

INTRODUCED: 05/04/2009

REFERRED TO: Rules and Public Policy Committee

SPONSOR: Councillors Plowman, Nytes, B. Mahern and D. Mahern

DIGEST: amends the Code to establish a new city department of code enforcement, to consolidate into two sections the various fees to be collected by the new department, and to make corresponding technical corrections

SOURCE:

Initiated by: Office of the Mayor

Drafted by: Mark A. Mertz, Assistant Corporation Counsel

LEGAL REQUIREMENTS FOR ADOPTION:

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL: \_\_\_\_\_



Date: April 30, 2009

CITY-COUNTY GENERAL ORDINANCE NO. \_\_\_\_\_, 2009

PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code to establish a new city department of code enforcement, to consolidate into two sections the various fees to be collected by the new department, and to make corresponding technical corrections.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Title I of the "Revised Code of the Consolidated City and County," regarding organization and administration, hereby is amended by the addition of a NEW Chapter 226, to read as follows:

Chapter 226

**DEPARTMENT OF CODE ENFORCEMENT**

**ARTICLE I. DEPARTMENT ESTABLISHED**

**Sec. 226-101. Department established.**

There hereby is created a department of code enforcement for the consolidated city as provided by IC 36-3-4-23.

**Sec. 226-102. Powers and duties.**

It shall be the responsibility of the department of code enforcement to effectively and strategically enforce those portions of this Code as provided in this chapter, for the purpose of improving the quality of life in the city and county.

**ARTICLE II. ORGANIZATION**

**Sec. 226-201. Director.**

The director of the department of code enforcement shall be appointed by the mayor, subject to the approval of the city-county council as required by IC 36-3-5-2, to serve at the pleasure of the mayor for a term ending December thirty-first of the year the appointment is effective and until a successor is appointed and qualified.

**Sec. 226-202. Duties of the director.**

The director of the department of code enforcement shall:

- (1) Supervise and coordinate the activities of divisions within the department;
- (2) Oversee the daily operations of the department;
- (3) Prepare and submit the department's budget to the controller as required by IC 36-3-6-4;
- (4) Appoint a deputy director to manage each division subject to the approval of the mayor as provided in IC 36-3-5-5, and approve the appointment of bureau administrators as provided in Article III of this chapter;
- (5) Approve the hiring and dismissal of the personnel of the department subject to the limitations prescribed by law and rules adopted by the mayor as provided in IC 36-3-5-5(c);
- (6) Manage the personnel of the department;
- (7) Delegate to the personnel of the department authority to act on behalf of the director as provided in IC 36-3-5-5(c);
- (8) Execute contracts subject to the authority of the mayor and any other limitations prescribed by law;
- (9) Procure for the consolidated city a set of the weights and measures provided in IC 24-6-2-1; and
- (10) Exercise any other powers that may be granted by statute or ordinance or delegated by the mayor.

**Sec. 226-203. Divisions and bureaus.**

The department of code enforcement shall be composed of the following divisions and bureaus, as provided in Article III and Article IV of this chapter:

- (1) The division of administration, logistics and permits, which shall be composed of:
  - a. The bureau of administration and financial services;
  - b. The bureau of logistical services; and
  - c. The bureau of license and permit services;and
- (2) The division of inspections, which shall be composed of:
  - a. The bureau of construction services;
  - b. The bureau of environmental services; and
  - c. The bureau of property safety and maintenance services.

**Sec. 226-204. Board of code enforcement.**

(a) *Established.* There hereby is established a board of code enforcement pursuant to IC 36-3-4-23.

(b) *Members.* The board shall be composed of five (5) members: the department director, who serves as presiding officer of the board; two (2) members appointed by the mayor; and two (2) members appointed by the city-county council. Each appointed member shall serve a one-year term and until his or

her successor is appointed and qualified, but serves at the pleasure of the appointing authority. In the event of a vacancy prior to the expiration of a term, the appointing authority shall appoint a member for the remainder of the unexpired term.

(c) *Meetings.* The board shall hold regular meetings at least once a month, at times and places prescribed by its rules or established by resolution. No notice to members is required for holding or taking any action at a regular meeting. A special meeting of the board may be called by the presiding officer or by two-fifths (2/5) of the members, at any place in the county designated in the call. Each member shall be notified of the time and place of such a meeting by written notice that must be delivered, mailed or sent by other expedient means so that each member has at least seventy-two (72) hours' notice of the meeting. The notice requirements may be waived as to a member if he or she attends the meeting or executes a written waiver of notice. The waiver may be executed either before or after the meeting, but if executed after, it must state in general terms the purpose of the meeting.

(d) *Board action.* A majority of all the members of the board constitutes a quorum. A majority vote of all the board members is required to pass a resolution.

(e) *Powers.* The board of code enforcement shall have the following powers:

- (1) To review all budgets prepared by the department and recommend to the city-county council any revisions the board feels desirable;
- (2) To hold any hearings to be held following public notice and make findings and determinations required by applicable law;
- (3) To approve the award and amendment of contracts let by the department for the purchase or lease of capital equipment or other property where the contract is required to be bid under IC 5-22;
- (4) To approve the award and amendment of public construction contracts let by the department that are required to be bid under IC 36-1-12;
- (5) To approve the acquisition of and leases for real estate by the department;
- (6) To approve the employment of persons engaged by the department by contract to render professional or consulting services;
- (7) To establish fees for licenses and permits issued by, and for inspections conducted by, the department, as provided by the city-county council;
- (8) To review decisions of the license administrator or other official as provided in Section 801-432 of the Code; and
- (9) To exercise any other powers granted to the board of code enforcement by ordinance or by the mayor.

### **ARTICLE III. DIVISION OF ADMINISTRATION, LOGISTICS, LICENSES AND PERMITS**

#### **Sec. 226-301. Division established; powers and duties.**

The division of administration, logistics, licenses and permits hereby is established within the department of code enforcement. The division shall be managed by a deputy director who is appointed by and serves at the pleasure of the director. The division shall be composed of the bureaus established in this Article, and shall have the powers and duties assigned to such bureaus as well as other powers and duties granted by statute or ordinance or delegated by the mayor.

#### **Sec. 226-302. Bureau of administration and financial services.**

(a) The bureau of administration and financial services hereby is established within the division of administration, logistics, licenses and permits. The bureau shall be managed by an administrator who is appointed by and serves at the pleasure of the deputy director of the division, subject to the approval of the director.

(b) The bureau of administration and financial services shall have the powers and duties to:

- (1) Provide administrative support for the department;
- (2) Provide various financial services including annual budget preparation, annual audit coordination, payroll services, and other accounting and operational support for the department; and
- (3) Exercise such other powers and duties granted by statute or ordinance or delegated by the mayor or department director.

**Sec. 226-303. Bureau of license and permit services.**

(a) The bureau of license and permit services hereby is established within the division of administration, logistics, licenses and permits. The bureau shall be managed by an administrator, known as the license administrator, who is appointed by and serves at the pleasure of the deputy director of the division, subject to the approval of the director.

