

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL CODE CONSTRUCTION; GENERAL PENALTY

CHAPTER 10: GENERAL CODE CONSTRUCTION; GENERAL PENALTY

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' 10.01 TITLE OF CODE.

This codification of ordinances by and for Washington County, Indiana shall be designated as *The Washington County Code*, and may be so cited. Any such citation or reference shall mean and include all supplements, supplementary ordinances and amendments thereto.
(1985 Code, ' 1-1-1)

' 10.02 LEGISLATIVE INTENT TO EXERCISE GENERAL POWERS.

It is declared to be the legislative intent of the Board of Commissioners and County Council, pursuant to the enactment of this code, to invoke and exercise all lawful powers vested in or incumbent on the governing bodies of a county to enact ordinances and to provide through legislation for the governance of the political corporation and its governmental jurisdiction, including, but not necessarily limited to, the following powers:

(A) All powers vested expressly by the Constitution and laws of the state;

(B) All general or residual powers conferred on the governing bodies of a county by I.C. 36-1-3, 36-1-4, 36-7-2, 36-8-2, 36-9-2, and 36-10-2, or by any other law; and

(C) All implied powers incumbent on a county through the operation of common law, such as are necessary or dispensable to the purposes for which a county corporation is created.
(1985 Code, ' 1-1-3)

' 10.03 REENACTED OR RESTATED PROVISIONS; CONTINUITY OF EFFECT.

(A) All provisions included in this code which are followed by a derivational reference in parentheses [()] are reenacted or restated provisions of ordinances in effect at the time of the adoption of this code. Except as provided in ' 10.02 above, the reenacted or restated provisions are included in and adopted as part of this code with the legislative intent to preserve the original meaning and effect of all the provisions without a substantive change therein. For purposes of interpretation, construction, or resolution of any dispute over the meaning and application of any reenacted or restated provision, it shall be valid to refer to and rely upon the text and context of the original ordinance or ordinances from which the reenacted or restated provision, or part thereof, derives, but including all ordinances amendatory thereto, notwithstanding the fact that the original ordinances may have been repealed pursuant to ' 10.05 of this chapter. The designation ABCC@ indicates an ordinance originally enacted by the Board of Commissioners, while ACC@ indicates an ordinance originally enacted by the County Council.
(1985 Code, ' 1-1-4)

(B) It is the legislative intent of the governing bodies in adopting this code to preserve the continuity of effect, as generally understood, of all reenacted or restated provisions included herein.
(1985 Code, ' 1-1-5)

' 10.04 PUBLICATION OF COUNTY CODE.

This code is declared to be a public document, and the County Auditor shall provide for the making of copies thereof, so that any person who desires to obtain a copy for his or her own use and information may do so. If the Auditor decides that code copies are to be printed and made available by and through a private publisher, the private publisher shall establish a reasonable price per copy. If the Auditor decides that the county is to publish the code, then the charge per copy shall be in conformance with the county's fee schedule or policy, as set by ordinance or resolution from time to time. Pursuant to the provisions of I.C.

(4) Any ordinance or portion thereof governing the administration and repayment of any

5-14-3, any person may copy the county code. The options herein described are for the purpose of and shall be construed to fulfill all printing and publication requirements as provided by I.C. 36-1-5-5. At least one copy of the printed code shall be filed and kept in the office of the County Auditor for the use of any person wishing to examine or copy the code.
(1985 Code, ' 1-1-6)

' 10.05 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code, excepting those set forth and expressly saved in ' 10.06 of this chapter, shall be deemed repealed from and after the effective date of this code.
(1985 Code, ' 1-1-7)

' 10.06 ORDINANCES OR PARTS SAVED FROM GENERAL REPEAL; ORDINANCES UNAFFECTED.

