Commissioners. An annual or continuous permit bond may not be used for drive or public road approach permits. In the event an annual or continuous permit bond expires or the bond company cancels the annual or continuous permit bond and all work authorized by any permits already issued using the annual or continuous permit bond has not been completed and the County Board of Commissioners has not released the bond, then the bond shall become immediately due and payable to the County Board of Commissioners. At the discretion of the Highway Engineer, a maintenance bond may be required from an applicant as a condition of approval or as a condition of releasing the permit bond. A utility company having a certificate of authority or franchise issued by the Indiana Utility Regulatory Commission and who has a continuous bond on file with the County Board of Commissioners may use, in lieu of the maintenance bond when approved by the County Board of Commissioners. Permits issued for the cutting of a road may require a three year maintenance bond, which cannot be canceled prior to three years from the completion of the road cut. If the bond company sends notice that the bond is being canceled at any time prior to three years, the total amount of the bond shall become immediately due and payable to the County Board of Commissioners and no additional permits will be issued to the applicant.

(E) The recipient of a permit and/or anyone working within the right-of-way of a county road shall comply with the following terms.

(1) Construction materials shall conform to the requirements of the Standard Specifications of the State Department of Transportation and shall be approved by the County Highway Engineer.

(2) Traffic control devices and flaggers shall be used to regulate traffic safety if construction affects the flow of traffic as set out in the Indiana Manual on Uniform Traffic Control Devices and as required by the County Highway Engineer or the County Board of Commissioners. Traffic will be maintained at all times. If a road closing is approved in accordance with the County's Ordinance, the permit holder will mark and maintain any detours approved by the County Highway Engineer and notify all appropriate agencies of the time and location of the closing a minimum of 48 hours prior to closing and again immediately upon reopening of the roadway.

(3) Utility trench backfill for cuts of the roadway, #53 aggregate, shall be placed and compacted in lifts under the supervision of the County Highway Engineer or, at the discretion of the County Highway Engineer, it shall be tested for density by an independent testing laboratory. Flowable mortar in accordance with the specifications of the County Highway

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Engineer may be used as an alternate to the #53 aggregate.

(4) Pavement shall be restored to a smooth permanent as required by the County Highway Engineer or County Highway Superintendent. This shall also include any damage done to pavement markings. Temporary patches shall be maintained in a smooth and safe condition by the permit holder until a permanent patching is accomplished. Temporary patching shall not exceed 30 days, except during the period from November 15 through April 15 each year when the materials are not available. During this time period the applicant may leave a temporary patch in place, but a routine inspection shall be made by the applicant to insure the temporary patch is in good condition. An extension beyond the 30-day requirement may be granted at the Highway Department's discretion upon request with a justification by the applicant. Aggregate surfaces shall be restored in kind and shall be stabilized to prevent loose material, which constitutes a safety hazard.

(5) The filling of a curb or gutter line of the drainage system of any road with any material or pipe is strictly prohibited. Any curb modifications shall require a driveway permit.

(6) Tree trimming operations do not require a permit to work in the right-of-way; however, they are bound by all of the requirements of this subsection and are required to obtain a road obstruction permit if they desire to close a road.

(7) All sod, swale, side ditches, shoulders and other improvements within the right-of-way which is disturbed by any work or construction within the right-of-way shall be repaired or replaced in a condition equal to or better than they were prior to the work or construction. Materials used in the repair of any disturbed area and the method used to make the repairs shall be approved by the County Highway Engineer or the County Commissioners. The proof of the condition of these items prior to work shall be the contractors or the individual completing the work responsibility.

(8) Anyone who cuts or damages an underdrain tile, storm sewer pipe or culvert pipe, whether it appears abandoned or not, shall notify the County Highway Department immediately upon cutting the tile or pipe. The person cutting the tile shall be responsible for all damages resulting from this action. The person cutting the tile shall then repair the tile as directed by the Superintendent or County Highway Engineer. If the tile or pipe is a regulated drain, then immediate notification and repair approval shall also be made to the County Surveyor or his designated representative.

(9) Loading or unloading any equipment on a county road which results in an undue or unsafe restriction of traffic or damage to the pavement is not allowed and is a violation of this section.

(10) Crossing or traveling on a county road with a tracked vehicle directly in

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contact with the pavement surface is a violation of this section. Crossing or traveling along the road will be allowed provided suitable protection (timbers, tires and the like) is provided for the pavement. No damage will be allowed to the pavement, structures, grading, drainage and the like. Failure to use adequate protection or damage to the pavement is a violation of this section.