(b) The bureau of license and permit services shall have the powers and duties that it is authorized or required to exercise under this Code, including but not limited to those powers and duties with respect to the issuance of licenses, registrations, and permits, as provided in the following provisions of the Code:

- (1) Chapter 391, regarding nuisances;
- (2) Chapter 536, regarding buildings and construction;
- (3) Chapter 561, regarding drainage and sediment control;
- (4) Chapter 591, regarding fire prevention and protection;
- (5) Chapter 611, regarding motor vehicles;
- (6) Chapter 645, regarding public rights-of-way;
- (7) Chapter 671, regarding sewers and sewage disposal;
- (8) Chapter 701, regarding trees and flora;
- (9) Chapter 730, Article III, regarding improvement location permits; and,
- (10) Title IV, regarding business and commercial regulations and licenses.

**Sec. 226-304. Bureau of logistical services.**

(a) The bureau of logistical services hereby is established within the division of administration, logistics, licenses and permits. The bureau shall be managed by an administrator who is appointed by and serves at the pleasure of the deputy director of the division, subject to the approval of the director.

(b) The bureau of logistical services shall have the powers and duties to:

- (1) Provide logistical support to the department;
- (2) Provide various facilities, fleet, technologies, contract/vendor, information systems analyses, document management and archiving, and general operations support to the department; and

- (3) Exercise such other powers and duties granted by statute or ordinance or delegated by the mayor or the department director.

#### **ARTICLE IV. DIVISION OF INSPECTIONS**

##### **Sec. 226-401. Division established; powers and duties.**

The division of inspections hereby is established within the department of code enforcement. The division shall be managed by a deputy director who is appointed by and serves at the pleasure of the director. The division shall be composed of the bureaus established in this Article, and shall have the powers and duties assigned to such bureaus as well as other powers and duties granted by statute or ordinance or delegated by the mayor.

##### **Sec. 226-402. Bureau of construction services.**

(a) The bureau of construction services hereby is established within the division of inspections. The bureau shall be managed by an administrator who is appointed by and serves at the pleasure of the deputy director of the division, subject to the approval of the director.

(b) The bureau of construction services shall have the powers and duties to make inspections of public ways, infrastructure, and premises where a person is engaged or suspected to be engaged in construction activity, and to take other appropriate actions for the purpose of securing safe construction and ensuring proper safety and maintenance of existing structures and infrastructure.

##### **Sec. 226-403. Bureau of environmental services.**

(a) The bureau of environmental services hereby is established within the division of inspections. The bureau shall be managed by an administrator who is appointed by and serves at the pleasure of the deputy director of the division, subject to the approval of the director.

(b) The bureau of environmental services shall have the powers and duties to make inspections and otherwise enforce provisions of statutes or ordinances relating to the protection of the environment and ecology as required by statute or ordinance, or as assigned by the mayor, including but not limited to the following provisions of the Code:

- (1) Chapter 361, regarding litter;
- (2) Chapter 391, regarding nuisances;
- (3) Chapter 431, regarding streets, sidewalks and public ways;
- (4) Chapter 511, regarding air pollution;
- (5) Chapter 575, regarding environmental public nuisances;
- (6) Chapter 601, regarding garbage, trash and refuse; and
- (7) Chapter 955, regarding waste, rubbish and trash hauling.

(c) Within the bureau of environmental services, the director of code enforcement shall designate the bureau administrator or another bureau employee to be the city inspector of weights and measures as provided in IC 24-6-3-4, and subject to the council's powers as provided in IC 36-3-4-23, for the purpose of requiring and securing of dealers and other persons accurate and honest weights and measures and so to serve the public welfare. The inspector of weights and measures and other employees of the bureau who make inspections with respect to weights and measures shall:

- (1) Have special police powers as provided in Chapter 251, Art. VI of the Code;

- (2) At all times carry and present to any person, upon demand, a card inscribed with his or her name and official capacity, and upon such showing of his or her official authority he or she shall be permitted, at all reasonable times and hours, to enter any premises for the performance of his or her duties; and
- (3) Have the powers and duties to inspect and test, to the same extent and in all matters as now prescribed by statute, all articles whatsoever sold by weight or measure in the city.

**Sec. 226-404. Bureau of property safety and maintenance services.**

(a) The bureau of property safety and maintenance services hereby is established within the division of inspections. The bureau shall be managed by an administrator who is appointed by and serves at the pleasure of the deputy director of the division, subject to the approval of the director.

(b) The bureau of property safety and maintenance services shall have the powers and duties to make inspections and otherwise enforce provisions of statutes or ordinances relating to the development, condition, maintenance, or use of real estate, as required by statute or ordinance, or as assigned by the mayor, including but not limited to the following:

- (1) The powers and duties conferred on the enforcement authority by IC 36-7-9;
- (2) Chapter 536 of the Code, regarding buildings and construction;
- (3) Chapter 537 of the Code, regarding vacant building standards;
- (4) Chapters 730 through 735 of the Code, inclusive, regarding zoning; and
- (5) Chapter 953 of the Code, regarding residential rental premises.

The bureau shall have the further power, as provided in Chapter 537 of the Code or other statutes or ordinances, to conduct, or to contract with an enforcement entity to conduct, a program to issue orders to repair, board or demolish hazardous, unsafe or problem structures that contribute to urban blight.

SECTION 2. Chapter 131 of the "Revised Code of the Consolidated City and County," regarding fees, hereby is amended by the addition of a NEW Article V regarding license and permit fees, and inspection fees, to read as follows:

**ARTICLE V. LICENSE AND PERMIT FEES; INSPECTION FEES**

**Sec. 131-501. Schedule of license and permit fees.**

The following fees are established for their respective licenses and permits issued by the city or county.

<i>Code Section</i>	<i>License or Permit</i>	<i>Fee</i>
391-402	Non-commercial sound truck	\$20.00
441-364	Operation of certain trucks on certain streets	\$2.00
536-209	Additional fee when a building permit is obtained by telephone communication or facsimile machine	\$15.00
536-211	Transfer of building permit	\$50.00
536-602	Construction or placement of, or additions to, Class 2 structures for a primary Class 2 structure	The greater of (a) a minimum fee of one hundred thirty-five dollars (\$135.00), or (b) the product of five cents (\$0.05) per square foot of

