

**TITLE I: GENERAL PROVISIONS**

Chapter

**10. GENERAL PROVISIONS**







## CHAPTER 10: GENERAL PROVISIONS

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### § 10.01 TITLE OF CODE.

All ordinances of a permanent and general nature of the county, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the “Henry County Code,” for which designation “Code of Ordinances,” “Codified Ordinances” or “Code” may be substituted. Code title, chapter and section headings do not constitute any part of the law as contained in the code.

### § 10.02 INTERPRETATION.

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.

### § 10.03 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.

### § 10.04 CONSTRUCTION OF CODE.

(A) This code is a codification of previously existing laws, amendments thereto and newly enacted laws. Any previously existing law or amendment thereto reenacted by this code shall continue in operation and effect, as if it had not been repealed by this code. All rules and regulations adopted under laws reenacted in this code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and reenacted by this code is continued only for the period designated in the original enactment of that appropriation.

(C) The numerical order and position of sections in this code does not resolve a conflict between two or more sections.

(D) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted. The section most recently enacted supersedes any conflicting section or division.

(E) All references within a section of this code to any section of previously existing laws refer to the numbers in the original enactment.

(F) (1) The numerical designations and descriptive headings assigned to the various titles, chapters, subchapters or sections of this code, as originally enacted or as added by amendment, are not law, and may be altered by the compilers of this or any subsequent codification, in any official publication, to more clearly indicate its content. These descriptive headings are for organizational purposes only and do not affect the meaning, application or construction of the law they precede.

(2) Each note following a section of this code is for reference purposes only and is not a part of the section.

(G) All references to any section of this code refer to all subsequent amendments to that section, unless otherwise provided.  
(I.C. 1-1-1-5)

## **§ 10.05 RULES OF INTERPRETATION; DEFINITIONS.**

(A) *Rules of interpretation.* This code shall be construed by the following rules unless the construction is plainly repugnant to the legislative intent or context of the provision.

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

(2) Words imputing joint authority to three or more persons shall be construed as imputing authority to a majority of the persons, unless otherwise declared in the section giving the authority.

(3) Where a section requires an act to be done which, by law, an agent or deputy may perform in addition to the principal, the performance of the act

by an authorized deputy or agent is valid.

(4) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

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

**AGENCY.** When used to designate a subordinate element of government shall mean and be construed as including all offices, departments, institutions, boards, commissions and corporations of the county government and when so specified, all offices, departments, institutions, boards, commissions and corporations which receive or disburse county funds.

**BOARD.** Whenever the words **BOARD OF COMMISSIONERS, THIS BOARD** or **THE BOARD** are used, the words shall be construed to mean the executive governing body of the County of Henry, Indiana.

**BOARD OF ZONING APPEALS.** The Board established pursuant to I.C. 36-7-4-900 which has the authority to hear and determine appeals regarding orders, requirements, decisions or determinations in relation to a zoning ordinance and which has the authority to approve or deny all special exceptions, special uses, contingent uses and conditional uses.

**COMMISSION.** The Plan Commission.

**COMPUTATION OF TIME.** When a statute requires that a notice be given, or any other act be done, no later than a certain period of time before the filing of any motion or the commencement of any proceeding, the computation of the period shall not include the day for the filing of the motion or for the commencement of the proceeding, but may include the day on which the notice is given, or on which the act is done. When a statute requires that a notice be given or any other act be done, within a certain period of time after the occurrence of any event or after the commencement of any proceeding, the computation

of the period shall not include the day on which the event occurred or on which any proceeding commenced, but shall include the day on which the notice is to be given, or on which the act is to be done.

**COUNTY.** Henry County, Indiana.

**COUNTY COUNCIL.** The financial body.

**COUNTY EXECUTIVE.** The Board of Commissioners of Henry County.

**DESIGNEE.** Following an official of the county, the authorized agent employee or representative of the official.

**HIGHWAY.** Includes bridges, roads and streets unless otherwise expressly provided.

**I.A.C.** Rules and regulations found in the Indiana Administration Code.

**I.C.** State law found in the Indiana Code.

**MONTH.** One calendar month.

**NUMBER.** A word importing the singular number only, may, where the context requires, extend and be applied to several persons or things as well as to one person or thing; a word importing the plural number only, may, where the context requires, extend and be applied to one person or thing, as well as to several persons or things.

**ORDINANCES and RESOLUTIONS.** The ordinances and resolutions of the County of Henry and all amendments including this code and its supplements.

**OWNER.** As applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or a part of the building or land.

**PERSON.** Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee or receiver. 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.

**PLAN COMMISSION.** The Commission established to carry out the duties of I.C. 36-7-4-401 *et seq.*, as it may be amended from time to time.

**PRECEDING and FOLLOWING.** When referring to sections or divisions in this code, the sections or divisions next following or next preceding that in which the words occur unless some other section is designated.

**PRIVATE PROPERTY.** Property not owned by a public entity.

**PUBLIC PLACE.** Any public street, road, highway, alley, lane, sidewalk, crosswalk or other public way, or any public property, or any shopping center whose owners have entered into a contract with the county pursuant to I.C. 36-7.

**QUORUM.** A majority of the members of a board, commission, committee or council holding office, unless otherwise specifically provided in this code.