(11) Dragging or depositing mud or soil onto a county road from any site is not allowed and is a violation of this section. Cleanup of any mud or soil on the road due to accessing a site shall be immediately after the material is deposited. A site having a high volume of vehicles accessing a muddy site shall have a full-time cleanup crew or install cleaning mechanisms in accordance with the plan approved by the County Highway Engineer or County Highway Superintendent.

(12) Allowing erosion of soils from a site onto a county roadway or into a county roadway drainage system is a violation of this section. Anyone excavating on county right-of-way or adjacent to county right-of-way shall protect the county right-of-way from the deposit of eroded materials in accordance with the plan approved by the County Highway Engineer or County Highway Superintendent.

(13) Depositing any construction materials or the cleaning of any equipment directly or indirectly into any county roadway drainage system is not allowed and is a violation of this section.

(14) Installation of sprinkler systems within the right-of-way is not allowed. Any sprinkler systems installed within the right-of-way prior to the date of this subchapter shall be relocated at the owner's expense within seven calendar days when requested by the County Highway Engineer or Superintendent for road improvement purposes or drainage problems.

(15) An individual or agency who has directed work to be done in the right-of-way shall be jointly and separately liable for all actions taken by his contractor or representative.

(16) Failure to stop work for any violation of this section of the code when so directed by an authorized representative of the County Highway Department is a violation of this section.

(17) Failure to provide traffic control, provide a safe work site (safety fencing, shoring, and the like) or comply with the conditions set out in a permit or as directed by an authorized representative of the County Highway Department is a violation of this section.

(18) A permit is not required for surfacing or resurfacing of a driveway provided it does not change any drainage flows and does not expand the width of the existing drive. The maintenance of any drive and its associated culverts will remain the responsibility of the applicant or subsequent property owner and must be maintained by the property owner in a

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manner which does not interfere with the use of the right-of-way for its dedicated purpose.

(19) Any improvements installed by permit or without a permit within the public right-of-way are done so at the risk of the property owner or entity installing the improvements. Whenever the County Highway Engineer or Superintendent determines a change is required or maintenance is needed in the improvements, the applicant, subsequent property owner or entity who owns the improvements must make the changes upon notification and within a reasonable time limit at the owner's expense.

(20) No improvements can be made by any permit applicant which obstructs or impedes an existing farm field entrance or an existing farm field loading area without permission from the property owner. It is the applicant's responsibility to comply with this requirement.

(F) After the application is approved, the County Highway Engineer shall issue a permit. Once work begins, the permit or a photocopy of the permit must be on site for inspection. The County Highway Department shall be notified at least 24 hours in advance of construction and when construction is complete in accordance with the procedures of the County Highway Department. An approved permit will expire one year from the date of application or 60 days prior to the expiration of the permit bond covering the work being applied for, whichever comes first.

(BC Ord. 1998-4, passed 5-11-98; Am. BC Ord. 1999-37, passed 10-25-99) Penalty, see § 92.99

### § 92.99 PENALTY.

(A) Any person violating the provisions of §§ 92.10 through 92.15 shall be fined not more than \$1,000. (BC Ord. 1997-4, passed 4-14-97; Am. BC Ord. 2002-03, passed 2-13-02)

(B) Any person violating any of the provisions of §§ 92.25 through 92.33 shall, for each offense, be subject to a fine of not more than \$2,500. (BC Ord. 1991-22, passed - -91)

(C) When the provisions and guidelines of §§ 92.45 through 92.50 are not adhered to, it shall be considered a violation. When a violation occurs, the contractor, company or individual performing the work and the owner of the facilities being installed or constructed shall be held in violation both jointly and separately. Each subsection violated and each day for which the violation remains shall be a separate violation. A judgment of up to \$2,500 and restitution of all damages shall be entered against a person who violates this subchapter per violation per day. (BC Ord. 1998-4, passed 5-11-98)

## APPENDIX A: APPLICATION TO WORK IN COUNTY ROAD RIGHT OF

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**WAY**

APPLICATION TO WORK IN COUNTY ROAD RIGHT OF WAY

PERMIT NO. \_\_\_\_\_

Warrick County Commissioners P.O. Box 749, Boonville, IN 47601

Phone No. 812-897-6120 Fax No. 812-897-6189

Underground construction, grading, trenching or excavation parallel to the road \_\_\_\_\_ ft. @ \$70/400 ft. = \_\_\_\_\_