		gross floor area, which shall include the area of an attached garage or carport and the area of a finished basement or attic, but exclude the area of an unfinished basement or attic
536-602	Accessory Class 2 structure appurtenant to a primary Class 2 structure	The greater of (a) a minimum fee of sixty-five dollars (\$65.00), or (b) the product of five cents (\$0.05) per square foot of gross floor area
536-602	Construction or placement of, or additions to, Class 1 structures	The greater of (a) a minimum fee of two hundred fifteen dollars (\$215.00), or (b) the product of ten cents (\$0.10) per square foot of gross floor area, each floor.
536-603	Remodeling, alteration, or repair of Class 2 structures; provided, however, that when remodeling, alteration, or repair of a Class 2 structure is accomplished at the same time as an addition to an existing structure, a single permit fee shall be determined according to section 536-602	The greater of (a) a minimum fee of sixty-five dollars (\$65.00), or (b) the lesser product of the following: <ol style="list-style-type: none"> <li>1. Fifteen dollars (\$15.00) per one thousand dollars (\$1,000.00) of the total value; or</li> <li>2. Five cents (\$0.05) per square foot of gross floor area of each floor being remodeled or altered.</li> </ol>
536-603	Remodeling, alteration, or repair of Class 1 structures	The greater of (a) a minimum fee of one hundred twenty dollars (\$120.00), or (b) the lesser product of the following: <ol style="list-style-type: none"> <li>1. Fifteen dollars (\$15.00) per one thousand dollars (\$1,000.00) of the total value; or</li> <li>2. Ten cents (\$0.10) per square foot of gross floor area of each floor being remodeled or altered.</li> </ol>
536-604	Installation of a plumbing system in a new structure or in an addition to an existing Class 1 structure	The greater of (a) a minimum fee of fifty dollars (\$50.00), or (b) fifteen (15) percent of the fee for the building permit (as provided for in section 536-602), which has been obtained for the new structure
536-604	Alteration, repair or replacement of plumbing in an existing structure or in an addition to an existing Class 2 structure	The greater of (a) a minimum fee of thirty-five dollars (\$35.00), or (b) the product of ten dollars (\$10.00) per one thousand dollars (\$1,000.00) of total value; provided, however, that the plumbing permit fee shall not exceed the structural permit fee (as provided in subsection 536-602(a) or in section 536-603)
536-604	Initial connection or reconnection of plumbing to a structure that has been removed from one (1) location and is being placed at another location or to a factory constructed building	\$40.00
536-604	Plumbing activity limited solely to replacement or installation of one (1) or more water heaters in a structure	The greater of (a) a minimum of twenty-five dollars (\$25.00), or (b) the product of ten dollars (\$10.00) per one thousand dollars (\$1,000.00) of total value
536-605	Installation of an electrical power distribution system in a new structure or in an addition to an existing structure other than a Class 2 structure	The greater of (a) a minimum fee of fifty-five dollars (\$55.00), or (b) twenty (20) percent of the fee for the building permit (as provided for in section 536-602), which has been obtained for the new structure or addition

536-605	Repair, alteration or remodeling of an electrical power distribution system in an existing structure, or in an addition to a Class 2 structure	The greater of (a) a minimum of thirty-five dollars (\$35.00), or (b) the product of ten dollars (\$10.00) per one thousand dollars (\$1,000.00) total value; provided, however, that when documentation submitted prior to the issuance of a permit indicates that the value to the structural work is greater than or equal to the value of the electrical work, the electrical permit fee shall not exceed the structural permit fee (as provided for in section 536-602(a))
536-605	Installation or replacement of space heating equipment using electricity as its primary source of energy	The greater of (a) a minimum fee of thirty-five dollars (\$35.00), or (b) the product of twenty-five cents (\$0.25) per each one thousand (1,000) Btuh of output capacity up to the first one million two hundred thousand (1,200,000) Btuh and fifteen cents (\$0.15) per each additional one thousand (1,000) Btuh
536-605	Installation or replacement of space cooling equipment using electricity as its primary source of energy	The greater of (a) a minimum fee of thirty-five dollars (\$35.00), or (b) the product of thirty-five cents (\$0.35) per one thousand (1,000) Btuh of output capacity up to the first six hundred thousand (600,000) Btuh, and fifteen cents (\$0.15) per each additional one thousand (1,000) Btuh
536-605	Installation or replacement of combined space heating and space cooling equipment using electricity as their primary source of energy	The greater of (a) a minimum fee of forty dollars (\$40.00), or (b) seventy (70) percent of the sum of both general rates provided above in subsection 536-605(c)(2) and (d)(2) as they are applied to the heating output capacity and cooling output capacity, respectively, of the combined space equipment
536-605	Initial connection or reconnection of electrical power to a structure that has been removed from one (1) location and is being placed at another location or to a factory constructed building	\$40.00
536-605	Installation, alteration, replacement or repair of a system distributing electrical power to service equipment supplying power to manufactured home located in a manufactured home park	The greater of (a) a minimum fee of forty dollars (\$40.00), or (b) ten dollars (\$10.00) per service equipment assembly located on property owned by the same person, partnership or corporation and available for inspection at one (1) time
536-605	Obtaining each "electrical craft work certificate of compliance" form, as allowed in subsection 536-404(b)	\$15.00
536-606	Installation, replacement, or addition of a heating system, space heating equipment or other types of heating transfer, or installation, replacement, alteration, or addition of duct work only	The greater of (a) a minimum fee of forty dollars (\$40.00), or (b) the product of twenty-five cents (\$0.25) per each one thousand (1,000) Btuh of input capacity up to the first one million two hundred thousand (1,200,000) Btuh, and fifteen cents (\$0.15) per additional one thousand (1,000) Btuh
536-606	Installation, addition or replacement of	The greater of (a) a minimum fee of forty

	a cooling system, space cooling equipment, or other types of cooling transfer, or installation, replacement, alteration, or addition to duct work only	dollars (\$40.00), or (b) the product of thirty-five cents (\$0.35) per each one thousand (1,000) Btuh of input capacity up to the first six hundred thousand (600,000) Btuh, and fifteen cents (\$0.15) per additional one thousand (1,000) Btuh
536-606	Installation, replacement, or addition of combined heating systems and cooling systems, combined space heating equipment and space cooling equipment, or other types of heating or cooling transfer, or installation, replacement, alteration, or addition of duct work only	The greater of (a) a minimum fee of fifty dollars (\$50.00), or (b) seventy (70) percent of the sum of both general rates provided above in subsection 536-606(a)(1)b and 536-606(b)(1)b as they are applied to the heating input capacity and cooling input capacity, respectively, of the combined systems
536-606	Refrigeration equipment	The greater of (a) a minimum of forty dollars (\$40.00), or (b) the product of thirty-five cents (\$0.35) per one thousand (1,000) Btuh of input capacity up to the first sixty thousand (60,000) Btuh and fifteen cents (\$0.15) per each additional one thousand (1,000) Btuh
536-607	Demolition or removal of primary Class 2 structures located on the same premises	If no building has more than two (2) stories above grade, the base fee is sixty-five dollars (\$65.00); and for each additional story of tallest building over two (2) stories, add twenty-five dollars (\$25.00)
536-607	Demolition or removal of accessory Class 2 structure	\$40.00
536-607	Demolition or removal of Class 1 structures with ground floor area up to two thousand (2,000) square feet	\$70.00 for each one (1) story Class 1 structure; for each additional story over one (1) story, add fifty (50) percent of the ground floor area fee
536-607	Demolition or removal of Class 1 structures Ground floor area up to four thousand (4,000) square feet	\$135.00 for each one (1) story Class 1 structure; for each additional story over one (1) story, add fifty (50) percent of the ground floor area fee
536-607	Demolition or removal of Class 1 structures with ground floor area up to ten thousand (10,000) square feet	\$200.00 for each one (1) story Class 1 structure; for each additional story over one (1) story, add fifty (50) percent of the ground floor area fee
536-607	Demolition or removal of Class 1 structures with ground floor area up to twenty thousand (20,000) square feet	\$285.00 for each one (1) story Class 1 structure; for each additional story over one (1) story, add fifty (50) percent of the ground floor area fee
536-607	Demolition or removal of Class 1 structures with ground floor area over twenty thousand (20,000) square feet	\$560.00 for each one (1) story Class 1 structure; for each additional story over one (1) story, add fifty (50) percent of the ground floor area fee
536-607	Demolition or removal of smokestacks, aboveground storage tanks, overhead hoppers, or other similar structures	\$160.00
536-608	Master permit	The sum of the fees (calculated according to the fees assigned in this section to sections 536-602, 536-603, 536-605, 536-606, and 536-

