

**TITLE I: GENERAL PROVISIONS**

Chapter

**10. GENERAL PROVISIONS**



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### **§ 10.01 TITLE OF CODE.**

This codification of ordinances by and for Howard County, Indiana, shall be designated as the “Code of Howard County” and may be so cited.  
(’83 Code, § 10.01)

**§ 10.02 INTERPRETATION.**

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

(83 Code, § 10.02(A))

**§ 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.

(83 Code, § 10.03)

**§ 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existing law or amendment thereto re-enacted by this code shall continue in operation and effect as if it had not been repealed by this code. All rules and regulations adopted under laws re-enacted in this code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and re-enacted by this code is continued only for the period designated in the original enactment of that appropriation.

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(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(D) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted.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.

(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) All references within a section of this code to any section of previously existing law refer to the new code numbers assigned to that law.

(G) (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and descriptive headings assigned to the various titles, chapters, subchapters or sections of this code, as originally enacted or as added by amendment, are not law and may be altered by the compilers of this or any subsequent codification in any official publication to more clearly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. The 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.

(H) 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 such 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 such persons, unless otherwise declared in the section giving such 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.

***BOARD OF COMMISSIONERS.*** The Board of County Commissioners.

***CLERK.*** The Clerk of the County.

***CODE*** or ***CODE OF ORDINANCES.*** The Howard County Code of ordinances as modified by amendment, revision and adoption of new titles, chapters or sections.

***COUNCIL.*** The County Council.

***COUNTY.*** Howard County, Indiana.

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

**MAY.** The term is permissive.

**MONTH.** One calendar month.

**OWNER.** Applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership or joint tenant of the whole or a part of the building or land, either alone or with others.

**PERSON.** An individual, firm, corporation, association, fiduciary or governmental entity.

**PERSONAL PROPERTY.** Includes every type of property except real property.

**POLICE DEPARTMENT.** Means the Police Department of the county, and may also be referred to as the Police Force.

**POPULATION.** The population according to the most recent federal special or decennial census. This definition applies even if the reference is to the most recent federal decennial census.

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

**PROPERTY.** Includes both real and personal property.

**REAL PROPERTY.** The term includes all lands, tenements and hereditaments.

**SHALL.** The term is mandatory.

**SIDEWALK.** That portion of a street between the curb lines of the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

**STATE.** The State of Indiana.

**STREET.** Except as may otherwise be provided in the Traffic Code, the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public as a matter of right.

**WRITTEN** and **IN WRITING.** Shall include printing, lithographing or other modes of representing words and letters. 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.  
(^83 Code, § 10.05)

**Cross-reference:**

*State definitions, see 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.

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(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.

(D) The provisions of this act are severable in the manner provided by I.C. 1-1-1-8(b).

(E) The repeal of a statute stating that the provisions of an act are severable as provided in division (B) does not affect the operation of division (B) with respect to that act.  
(I.C. 1-1-1-8) (^ 83 Code, § 10.09)

**§ 10.07 REFERENCE TO OTHER SECTIONS.**

Whenever in one section reference is made to another section hereof, such 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.  
(^ 83 Code, § 10.10)

**§ 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.  
(^ 83 Code, § 10.11)

(B) *Name designations.* Whenever any county ordinance or resolution 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 resolution or subsequent thereto, the rights, powers, duties or liabilities placed with that entity are or were transferred to a different entity, then such named board, bureau, commission, department, division, officer, agency, authority or instrumentality, whether or not correctly named in the ordinance or resolution

at its effective date, means that correctly named entity or the entity to which such 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 such intent, such spelling shall be corrected and such 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 such error.  
(^83 Code, § 10.12)

**§ 10.10 OFFICIAL TIME; REASONABLE TIME.**

(A) The official time, as established by applicable state and federal law, shall be the official time within the county of the transaction of all county business.  
(^83 Code, § 10.13)

(B) 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 such act or the giving of such notice.

(C) 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 is a Sunday, it shall be excluded.  
(^83 Code, § 10.14)

**§ 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 such section unless the repealing section so expressly provides. Such section shall be treated as still remaining in force for the purposes of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture or liability.