(A) The following enumerated or described ordinances or parts of ordinances are not repealed by ' 10.05, and shall remain in full force and effect until their natural expiration or until they are expressly repealed by another ordinance:

(1) The ordinance for appropriations and tax levies for the current year, including any additional appropriations made subsequent to the original adoption thereof;

(2) The ordinance for appropriations and tax levies for the ensuing year, if the same has already been adopted at the time this code takes effect;

(3) The ordinance or other act, including any amendments thereto, fixing the salaries and wages of the officers and employees of the county or any subsidiary corporation or agency for the current or ensuing fiscal year;

unretired bonds or other debt obligations of the county or of any subsidiary corporation or agency;

(5) Any ordinance or other act establishing any cumulative fund and tax rate, except as expressly repealed or amended by another ordinance or act;

(6) Any ordinance or portion thereof expressly enumerated or described and incorporated by reference or saved by a provision of this code; and

(7) Any ordinance incorporating a municipality.
(1985 Code, ' 1-1-8)

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

' 10.07 DEFINITIONS.

(A) Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

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

CODE, THIS CODE or THIS CODE OF ORDINANCES. This county code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

COUNTY.

(a) When used in a governmental or corporate sense means and refers to Washington County, Indiana, a political corporation and body politic organized under the laws of Indiana; and includes, with respect to any particular matter and by representation, its Board of Commissioners or such other officials, boards, commissions, departments, agencies, or other authorities which by act of the Board of Commissioners or by general law are empowered to exercise governmental or corporate authority on behalf of Washington County with respect to that particular matter.

(b) When used in a territorial or geographic sense, means or refers to that unincorporated area included within the lawful boundaries of Washington County, at that time in question, irrespective of the boundaries in existence at the time this code or any included provision or amendment takes effect; but with respect to any particular matter over which Washington County exercises any governmental or corporate jurisdiction beyond the unincorporated boundaries under authority of any law or an intergovernmental cooperative agreement, the term shall also include the area within the extraterritorial jurisdiction.

GOVERNING BODY. The Board of Commissioners or the County Council, as one or the other has been given legislative or executive power over a particular matter by state law.

LAW. Any provision of the United States, or Indiana Constitutions, federal or state statute, any applicable and enforceable federal or state regulations or administrative law, any applicable local ordinance or enforceable regulation, and the common law.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**.

OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT. An officer,

office, employee, commission, or department of this county unless the context clearly requires otherwise.

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

PRECEDING or **FOLLOWING.** Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or **SUBSCRIPTION.** Includes a mark when the person cannot write, and includes all forms of power of attorney.

STATE. The State of Indiana in the senses analogous to those in which the term Acounty@ is used as described above.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

WRITTEN. Any representation of words, letters, or numbers, geometric figures, international characters, or drawings, whether by printing, writing or otherwise.

YEAR. A calendar year, unless otherwise expressed; equivalent to the words **YEAR OF OUR LORD.**
(1985 Code, ' 1-2-1)

' 10.08 RULES OF INTERPRETATION.

Other construction or interpretation of terms or usages of words shall be governed by the following rules, except where clearly inapplicable by virtue of the context.

(A) *Gender.* All words having a masculine,

feminine, or neuter connotation shall be construed to, mutually entail and include each other.

(B) *Singular/plural.* The use of a singular form shall be construed to include the plural form, and vice versa.

(C) *Tense.* The use of past, present, or future tenses mutually entail and include each other.

(D) *Use of official titles.* Wherever an official title (e.g., County Auditor) is used, it means or refers to a person or body ex officio, and not to an individual personality or particular membership or constituency.

(E) *Mandatory/permissive terms.* AShall@ or Amust@ are mandatory, while Amay@ is permissive or conditional. The use of negative terms such as Anot@ and Ano@ is prohibitory.
(1985 Code, ' 1-2-2)

' 10.09 LEGAL CITATIONS.

A citation designated A.I.C.@ refers to the title, article, chapter, and section, as denoted by the numerals following the reference, of the Indiana Code; and unless otherwise noted is a reference to the Indiana Code of 1993, and also refers implicitly to any supplements or act of the General Assembly amendatory thereto. Other legal citations used in this code include citations to the Indiana Administrative Code (I.A.C.) and the Indiana Acts (AActs 19--@). In general, all legal citations are of common and generally understood form and shall be construed to have their usual meanings for purposes of reference.
(1985 Code, ' 1-2-3)

' 10.10 STATUS OF CAPTIONS AND HEADINGS.

(A) The captions and headings provided for any chapter, subchapter, section, or division of this code are intended for guidance and reference purposes only, and are not substantive parts of the code or individual provision to which they apply.