		607) for the structural and craft work for which the master permit is issued
536-612	General construction permit, where not adequately specified by this section or other sections of chapter 536	The greater of (a) forty dollars (\$40.00) if for residential or fifty dollars (\$50.00) if for anything other than residential, or (b) ten dollars (\$10.00) per one thousand dollars (\$1,000.00) of total value
536-615	Amendment of a building permit that requires submittal of additional plans, but does not cause the building permit fee to increase	\$50.00
536-616	Building permit renewal after expiration	\$50.00
536-619	Additional service fee for applying for all demolition, master, sign, structural, and infrastructure related permits	\$25.00
536-620	Plan review of a primary or accessory Class 2 structure that is less than two thousand (2,000) square feet	\$25.00
536-620	Plan review of a primary or accessory Class 2 structure that is two thousand (2,000) square feet or more	\$50.00
536-620	Plan review of a Class 1 structure that is less than two thousand five hundred (2,500) square feet	\$125.00 base fee, provided that review time in excess of one (1) hour shall be billed at seventy-five dollars (\$75.00) per hour in addition to the base fee
536-620	Plan review of a Class 1 structure that is two thousand five hundred (2,500) square feet or more but less than five thousand (5,000) square feet	\$175.00 base fee, provided that review time in excess of two (2) hours shall be billed at seventy-five dollars (\$75.00) per hour in addition to the base fee
536-620	Plan review of a Class 1 structure that is five thousand (5,000) square feet or more but less than ten thousand (10,000) square feet	\$225.00 base fee, provided that review time in excess of three (3) hours shall be billed at seventy-five dollars (\$75.00) per hour in addition to the base fee
536-620	Plan review of a Class 1 structure that is ten thousand (10,000) square feet or more	\$300.00 base fee, provided that review time in excess of four (4) hours shall be billed at seventy-five dollars (\$75.00) per hour in addition to the base fee
575-7	Administrative fee for abatement of environmental public nuisance	\$226.00
601-8	Operation of sanitary landfill	\$100.00
<del>611-307</del>	<del>Towing of abandoned vehicle</del>	<del>\$25.00</del>
<del>611-307</del>	<del>Per day storage of abandoned vehicle</del>	<del>\$10.00</del>
645-548	Right-of-way overhead or subsurface use	A minimum of \$5.00, plus additional fees varying from a minimum of \$10.00 to a maximum of \$200.00
645-579	Encroachment	\$100.00
671-22	Extension of sewer connection permit	\$30.00

671-22	Amendment of sewer connection permit	\$30.00
671-22	Transfer of sewer connection permit	\$30.00
671-122	Private disposal facility	\$100.00
671-159	Extension of sanitary sewer construction permit	\$30.00
671-167	Amendment of sanitary sewer construction permit	\$30.00
671-170	Transfer of a sanitary sewer construction permit	\$30.00
807-203	Adult entertainment business	\$75.00
831-2	Amusement location	\$20.00
836-2	Kennel, pet shop, or stable	\$25.00
875-701	Listing a sole proprietor, partnership or corporation as a general contractor, or for licensing a person, sole proprietor, partnership or corporation as an electrical contractor, heating and cooling contractor or wrecking contractor: new listing or license	\$395.00
875-701	Listing a sole proprietor, partnership or corporation as a general contractor, or for licensing a person, sole proprietor, partnership or corporation as an electrical contractor, heating and cooling contractor or wrecking contractor: renewal of listing or license	\$315.00
875-701	Listing a sole proprietor, partnership or corporation as a general contractor, or for licensing a person, sole proprietor, partnership or corporation as an electrical contractor, heating and cooling contractor or wrecking contractor: new listing or license that has a duration for a period from three hundred sixty-five (365) days to five hundred forty-eight (548) days	\$295.00
875-701	Listing a sole proprietor, partnership or corporation as a general contractor, or for licensing a person, sole proprietor, partnership or corporation as an electrical contractor, heating and cooling contractor or wrecking contractor: new listing or license that has a duration from one (1) to three hundred sixty-four (364) days	\$200.00

875-701	Registration of state licensed plumbing contractors who are sole proprietors, and individuals within a corporation who are eligible to secure permits: new registration	\$160.00
875-701	Registration of state licensed plumbing contractors who are sole proprietors, and individuals within a corporation who are eligible to secure permits: renewal of registration	\$125.00
875-701	Registration of state licensed plumbing contractors who are sole proprietors, and individuals within a corporation who are eligible to secure permits: new registration that has a duration from three hundred sixty-five (365) days to five hundred forty-eight (548) days	\$120.00
875-701	Registration of state licensed plumbing contractors who are sole proprietors, and individuals within a corporation who are eligible to secure permits: New registration that has a duration from one (1) to three hundred sixty-four (364) days	\$80.00
875-701	Additional names of persons eligible to secure permits for a contractor	\$65.00
881-7	Dance permit	\$75.00
881-7	Annual dance license	\$80.00
886-8	Fire extinguisher service company	\$25.00
895-1	Horse-drawn carriage	\$20.00
901-3	Hotel	\$20.00
903-102	Pedal cabs	\$20.00
909-103	Lobbyist	\$100.00
911-6	Massage parlor, bathhouse, escort service, body painting studio or nude modeling studio	\$250.00
911-6	Massage therapist, escort, body painting model or nude model	\$25.00
931-201	Commercial parking facility	\$20.00
936-2	Public pay telephone	\$52.00
951-104	Pawnbroker	\$200.00 for each place of business of licensee
951-301	Secondhand motor vehicle business	\$20.00
951-404	Dealers in salvage or scrap metal	\$200.00 for each place of business of licensee
955-1	Trash hauling	\$20.00
961-204	Vendor cart in franchise zone	\$150.00

961-204	Vendor cart in commercial franchise zone	\$100.00
961-205	Vendor cart in franchise zone – renewal	\$100.00
961-205	Vendor cart in commercial franchise zone – renewal	\$50.00
961-209	Vendor cart transfer	\$25.00
961-303	Vendor cart franchise zone drawing	\$25.00
961-503	Special event	\$25.00
961-503	Special event requiring fire department personnel or apparatus	\$100.00
961-702	Sidewalk café	\$169.00
987-102	Transient merchant	\$20.00
996-25	Taxicab operator	\$20.00
996-47	Public vehicle for hire	\$100.00

**Sec. 131-502. Schedule of inspection fees.**

The following fees are established for their respective inspections conducted by the city or county.