Bores or pushes under the roadway \_\_\_\_\_ bores @ \$50/ea. = \_\_\_\_\_

Placement/removal of poles/overhead lines \_\_\_\_\_ ft. @ \$100/1000 ft. = \_\_\_\_\_

Tap pit (includes a directly adjacent bore or push at no additional fee) \_\_\_\_\_ tap pits @ \$50/ea. = \_\_\_\_\_

Open Cut across a County Road Right-of-Way \_\_\_\_\_ ft. @ \$5/ft. or

Minimum of \$100 = \_\_\_\_\_

Check or Money Order No. \_\_\_\_\_ TOTAL PERMIT FEE = \_\_\_\_\_

Bond Company: \_\_\_\_\_ Bond Amount: \$ \_\_\_\_\_

Bond # \_\_\_\_\_

Applicants Name:

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

Mailing Address: \_\_\_\_\_ P.O. Box No. \_\_\_\_\_

\_\_\_\_\_

City: \_\_\_\_\_ State \_\_\_\_\_ Zip Code: \_\_\_\_\_

\_\_\_\_\_ Phone No. \_\_\_\_\_

Fax No. \_\_\_\_\_ Contact Person: \_\_\_\_\_

\_\_\_\_\_

Project Owners Name (if different from applicant)

\_\_\_\_\_ Phone No. \_\_\_\_\_

Project Owners Address (if different from applicant)

\_\_\_\_\_

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City: \_\_\_\_\_ State \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Phone No. \_\_\_\_\_

Fax No. \_\_\_\_\_

Project Location (Must be described in reference to centerlines of streets in feet)

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

Project Purpose

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

I hereby certify that I have the authority to bind the above named applicant and the owner of the facilities being installed under this permit to the terms, conditions and requirements of this permit. I certify that I, the applicant and all persons performing the work authorized by this permit understand all requirements of the Ordinance adopted by the Board of Commissioners and will abide by all of the requirements and conditions. I further certify that I, the applicant and any persons performing work authorized by this permit will not make any changes in work from the approved plan and permit without receiving written permission from the Warrick County Board of Commissioners. The applicant and I agree to pay all attorney's fees, court costs and other damages or costs incurred by Warrick County in enforcing the Ordinance or which are a result of litigation incurred by the County as a result of this permit. The applicant, the owner of the facilities being installed under this permit and I understand that in the event Warrick County determines that any of the facilities installed under this permit need to be repaired, relocated or removed from the right-of-way, that the owner or any subsequent owner of the facilities agrees to maintain, relocate or remove these facilities in a timely manner at no cost to Warrick County or its successors. The applicant and I agree that the commencement of work covered by this permit will serve as our acceptance of all terms, conditions and requirements of the approved permit.

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

Date:

Signature

\_\_\_\_\_

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\_\_\_\_\_  
Printed Name

Title

DO NOT WRITE IN THIS SECTION-FOR DEPARTMENT USE ONLY:

County Highway Engineer \_\_\_\_\_ Date:

This Permit is Approved:

As submitted.

Subject to the attached conditions.

Subject to the changes noted on the plans.

COMMENTS: \_\_\_\_\_

COMMISSIONERS MEETING DATE OF APPROVAL:

\_\_\_\_\_

\_\_\_\_\_  
Commissioner Signature

\_\_\_\_\_  
Commissioner Signature

\_\_\_\_\_  
Commissioner Signature

INSTRUCTIONS:

1. Form must be completely filled out using a typewriter or printed using black ink. Any non-applicable blanks must be marked N/A.
2. Contact Warrick County Engineer for questions concerning this application.
3. A clear, detailed plan sheet must accompany this application. The drawing must show the R/W, edge of road, all construction details, driveways, field entrances, easements and other significant features within or immediately adjacent to the R/W. The plan must show distances to the nearest intersecting roads, dimensions of all construction and have a legend for all symbols used. Failure to include all of the above will result in the denial and return of your application.
4. The permit bond amount is based on the type and amount of work being authorized by

this permit. Contact the Warrick County Highway Engineer or Board of County Commissioners for a specific amount. The beneficiary on the permit bond shall be the "Board of Warrick County Commissioners, Warrick County, Indiana".