(B) A caption or heading shall not be construed to limit, govern, or condition the scope or meaning of the substantive text included within the chapter, subchapter, section, or division to which the caption or heading applies.

(1985 Code, ' 1-2-4)

' 10.11 STATUS OF DERIVATIONAL REFERENCES.

Derivational references included in parentheses at the end of any provision of this code are for purposes of reference only and indicate that the provision is a reenacted or restated provision of an ordinance previously adopted and in effect at the time the provision was incorporated into and adopted as part of this code, as described by I.C. 36-1-5-6. However, the inclusion of the provision and enactment thereof as part of this code is sufficient in itself, and any error in, omission from, or any other fault in a derivational reference shall not be construed to invalidate nor impair the operation of any substantive provision included in this code.

(1985 Code, ' 1-2-5)

' 10.12 INCORPORATION OF MATERIAL BY REFERENCE.

When the text of any materials are incorporated into and made a substantive part of any provision of this code or a supplementary ordinance by reference, rather than being directly set forth, the materials are declared to be and are made public documents, and two copies of each complete document or of that portion thereof so incorporated by reference shall be kept on file in the office of the County Auditor and

made available for public inspection and copying in the same manner as other public documents. However, this requirement does not apply to instances where a statute or similar law or written regulation, already being a promulgated public document, is cited or referenced merely for the purpose of establishing legal basis or authority, legal procedure, or legal precedent incident to the implementation or administration of a provision of, this code; nor to instances where some such document or portion thereof is not incorporated as an actual substantive part of the provision, but is cited or referred to merely for the purpose of establishing administrative guidelines, standards, or procedures incidental to the administration of the substantive parts of the provision.

(1985 Code, ' 1-2-6)

' 10.13 CONFLICTING OR CONTRADICTORY PROVISIONS.

(A) In the event that two provisions of this code or any supplementary ordinance are conflicting, mutually contradictory, or cannot consistently stand together and be coherently applied, either in general or with respect to any particular matter, then the most recently enacted provision shall prevail and be applied until by ordinance the appropriate legislative body shall resolve the conflict. In the case of any two such conflicting provisions of this code which are reenacted or restated provisions of any prior ordinances, the most recently enacted provision is that provision which was formerly part of the most recently adopted prior ordinance, notwithstanding the fact that the prior ordinance per se may have been repealed.

(1985 Code, ' 1-2-7)

(B) This code is in all respects subordinate to the laws of the state, except to the extent that any law expressly makes a provision of this code superior; and except in such case, if any provision of this code is found to be prohibited by or in conflict with a provision of any state statute, whether the statute was enacted prior or subsequent to the enactment of the prohibited or conflicting code provision, then the provision of the statute shall prevail. However, nothing in this section shall be construed to prevent the governing body from enacting any provision which is collateral or supplementary to a statute, and any such provision shall be invalid only if and to the extent that it is overtly inconsistent with a prescriptive or proscriptive provision of the statute, preempts the actual field of operation of a statute, impairs or denies a right, privilege, or power conferred on any person by a statute, prevents or impairs any person from performing a duty or other act required to be performed by a statute, or contravenes the purpose for which a statute was enacted by the General Assembly; but provided further that no such collateral or supplementary provision shall fix or apply a penalty of fine or other forfeiture for any act or condition which is also a penal violation of any statute.

(1985 Code, ' 1-2-8)

' 10.14 AMENDMENT AND REPEAL OF CODE.

The Board of Commissioners or County Council, as appropriately empowered, may add, amend, or repeal any chapter, section, or other part of this code by adopting a supplementary ordinance setting forth the addition, amendment, or repeal and specifying the chapter, section, or other part of the code to which the addition, amendment, or repeal applies. The repeal of any chapter, section, or other part shall be specific and not generally phrased; and any supplementary provision enacted with the intent to replace any existing provision of the code shall include or be accompanied by a provision expressly identifying and repealing the provision intended to be replaced. The repeal of any current provision does not work to revive any prior provision which was repealed and replaced by the current provision being repealed; nor does the amendment or repeal of a provision serve to nullify, invalidate, terminate, or render unlawful any official act performed, proceeding begun, transaction made, contract or other legal obligation entered into, or liability incurred by or to the county by virtue of the proper operation of the amended or repealed provision prior to the taking effect of the amendment or repeal. A supplementary ordinance adding, amending, or repealing a provision of this code shall be adopted in the same manner as other ordinances, except to the extent that an applicable special procedure for adoption is prescribed by this code or statute.