<i>Code Section</i>	<i>Inspection</i>	<i>Fee</i>
536-503	Building inspection of premises upon which municipally licensed activities are to be carried out (initial inspection and annual reinspection)	\$85.00
536-503	Fire inspection of premises upon which municipally licensed activities are to be carried out (initial inspection and annual reinspection)	\$84.00
536-609	Building and construction administrative fee	\$125.00
536-612	General construction inspection, where not adequately specified by this section or other sections of chapter 536	The greater of (a) forty dollars (\$40.00) if for residential or fifty dollars (\$50.00) if for anything other than residential, or (b) ten dollars (\$10.00) per one thousand dollars (\$1,000.00) of total value
536-617	Accelerated inspection option for a same day inspection	\$150.00
536-617	Accelerated inspection option for a next day inspection	\$100.00
536-617	Accelerated inspection option for a next day inspection at a scheduled time	\$150.00
536-617	Accelerated inspection option for a weekday after 5:00 p.m. or weekend inspection	\$400.00
996-47	Public vehicle for hire	\$65.00 for an initial inspection of the taxicab

		and, if the initial inspection reveals that the taxicab does not comply with the motor vehicle equipment requirements of IC 9-19 and section 996-123 of the Code, \$35.00 for any subsequent inspection
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SECTION 3. Section 151-25 of the "Revised Code of the Consolidated City and County," which enumerates the standing committees of the council, hereby is amended by the addition of the language that is underscored, to read as follows:

**Sec. 151-25. Standing committees enumerated.**

The standing committees of the council shall be as follows:

- (1) The administration and finance committee;
- (2) The community affairs committee;
- (3) The economic development committee;
- (4) The ethics committee;
- (5) The metropolitan development and code enforcement committee;
- (6) The municipal corporations committee;
- (7) The parks and recreation committee;
- (8) The public safety and criminal justice committee; and
- (9) The public works committee.

SECTION 4. Section 151-79 of the "Revised Code of the Consolidated City and County," regarding special procedures for rezoning ordinances, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 151-79. Special procedures for rezoning ordinances.**

(a) *Application.* Proposals for changing the zone maps incorporated by reference into the Marion County zoning ordinance may be amended or rejected only after the council holds a public hearing pursuant to IC 36-7-4-608. Whenever pursuant to IC 36-7-4-608 the council schedules such a public hearing, the rules set forth in this section shall apply.

(b) *Prehearing procedures.* After such public hearing is scheduled by vote of the council, a preliminary investigation shall proceed as follows:

- (1) The general counsel shall notify the administrator of the division of ~~development services~~ planning within two (2) days after a rezoning hearing is scheduled, and the administrator shall distribute in writing to all ~~councilmembers~~ councillors and the general counsel the staff comments and any other information deemed by him or her relevant to the matter to be heard. Such materials shall be mailed or delivered at least seven (7) days prior to the hearing date.
- (2) Any interested party may distribute any relevant written materials to ~~councilmembers~~ councillors, provided all such information is distributed to all ~~councilmembers~~ councillors. Such materials will be distributed to ~~councilmembers~~ councillors by the clerk's staff if thirty-five (35) copies are delivered at the staff conference provided in paragraph (3) of this subsection.
- (3) The general counsel shall conduct a preliminary staff conference on all rezoning petitions on the Wednesday immediately preceding the scheduled hearing beginning at 2:00 p.m. in the clerk's

offices, unless the petitioners and remonstrators agree to a different time. The petitioners and any remonstrators each shall be represented at such conference by not more than two (2) persons for each side, one (1) of whom may be their attorney.

- (4) The purpose of the staff conference shall be to ensure agreement as to the procedures for the public hearing, to promote agreement on order of presentation, to list witnesses and exhibits, to narrow issues to be heard, and to consider compromises, which can be implemented by modifications of petitioners' commitments.
- (5) If the petitioners and remonstrators compromise their differences and advise the general counsel of such settlement prior to release of the preliminary agenda for the meeting at which such public hearing has been scheduled, the preliminary agenda shall indicate that a proposed settlement has been reached.

(c) *Action on prehearing settlements.* If the petitioners and remonstrators negotiate a compromise ~~which~~ that can be implemented by petitioners' modification of commitments and such settlement is acceptable to the councillor who requested the public hearing, the petitioners shall file executed copies of the revised or additional commitments with the metropolitan development commission and the clerk of the council. If such commitments are filed prior to the commencement of the public hearing, it shall be in order to move for a vote on the rezoning proposal subject to the modified commitments without full public hearing. If such motion is made, any person still desiring to be heard shall have two (2) minutes each to explain why a full public hearing should still be held by the council. If that motion fails, the council shall proceed with the public hearing under this section, but if that motion is carried, the vote shall immediately be taken on the rezoning proposal subject to the modifications of commitments filed by petitioners.

(d) *Order of public hearings:*

- (1) Councillor requesting hearing (two (2) minutes);
- (2) Petitioners' presentation (twenty (20) minutes or less);
- (3) Remonstrators' presentation (twenty (20) minutes or less);
- (4) Public comment from any citizen who has an interest distinct from that represented by petitioners or remonstrators (two (2) minutes or less each);
- (5) Petitioners to close (remainder of twenty (20) minutes if any);
- (6) Remonstrators to close (remainder of twenty (20) minutes if any);
- (7) Council questioning and debate:
  - a. Each ~~councilmember~~ councillor has the floor only once for not more than two (2) minutes; and
  - b. All questions by ~~councilmembers~~ councillors and the responses shall be counted within the time allocated in subparagraph a.;
- (8) Councillors requesting hearing have five (5) minutes to close debate; and
- (9) Hearing ends; petition is decided.

(e) *Time computation.* The petitioners and remonstrators each shall have twenty (20) minutes total per side for presentation and closing, which may be used at their discretion. All testimony, except public comment and questions by ~~councilmembers~~ councillors and the response thereto, shall be treated as part of either the petitioners' or remonstrators' time whether or not called by a party.

(f) *Additional time requests.* If either party is of the opinion that the issues are sufficiently complex to justify additional time, such request shall be made at the staff conference and decided by the council prior

to the hearing. No additional time shall be allowed after the hearing begins except by action suspending these rules.

(g) *Council vote.* After the public hearing on a proposal for a rezoning ordinance, by a vote of eighteen (18) of the members of the city-county council, the proposal is adopted or rejected as the case may be. Any vote of less than eighteen (18) shall be indecisive; and the proposal shall take effect as adopted pursuant to IC 36-7-4-608(c)(3) on the final action date (as extended).