5. Permit fee shall be check or money order made payable to the "Warrick County Treasurer." Cash can not be accepted. When complete, mail or hand deliver this signed application, along with the permit fee, permit bond and detailed plan to the above address, "Attention: County Highway Engineer"

## **TITLE XI: BUSINESS REGULATIONS**

### Chapter

#### **110. GENERAL BUSINESS REGULATIONS**

#### **111. PRECIOUS METAL DEALERS**

### **CHAPTER 110: GENERAL BUSINESS REGULATIONS**

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#### Section

- 110.01 Regulations for cable TV rates
- 110.02 Permit required for solicitation
- 110.03 Peddling and solicitation

#### **§ 110.01 REGULATIONS FOR CABLE TV RATES.**

(A) All regulations promulgated by the Federal Communications Commission, as they relate to the regulation of cable television rates, are hereby adopted by reference in this section.

(B) The County Commissioners are hereby authorized to appoint a hearing officer whose duty it shall be to conduct and hold public hearings on local cable rate regulations, to report his or her findings to the County Commissioners and make recommendations to the County Commissioners concerning basic cable regulation.

(C) The hearing officer shall conduct the public cable rate hearings on all cable rate regulation hearings in accordance with the rules and regulations issued and promulgated by the

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Federal Com- munications Commission found at 47 CFR 76.

(D) All regulation cable rates by the county shall be undertaken in accordance with and following the rate regulations promulgated by the Federal Communications Commission.

(BC Ord. 1994-12, passed 6-27-94)

**§ 110.02 PERMIT REQUIRED FOR SOLICITATION.**

(A) Any and all individuals, entities, and/or organizations of any type who wish to solicit in any manner on or about any street or intersection of streets must first obtain a permit to be issued by the County Commissioners.

(B) An application for such permit must be filed with the County Commissioners Office no less than 30 days prior to the proposed solicitation date.

(C) A public hearing with regard to the application shall take place at the next regular session of the Board of County Commissioners or special session if so called by the Commissioners.

(D) If the application is granted, a permit designating the specific time, place and manner of the solicitations must be carried at all solicitation times on the person of the individuals performing the solicitations.

(E) Each violation of this section may be punished by a fine not exceeding \$2,500 per violation.

(F) An applicant must provide a certificate of insurance proving comprehensive general liability insurance coverage for the activities applied for in the sum of no less than \$500,000.

(BC Ord. 1999-9, passed 9-13-99; Am. BC Ord. 2014-16, passed 6-9-14)

**§ 110.03 PEDDLING AND SOLICITATION.**

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

**ADMINISTRATOR.** Administrator of the Warrick County Board of Commissioners.

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**PEDDLER.** Any person or persons, firm, limited liability company, corporation or organization, either principal or agent, employer or employee who engages in the business of traveling from place to place, house to house, or in or along the streets within the county, carrying, conveying, or transporting goods, wares, merchandise, or personal property of any nature, or for services to be performed offering and exposing them for sale, or making sales and delivering articles to purchasers.

**PERSON.** Any human being, partnership, limited liability company, organization, association, or corporation.

**SOLICITOR.** Any person or persons, firm, limited liability company, corporation, or organization, either principal or agent, employer or employee who engages in the business of traveling from place to place, house to house, or in or along the streets within the county, taking or attempting to take orders for the sale of goods, wares, merchants, or personal property of any nature, for future delivery, or for services to be performed, whether or not such individual carries or exposes for sale a sample of the subject of the sale, or whether or not the vendor is collecting advance payment on the sales.

(B) *Peddlers and solicitors; license required.*

(1) It is unlawful for any person to engage in business as a peddler or solicitor within the county, without having an unrevoked license issued by the county to do so, valid and in effect at the time.

(2) No license shall be transferable or shall authorize any person other than the one named therein to engage in the business of peddler or solicitor.

(3) Registration and licensing shall not be construed to be a permit to enter neighborhoods, areas, properties, or premises that have conspicuously posted non-solicitation notices.

(4) The peddler or solicitor shall have his stamped application in his possession at all times while peddling and/or soliciting and shall exhibit it upon request by any law enforcement officer or any purchaser or prospective purchaser.

(C) *Exemptions.* This section shall not apply to:

(1) Any person selling goods exclusively to retail or wholesale stores for resale.

(2) Any person, or an employee or agent thereof, who has, and has had for the preceding 12 months a regular place of business within the county.

(3) Any person engaged in peddling or solicitation activities on behalf of a religious group, school, political group, or other not-for-profit entity registered to do business in

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the state.

(4) The delivery of mail order, online, or catalog sales to residents.

(5) Any farmer, gardener, or fruit or vegetable grower engaged in selling the produce of his own farm, orchard, or vineyard, located in the county, or such a person who sells or takes orders for goods to be sold and delivered to merchants, traders, or dealers who purchase the goods for the purpose of resale.

(6) News carriers.