(I.C. 1-1-5-1) (83 Code, § 10.07)

**§ 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 re-enacted by this code shall not be affected by the repeal and re-enactment, 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.  
(83 Code, § 10.16)

**§ 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 such chapter or section. In addition to such 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.

(83 Code, § 10.18)

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

(A) (1) As histories for the code sections, the specific number and passage date of the original ordinance and the three most recent amending ordinances, if any, are listed following the text of the code section.

*Example:* (Ord. 1960-1, passed 1-1-60; Am. Ord. 1970-1, passed 1-1-70; Am. Ord. 1980-1, passed 1-1-80; Am. Ord. 1985-1, passed 1-1-85)

(2) The designation “BCC” indicates an ordinance originally enacted by the Board of County Commissioners, while “CC” indicates an ordinance originally enacted by the County Council.

*Example:* (BCC Ord. 1980-1, passed 1-1-80)  
(CC Ord. 1985-1, passed 1-1-85)

(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) (Ord. 1980-1, passed 1-1-80; Am. Ord. 1985-1, passed 1-1-85)

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(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:* § 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:***

*For provisions concerning 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 1983 and subsequently amended, the 1983 code section number shall be indicated in the history.

*Example:* (83 Code, § 30.01)

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

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 and the 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 right-of-ways, 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.

**§ 10.98 ORDINANCE VIOLATIONS BUREAU; SCHEDULE OF CIVIL PENALTIES.**

(A) There is hereby established an Ordinance Violations Bureau, and the Clerk of the Howard Circuit Court, by virtue of office, is hereby appointed

the Violations Clerk to be the administrator of the Bureau. The Violations Clerk shall serve without any additional salary.

(B) The Violations Clerk may accept written appearances, waivers of trial, admission of violations, and payment of civil penalties of not more than \$100 in ordinance violation cases, subject to the schedule herein prescribed.

(C) Upon the admission of a violation, the following civil penalties shall be assessed:

(1) Parking violations, first offense - \$10.

(2) Parking violations, second offense and subsequent offenses - \$25.

(3) Dog ordinance violations (Chapter 90), citations only, first offense - \$10.

(4) Dog ordinance violations (Chapter 90), citations only, for each subsequent offense - \$10 plus \$5 for each subsequent offense.

(5) Violation of § 130.03 in the amount of \$50 for the first violation, and the amount of \$75 for each subsequent violation.

(D) Nothing in this section shall be construed to limit the rights of trial to a person charged with an ordinance violation. If a person charged with an ordinance violation wants to exercise the right to trial, the person shall appear before the Violations Clerk and deny the violation or enter a written denial with the Violations Clerk.

(E) If a person denies an ordinance violation, fails to satisfy a civil penalty assessed by the Violations Clerk after having entered an admission of violation, or fails to deny or admit the violation, the Violations Clerk shall report this fact to the County Attorney, who may then initiate proceedings in court against the person for the alleged ordinance violation.

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(F) Nothing contained in this section shall be construed to limit the county from proceeding to enforce any ordinance by a separate proceeding or to limit the civil penalty which may be assessed by or through such separate proceedings.

(G) Any other ordinance of the county, to the extent that is in direct conflict with this section, is repealed to that extent only.

(H) All sums collected by the Violations Clerk as civil penalties for ordinance violations shall be accounted for and paid to the County Treasurer for deposit in the county's General Fund.  
(BCC Ord. 1988-8, passed 6-20-88; Am. Ord. 1999-BCC-35, passed 8-16-99)

**Cross-reference:**

*Dog regulations, see Chapter 90*

*Parking schedules, see Chapter 72*

**Statutory reference:**

*Ordinance Violations Bureau authorized, see  
I.C. 33-6-3-1 et seq.*

**§ 10.99 GENERAL PENALTY.**

Except as otherwise provided in § 10.98, 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. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(83 Code, § 10.99)

***Statutory reference:***

*Power to prescribe fines up to \$2,500, see  
I.C. 36-1-3-8(a)(10)*