SECTION 5. Section 202-203 of the "Revised Code of the Consolidated City and County" as amended by G. O. No. 44, 2009, regarding powers of the office of finance and management, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 202-203. Powers of the office of finance and management.**

(a) The office of finance and management shall:

- (1) Administer and be responsible for financial reporting and audits, including the establishment of accounting policies and procedures, fixed assets, budgets and purchasing for all of the city and county departments, offices and agencies, investment of cash balances for the city, and Barrett law assessment and collection functions of the city;
- (2) Prepare estimates of city and county expenditures pursuant to IC 36-3-6-4(g) and IC 36-3-6-5;
- (3) Prepare, with the assistance of the corporation counsel, proposed appropriations ordinances for the city and county and special service districts and proposed ordinances fixing the rate of taxation for the taxes to be levied for city and county departments, offices and agencies;
- (4) Examine, from time to time, the officers, departments and division heads and members of the boards of the city and county as to their organization, accounting records, personnel and other requirements, to ascertain that their respective budgets are being followed and their functions performed and recommend any improvements or economies ~~which~~ that might be made in the administrative practices of all the departments, offices and divisions of the city and county;
- (5) Ensure that accounting systems for all of the departments of the city and county are kept in accordance with generally accepted accounting principles for governments;
- (6) Provide suitable instruction for the use of forms and the methods of keeping all accounting records and preparation of all financial reports of the city and county;
- (7) Examine all contracts, purchase orders and other documents ~~which~~ that would result in or involve financial obligations of the city or county and approve the same only upon ascertaining that there is an unexpended and unencumbered balance in the account or fund from which money may be drawn for payment;
- (8) Submit a monthly financial report to the mayor, for his or her presentation to the city-county council, showing the financial condition of the various accounts and funds of the city and county, including estimated revenues, revenues received, appropriations and allotments for such appropriations, and to furnish to all of the departments, offices and agencies monthly financial reports of their fiscal conditions;
- (9) Designate banks and other financial depositories in which the funds of the city shall be deposited in accordance with applicable law and designate the municipal, state and federal securities ~~which~~ that shall constitute proper legal investments for the city;
- (10) Prescribe the time and manner in which moneys received by the city shall be deposited in the designated banks or depositories;
- (11) Make investments of all city moneys, including pension funds, sinking funds and all other funds of

the city except as otherwise provided and subject to the ordinances of the city-county council and be responsible for the preparation and sale of all bonds and securities issued by the city;

~~(12)~~ Issue all city licenses to qualified applicants upon receipt of the fee established and fixed therefor by ordinance;

~~(13)~~ Direct the administrative procedure for, and the accounting, collection and payment of, all Barrett law assessments within the limits of the city and county, attend to the enforcement of such assessments and provide for the issuance and payment of Barrett law bonds;

~~(14)~~ Sign and issue all orders for money from the various funds established under Articles I through VII, inclusive, of Revised Code Chapter 135 to the auditor. No warrants shall be made by the auditor, and no money shall be paid out by the treasurer except on such order;

~~(15)~~ Require a claim form or order to be presented to the controller from the director, administrator or officer of a department, division or office of the city or county as a requisite to issuing any order for the payment of money from funds of the city or county, and incidental thereto, the controller shall have power to require evidence that amounts claimed are justly due;

~~(16)~~ Keep a register of all bonds of the city and county and of the transfers thereof, where so provided in any such bond, and an account of all outstanding securities;

~~(17)~~ Audit or provide for the audit of the accounts of the departments, divisions and offices of the city and county;

~~(18)~~ Purchase or authorize the purchase of and maintain records of insurance for city and county officers and employees and purchase or authorize the purchase of and maintain records of surety bonds for city officers and for county officers if requested to do so by such officers;

~~(19)~~ Allocate parking spaces in the city-county building parking garage and other parking facilities owned or leased by the city or county;

~~(20)~~ Develop and manage an energy efficiency program for the city and county; and

~~(21)~~ Exercise any other powers which that may be granted by statute or ordinance or delegated by the mayor or allocated pursuant to IC 36-3-5-2.8.

(b) The office of finance and management may contract for assistance in the collection of money owed to the city, its departments, special districts or other agencies and to add the costs of collection, if the amount owed exceeds twenty-five dollars (\$25.00) and became delinquent after July 1986, to the amount owed and collected.

(c) The office of finance and management shall, in conjunction with the auditor, establish rules and methods of accounting to ensure timely and accurate transaction of fiscal business matters. The rules and methods shall address such topics as the controller, in conjunction with the auditor, deems necessary, but shall at a minimum include:

(1) Sufficient detail to allow the exchange of information among city and county offices with the auditor's office and the office of finance and management, and between the auditor's office and the office of finance and management;

(2) Timeframes for the processing of accounts, payroll, distributions, budgets, financial reports, audits, and purchases;

(3) Procedures for preparing financial reports; and

(4) Procedures for administering time keeping and payroll functions.

Upon initial establishment and subsequent revisions, these rules and methods of accounting shall be filed

with the clerk of the city-county council. The rules and methods of accounting shall be binding upon all offices, agencies, and departments that submit budget estimates to the office of finance and management under IC 36-3-6-4(f).

SECTION 6. Section 231-301 of the "Revised Code of the Consolidated City and County," regarding divisions of the department of metropolitan development, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 231-301. Divisions established.**

The department of metropolitan development shall be composed of the following divisions:

- (1) Division of neighborhood services;
- (2) Division of planning;
- (3) Division of administrative services;
- (4) Division of community economic development; and
- ~~(5) Division of compliance.~~
- ~~(6)~~ 5 Division of regional transportation authority.

SECTION 7. Section 231-305 of the "Revised Code of the Consolidated City and County," regarding the division of community economic development of the department of metropolitan development, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 231-305. Division of community economic development.**

(a) The division of community economic development is responsible for providing affordable housing, development and rehabilitation opportunities, encouraging economic opportunities, providing economic incentives, encouraging job creation and retention, building neighborhood capacity, providing homeless assistance and human services, administering an unsafe building program, and administering various federal programs.

(b) Powers and duties of the division include:

- (1) On behalf of the director, designating and authorizing the receipt and distribution of all funds received by the department pursuant to acts of the United States Congress including but not limited to the Housing and Community Development Act of 1974, as amended, the National Affordable Housing Act of 1990, as amended, and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended; the granting of this power shall not limit the power of the mayor to execute agreements with the United States Government to receive those funds;
- (2) Facilitating the creation of affordable housing opportunities for low income households, including the homeless and persons with special needs, through the provision of programs including, but not limited to, community development block grant program, HOME investment partnerships program, housing opportunities for people with AIDS, emergency shelter grants, section 108 loan guarantee program, supportive housing program and the mark to market program;
- (3) Providing real estate services for the department, including, acquiring or disposing of any interest in real or personal property, leasing or renting and buildings, structures or facilities included with a housing, economic development, other development or redevelopment project or public safety initiative;
- (4) Facilitating the economic growth and revitalization of the city, through various local economic development programs including, but not limited to community development block grant program,

section 108 loan guarantee program, commercial facade program, real and personal property tax abatement, residential distress tax abatement, industrial revenue bonds, brownfield remediation, tax increment financing, and support for the Indianapolis Enterprise Zone;

- (5) The provision of public services and facilities including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, fair housing, energy conservation, welfare, recreational or special needs;
- (6) ~~Powers and duties conferred on the enforcement authority by IC 36-7-9;~~
- (7) ~~Conducting or contracting with an enforcement entity to conduct a program to issue orders to repair, board or demolish hazardous, unsafe or problem structures which contribute to urban blight including but not limited to the powers and duties in Chapter 537 of the Code;~~
- (86) Powers and duties conferred on the department of metropolitan development by IC 36-7-15.1;  
and
- (97) Inspecting properties to enforce regulatory requirements to insure compliance with federal programs; and
- (108) ~~The division shall have~~ Any other powers and duties granted by statute or ordinance or delegated by the mayor or department director.