(D) *Application.* An applicant for permission to peddle goods or solicit orders hereunder shall complete an application provided by the Administrator. The application shall contain the following information:

(1) The name, home address, telephone number, and any local address of the applicant.

(2) A physical description of the applicant, and every agent of the applicant that will be peddling or soliciting, setting forth the age, height, weight, and color of hair and eyes (Example: driver's license and/or other picture ID).

(3) The name and address of the person, firm, or corporation for whom or through whom orders are to be solicited or cleared, including both the main office's address and the address of the office or branch out of which the applicant works.

(4) The nature of the goods, wares, merchandise, or services to be sold or for which orders are to be solicited.

(5) Written permission from the property owner of the location where peddler will be set up (if applicable).

(6) A statement as to the period during which the applicant intends to solicit orders, which shall be no longer than until December 31 of the calendar year during which the application is made.

(7) A list of all felony and/or misdemeanor convictions of the applicant and every agent of the applicant that will be peddling or soliciting, including the date of conviction and the city and state of all such convictions, if any. If none, it is to be so stated on the application.

(8) The name, address, and telephone number of the contact person who shall be available for a period of time of not less than 60 days following the last date the applicant sells or offers to sell, or distributes goods, wares, merchandise, food, services, or subscriptions in the county, who will be responsible for consumer complaints.

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(9) The applicant must provide the Administrator with a copy of a valid merchant certificate issued by the Indiana Department of Revenue to applicant.

(10) If a vehicle is to be used, a description of the vehicle, together with the license plate number and proof of valid insurance meeting the minimum requirements set by state law, and a copy of a current and valid driver's license.

(11) A statement indicating the applicant has provided with the application a certificate of insurance proving comprehensive general liability coverage for the activities to be performed in the sum of no less than \$500,000.

(12) The applicant, at the time of executing the application, shall also submit identification satisfactory to the Administrator, which shall contain the signature and a photograph of the applicant and any agent of the applicant that will be peddling or soliciting two inches by two inches taken within 60 days prior to the application. The photograph must show the head and shoulders of the applicant and any agent of the applicant that will be peddling or soliciting.

(13) If the applicant will be using, handling, selling, or distributing food, a copy of the County Health Department permit must be attached to the application.

(14) Any other such information the Administrator or his designee deems necessary.

(15) Verification that all of the information provided is truthful.

(E) *Fees.*

(1) The fee for a license which shall accompany any application shall be as follows:

Sunday; (a) \$30 for a period not to exceed one weekend from Friday through

Sunday; (b) \$50 for a period not to exceed one week from Monday through

(c) \$100 for a period not to exceed one month; or

(d) \$1,000 for a period not to exceed one year.

(2) All licenses shall terminate on December 31, one hour before sunset in the year of issue.

(3) All fees collected under this section shall be deposited in the county's

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General Fund.

(F) *Approval.* Upon compliance by the applicant with the provisions of this section, the Administrator shall refer the application to the County Board of Commissioners. The County Board of Commissioners shall either approve or deny the application for a license at its next regularly scheduled meeting. Upon approval by the County Board of Commissioners, the Administrator shall stamp approval on the application submitted by the applicant and provide the approved license to the applicant.

(G) *Time of day permitted.* No person may engage in the business of a peddler or solicitor in the county before 9:00 a.m. and must cease all activities one hour prior to sunset each day the license is effective.

(H) *Revocation of license.*

(1) A license issued pursuant to this section may be revoked by the Administrator after a hearing before the County Board of Commissioners, for any of the following causes:

(a) Any fraud, misrepresentation, or false statements contained in the application for the license.

(b) Any fraud, misrepresentation, or false statement made in connection with the peddling or solicitation of sales of goods, wares, or merchandise.

(c) Any other violation of this section.

(d) Conducting the business licensed under this section in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(e) The conviction of the license holder of any felony or of any misdemeanor involving a threat to the safety or general welfare of the public.

(2) A license shall be immediately suspended upon reasonable suspicion by the Administrator of any of the above causes while the potential violation is investigated or pending the arrest or filing of charges against the license holder, or any agent thereof, alleging the commission of any felony or a misdemeanor involving a threat to the safety or general welfare of the public. A license holder is not entitled to a refund for the time the license is suspended or revoked.

(I) *Right to appeal following denial or revocation.* Any license having been denied or revoked under this section may be appealed to the County Board of Commissioners. Such appeal shall be taken by filing with the Administrator a written statement of the grounds for appeal within seven days after notice of the denial or revocation. The County Board of Commissioners,