**REAL PROPERTY.** Land, tenements and hereditaments.

**REASONABLE TIME.** In all cases where any provision shall require any act to be done in a reasonable time or reasonable notice to be given to any person, the **REASONABLE TIME OR NOTICE** shall be deemed to mean time only as may be necessary in the prompt execution of the duty, or compliance with the notice.

**REGISTERED MAIL.** Certified mail with return receipt requested.

**SIDEWALK.** Any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians.

**STATE LAW REFERENCES.** The Indiana Code (I.C.) and any subsequent amendments.

**STREET.** All roads, highways, avenues, lanes, alleys, courts, squares, boulevards, viaducts or other public ways in the county which have been or may hereafter be dedicated and open to public use for

vehicular traffic.

***SUBSTANTIAL PROPERTY INTEREST.***

Any right in real property that may be affected in a substantial way by actions authorized by planning and development laws of the state, including a fee interest, a life estate, a future interest, a present possessory interest or an equitable interest of a contract purchaser.

***TENANT*** and ***OCCUPANT.*** Applied to a building or land, include any person holding a written or oral lease of, or who occupies the whole or a part of the building or land, either alone or with others.

***TIME.*** Includes words used in the past or present tense and includes the future as well as the past and present.

***TOWNSHIP.*** The township or townships in which the county is located.

***WILL.*** A mandatory direction.

***WORDS AND PHRASES.*** According to the common and approved usage of the language, but technical words and phrases and others that have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to the meaning.

***WRITTEN*** and ***IN WRITING.***

(a) Printing, lithographing or other modes of representing words and letters.

(b) Where the written signature of a person is required, the terms mean the proper handwriting of the person or the person's mark.

***YEAR.*** One calendar year unless otherwise expressly provided.  
(I.C. 1-1-4-5)

**§ 10.06 SEVERABILITY.**

(A) If any section of this code now enacted or subsequently amended or its application to any person or circumstances is held invalid, the invalidity does not affect other sections that can be given effect without the invalid section or application.

(B) Except in the case of a section or amendment to this code containing a nonseverability provision, each division or part of every section is severable. If any portion or application of a section is held invalid, the invalidity does not affect the remainder of the section unless:

(1) The remainder is so essentially and inseparably connected with and so dependent upon the invalid provision or application that it cannot be presumed that the remainder would have been enacted without the invalid provision or application; or

(2) The remainder is incomplete and incapable of being executed in accordance with the legislative intent without the invalid provision or application.

(C) This section applies to every section of this code regardless of whether a section was enacted before or after the passage of this code.  
(I.C. 1-1-1-8)

**§ 10.07 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.

**§ 10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS.**

(A) *Reference to offices.* Reference to a public office or officer shall be deemed to apply to any office, officer or employee of this county exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

(B) *Name designations.* Whenever any ordinance or resolution of the County Board of Commissioners or County Council refers to any board, bureau, commission, division, department, officer, agency, authority or instrumentality of any government, and that name designation is incorrectly stated; or at the time of the effective date of that ordinance or subsequent thereto, the rights, powers,

duties or liabilities placed with that entity are or were transferred to a different entity; then the named board, bureau, commission, department, division, officer, agency, authority or instrumentality, whether correctly named in the ordinance at its effective date or not, means that correctly named entity, or the entity to which the duties, liabilities, powers and rights were transferred.  
(I.C. 1-1-6-1)

#### **§ 10.09 ERRORS AND OMISSIONS.**

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 which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the 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. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

#### **§ 10.10 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 a Saturday, Sunday or a state holiday, it shall be excluded.

#### **§ 10.11 REPEAL OR MODIFICATION OF CODE SECTION.**

When a section of this code is repealed which repealed a former section or law adopted prior to the enactment of this code, the former section or law is not revived unless it so expressly provides. The

repeal of any section shall not extinguish or release any penalty, forfeiture or liability incurred under the section, unless the repealing section so expressly provides. The section shall be treated as still remaining in force for the purposes of sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture or liability.  
(I.C. 1-1-5-1)

#### **§ 10.12 LIMITATION PERIODS.**

The running of any period of limitations or any requirement of notice contained in any law, whether applicable to civil causes or proceedings, or to the prosecution of offenses, or for the recovery of penalties and forfeitures, contained in a law repealed and reenacted by this code, shall not be affected by the repeal and reenactment; but all suits, proceedings and prosecutions for causes arising or acts committed prior to the effective date of this code may be commenced and prosecuted with the same effect as if this code had not been enacted.

##### ***Statutory reference:***

*Periods of limitation, see I.C. 1-1-1-7*

#### **§ 10.13 ORDINANCES UNAFFECTED.**

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.

#### **§ 10.14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to an indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

**§ 10.15 SECTION HISTORIES; STATUTORY REFERENCES.**

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

(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. 36-5-2-2)

(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 for further information. Example:

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(C) If a section of this code is derived from the previous code of ordinances of the county published in a previous year and subsequently amended, the previous code section number shall be indicated in the history by “(Prior Code, § \_\_\_\_).”

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**§ 10.16 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.**

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All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

**§ 10.99 GENERAL PENALTY.**

(A) 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 the following:

(1) A fine not exceeding \$2,500 for the first violation; and

(2) A fine not exceeding \$7,500 for second and subsequent violations, except for violations of ordinances regulating traffic and parking.

(B) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.

***Statutory reference:***

*Authority, see I.C. 36-1-3-8(a)(10)*