SECTION 8. Section 231-306 of the "Revised Code of the Consolidated City and County," regarding the division of compliance of the department of metropolitan development, hereby is REPEALED.

SECTION 9. Section 251-101 of the "Revised Code of the Consolidated City and County," regarding the creation and duties of the Department of public safety, hereby is amended by the deletion of the language that is stricken-through, to read as follows:

**Sec. 251-101. Department of public safety created; duties.**

(a) *Created.* There is hereby created a department of public safety for the consolidated city as provided by IC 36-3-5-4.

(b) *Duties.* It shall be the responsibility of the department of public safety to provide fire protection in the fire special service district, to provide police protection in the consolidated city, to operate an animal care and control division, to provide civil defense and emergency management planning, ~~operate a division of weights and measures~~ and to exercise other powers granted by law, the city-county council or the mayor. The department of public safety shall have all powers and duties prescribed for it as of August 31, 1983, subject to IC 36-3-4-23.

SECTION 10. Section 251-212 of the "Revised Code of the Consolidated City and County," regarding the powers and duties of the director of public safety, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 251-212. Powers and duties of director.**

The director of public safety shall have the following duties and powers with respect to the department of public safety:

- (1) To exercise control of all matters and property relating to and connected with the police, fire, emergency management planning, ~~weights and measures~~, and animal care and control divisions;
- (2) To coordinate the activities of the department with the sheriff and coroner of the county and any other agencies ~~which~~ that can help with the safeguarding of citizens and property throughout the county;
- (3) To purchase all necessary supplies and equipment and make all repairs necessary in the

department subject to and in accordance with applicable law;

- (4) To make general and special rules and regulations for the government and discipline of the department, to the extent such duties and powers are not granted to the merit boards of the fire division or police division;
- (5) To fix the number of members and employees of the various divisions;
- (6) To determine and implement policies, procedures, methods and means by which operations are to be conducted;
- (7) To make recommendations to the director of administration relative to civilian employee compensation and benefits;
- (8) To temporarily appoint additional emergency management and civil defense protection forces on application of any person or corporation in any emergency, riot or insurrection as declared by the mayor, which persons the director may remove at any time without hearing or notice or assigning any cause;
- (9) To administer the oath or to take depositions of any persons summoned in any proceedings;
- (10) To adopt rules regulating the giving of a bond of an appointee of any division;
- (11) To appoint deputy or assistant directors as necessary;
- (12) To set work schedules and require members and employees of the department to work overtime;
- (13) To initiate, prepare, submit and administer the department's budget in accordance with applicable law;
- (14) To purchase, rent or improve any real estate or personal property, subject to appropriations therefor by the city-county council and subject to the powers of the mayor and the board of public safety;
- (15) To enter into contracts with town or township firefighting companies or associations for mutual civil aid and assistance programs; for life-saving, firefighting, emergency services, ambulance services; for mutual communications services coordinating training programs; and central dispatching programs in accordance with applicable law;
- (16) To appoint, receive, suspend, discipline and transfer members of the department pursuant to applicable rules, regulations and statutes;
- (17) To supervise and coordinate the activities of divisions within the department;
- (18) To oversee the daily operation of the department;
- (19) To appoint an administrator to be the head of each division of the department, except the emergency management planning division, subject to the approval of the mayor as provided in IC 36-3-5-5;
- (20) To delegate to the personnel employed in the department authority to act in his or her behalf as provided in IC 36-3-5-5(c); and
- ~~(21) To procure for the consolidated city a set of the weights and measures provided in IC 24-6-2-1;~~  
~~and~~
- ~~(22) Any other powers which that may be granted by law or by the mayor or the city-county council.~~

SECTION 11. Section 251-221 of the "Revised Code of the Consolidated City and County," regarding the divisions of the department of public safety, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 251-221. Divisions.**

The department of public safety shall be composed of the following divisions:

- (1) *Fire division.* The duties and powers of the fire division are described in chapter 252 of this Code.
- (2) *Police division.* The duties and powers of the police division are described in chapter 279 of this Code.
- (3) ~~*Weights and measures division.* The duties and powers of the weights and measures division are described in article V of this chapter.~~
- (4) *Animal care and control division.* The animal care and control division shall be established and have all powers and duties described in article III of this chapter, chapter 531, and any other powers granted by law or by the city-county council or the mayor.
- (5) *Emergency management planning division.* The duties and powers of the emergency management planning division are described in article IV of this chapter.

SECTION 12. Article V of Chapter 251 of the "Revised Code of the Consolidated City and County," regarding the weights and measures division of the department of public safety, hereby is REPEALED.

SECTION 13. Section 361-103 of the "Revised Code of the Consolidated City and County" as amended by G. O. No. 47, 2009, regarding the enforcement of litter violations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 361-103. Enforcement.**

This chapter and the rules and regulations authorized in section 361-104 shall be enforced by the department of public works and/or the authorized designee of the director of the department of public works, the division of compliance inspections of the department of metropolitan development code enforcement, and the Indianapolis metropolitan police department.

SECTION 14. Section 361-107 of the "Revised Code of the Consolidated City and County" as amended by G. O. No. 47, 2009, regarding the enforcement of litter violations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 361-107. Recovery by city of expenses of litter removal.**

(a) The city is damaged by the depositing of litter within the city, and the cost of litter removal has become a significant expense of the city. It is intended that persons responsible for such expenses shall bear the costs of same. In order to recover the cost of litter removal, the city may bring a civil action against any person believed to be responsible for depositing litter. The city may, in order to avoid the necessity of the institution of such action, make an offer of settlement to any person believed to be responsible for depositing litter. If the settlement offer is accepted, no action will be instituted by the city.

(b) ~~The division of compliance of the department of metropolitan development code enforcement,~~ and the Indianapolis metropolitan police department and their authorized agents, shall be responsible for determining the identity of persons responsible for damaging the city by depositing litter within the city, and, except as provided in subsection (d) of this section, are hereby empowered, as agents of the city, to make to any person believed to be responsible for damaging the city by depositing litter within the city, an offer of settlement as provided in subsection (a) of this section.