(1985 Code, ' 1-2-9)

' 10.15 CODE SUPPLEMENTS; PUBLICATION.

The Board of Commissioners shall from time to time provide for the compilation of supplement volumes incorporating or reflecting any additions to, amendments, or repeals of the provisions of this code enacted subsequent to its original adoption. A code supplement volume shall be published in the same manner as the original code as provided by ' 10.04 of this chapter.

(1985 Code, ' 1-2-10)

' 10.16 EFFECTIVENESS OF SUPPLEMENTARY ORDINANCES.

Unless a supplementary ordinance includes a provision delaying its effectiveness to a specified date,

or provides for or increases the penalty for violation of any penal provision of this code and is so required to be published before taking effect pursuant to I.C. 36-2-4-8(b), then the supplementary ordinance shall be effective and the code shall be considered as concurrently amended, upon the passage, signature, and recording of the supplementary ordinance as provided by law. If a supplementary ordinance is required to be published in accordance with I.C. 36-2-4-8(b), it shall not be effective until the ordinance or substantive digest thereof setting forth the penalties is published in accordance with I.C. 36-2-4-8(b) and I.C. 5-3-1. (1985 Code, ' 1-2-11)

' 10.17 SEVERABILITY.

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

' 10.19 APPLICATION TO FUTURE ORDINANCES.

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

' 10.20 REFERENCE TO OTHER SECTIONS.

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

' 10.21 ERRORS AND OMISSIONS.

(A) If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to

All articles, chapters, sections, divisions, paragraphs, sentences, phrases, or words contained in this code are severable from each other, and if any such article, chapter, section, division, paragraph, phrase, or word is found to be unconstitutional, legally invalid, inoperative, or erroneous or faulty in any way, or is repealed or deleted, the status or action shall not be construed to invalidate or affect any other portion of this code insofar as that other portion can be applied and sensibly operate in the absence of the unconstitutional, invalid, inoperative, erroneous, faulty, repealed, or deleted portion of the code. (1985 Code, ' 1-2-12)

' 10.18 INTERPRETATION.

which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published.

(B) No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

' 10.22 OFFICIAL TIME.

The official time, as established by applicable state/federal laws, shall be the official time within this county for the transaction of all county business.

' 10.23 REASONABLE TIME.

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

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be

Sunday, it shall be excluded.

• **10.24 EFFECTIVE DATE OF ORDINANCES.**

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

• **10.25 REPEAL OR MODIFICATION OF ORDINANCE.**

(A) Whenever any ordinance or part of an

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

• **10.26 SECTION HISTORIES; STATUTORY REFERENCES.**

(A) (1) As histories for the code sections, the specific number and passage date of the original ordinance, and any and all amending ordinances, if any, are listed following the text of the code section. Example: (BCC Ord. 10, passed 5-13-1960; BCC Ord. 15, passed 1-1-1970; BCC Ord. 20, passed 1-1-1980; BCC Ord. 25, passed 1-1-1985)

(2) The designation ABCC@ indicates an ordinance originally enacted by the Board of Commissioners, while ACC@ indicates an ordinance originally enacted by the County Council. (1985 Code, ' 1-1-4)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (I.C. 5-14-3-1) (CC Ord. 10, passed 1-17-1980; CC Ord. 20, passed 1-1-1985)

(2) If a statutory cite is set forth as a statutory reference@ following the text of the section, this indicates that the reader should refer to that statute

ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

for further information.

Example:

• **39.01 PUBLIC RECORDS AVAILABLE.**

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

Statutory reference:

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

(C) If a section of this code is derived from the previous code of ordinances of the county published in 1985, and subsequently amended, the 1985 code section number shall be indicated in the history by A(1985 Code, ' ____)@.

• **10.99 GENERAL PENALTY.**

Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$2,500; however, no penalty shall exceed that provided under state law for the same or similar offense. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.