(c) The board of public works code enforcement shall determine a standard amount of the settlement offer authorized to be made by this section. In determining the standard amount of the settlement offer,

the board of ~~public works~~ shall consider only such factors as may reasonably be considered when any individual offer of settlement is determined.

(d) The provisions of subsection (b) of this section shall not be construed to require that a settlement offer be made if the amount of damage caused by the litter being deposited in the city is significantly greater than the standard amount of the settlement offer determined by the board of ~~public works code enforcement~~ pursuant to subsection (c) of this section.

SECTION 15. Section 391-203 of the "Revised Code of the Consolidated City and County" as amended by G. O. No. 47, 2009, regarding the abatement of nuisances by the division of compliance, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 391-203. Abatement by the division of compliance inspections; fire department and Indianapolis metropolitan law enforcement agency police department; health and hospital corporation.**

(a) The division of compliance inspections of the department of ~~metropolitan development code enforcement~~, acting in cooperation with the chiefs of the fire department and Indianapolis metropolitan police department and the officers of the health and hospital corporation, is charged with the duty of inspecting any building constituting a nuisance under this chapter and the division, or any of such officials, shall aid in abating any such nuisance and in enforcing the law in all matters within their respective jurisdiction and duties.

(b) Whenever the division of compliance inspections has information from any source, including any of the officials named in subsection (a), that any building is alleged to be a nuisance within the provisions of this chapter, it shall cause an examination thereof to be made. If, in its opinion after such examination, the building constitutes a nuisance within the provisions of this chapter, it shall serve written notice upon the owner of the building or the person in possession, charge or control thereof, directing him or her to abate the nuisance, if it is abatable, and specifying the defects or things to be corrected to place the building in a safe condition, and to eliminate any condition producing such nuisance. If conditions are such that the defects or things cannot be corrected, eliminated or abated, the owner shall be ordered and required to demolish the building as provided by any applicable statute or by this Code. The notice shall provide and name a reasonable time within which the nuisance shall be abated or the building demolished.

(c) Upon the failure of the person notified to obey the notice given pursuant to subsection (b), the division of compliance inspections, after the expiration of the time specified in the notice, shall cause a summons to be issued to the person requiring him or her to appear and show cause before the mayor, at a time and place named in the notice, why the nuisance should not be ordered to be summarily abated or, in event the alleged nuisance cannot be abated, why the building should not be demolished. If, upon a hearing of the case, to be conducted under the procedure for the revocation of licenses, the mayor determines that the building cannot be repaired or put in a safe condition, he or she shall render a decision and order that the building be demolished by the defendant within a time specified and, upon failure of the defendant to demolish it, the demolition shall be done by the city, or by a contractor in its behalf, at the expense of the defendant as provided by the statute thereon. In the event the mayor, upon such hearing, shall find that the building constitutes a nuisance, but that the nuisance can be abated by doing certain things to the building, such as repairs, changes, alterations or renovation, the mayor shall provide in his or her order how and in what manner the nuisance may be abated, and shall designate the time within which such acts must be begun and completed. In such case, the order shall further provide that if the defendant fails to begin compliance with such order within the time specified, notices shall be placed at all the entrances of the building, stating in substance that the premises therein have been condemned and declared to be a nuisance and unsafe and shall not be further used by any person. All the entrances to the premises upon the sidewalk, street or alley shall be blocked off by barriers or guardrails and may be securely locked. In the event of an appeal to a court being taken from the mayor's order, pending such appeal or other legal action, the division of permits inspections shall cause to be erected on the street or sidewalk adjacent to the entrances of the building signs stating that the building has been declared to be dangerous and unsafe and a public nuisance. Such signs shall not be removed or defaced by any person and shall remain until such appeal or other legal action is finally decided.

SECTION 16. Section 391-302 of the "Revised Code of the Consolidated City and County," regarding unlawful noises, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 391-302. Unlawful noises.**

(a) For purposes of this chapter, unreasonable noise shall mean sound that is of a volume, frequency, or pattern that prohibits, disrupts, injures, or endangers the health, safety, welfare, prosperity, comfort, or repose of reasonable persons of ordinary sensitivities within the city, given the time of day and environment in which the sound is made.

(b) Except as otherwise provided in this section, it shall be unlawful for any person to make, continue, or cause to be made or continued any unreasonable noise.

(c) In addition to the foregoing, any person who performs any of the acts enumerated in this subsection, or who causes or allows the performance of any of such acts in or upon any property owned, occupied, or controlled by him, shall be in violation of this section.

- (1) *Horns and signaling devices.* The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle in any public street or public place of the city, in a manner that makes unreasonable noise and continuing to do so after being asked to stop.
- (2) *Machines and devices for producing sound.* Playing, using, or operating, or permitting to be played, used, or operated, any radio, television, digital media player, loudspeaker, sound amplifier, musical instrument, or any machine or device for producing or reproducing sound in a manner that makes unreasonable noise and continuing to do so after being asked to stop, except when a permit granted therefor for some special occasion is in effect. The operation of any such machine or device in a manner that produces sound plainly audible to a person with normal hearing:
  - a. From any place other than the property on which the sound source is located when the machine or device is being operated between the hours of 10:00 p.m. and 7:00 a.m.;
  - b. From a distance greater than seventy-five (75) feet from the sound source of the machine or device when it is located in any public street or public place of the city; or
  - c. In any public conveyance other than a taxicab or jitney, except for a person who is voluntarily listening to the machine or device through earplugs; shall be prima facie evidence of a violation of this subsection, except when a permit granted therefor for some special occasion is in effect.
- (3) *Yelling or shouting.* Yelling, shouting, hooting, whistling, or singing in any public street or public place of the city in a manner that makes unreasonable noise and continuing to do so after being asked to stop, except when a permit granted therefor for some special occasion is in effect.
- (4) *Animals or birds.* The keeping of any animal or bird that makes unreasonable noise and the failure to prevent the continuation of the unreasonable noise after being asked to do so.
- (5) *Steam whistles.* The blowing of any locomotive steam whistle, or steam whistle attached to any stationary boiler, or one (1) operated by any other means, except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of the proper city authorities, in a manner that makes unreasonable noise and continuing to do so after being asked to stop, except when a permit granted therefor for some special occasion is in effect. The blowing of any such whistle between the hours of 10:00 p.m. and 7:00 a.m. in a manner that makes sound plainly audible to a person with normal hearing from any place other than the property on which the sound source is located shall be prima facie evidence of a violation of this subsection, except when a permit granted therefor for some special occasion is in effect.

- (6) *Exhausts blowers, engines, and motors.* The operation or use of any engine, motor, power unit on a motorboat, motor vehicle, motorcycle, or other vehicle or craft of any kind, blower or power fan in a manner that makes unreasonable noise and continuing to do so after being asked to stop, except when a permit granted therefor for some special occasion is in effect; or operation or possession in any public street or public place of the city of any motor vehicle, motorcycle, or other machine powered by an engine or motor equipped with straight pipes, baffles, muffler cutouts, bypasses, an expansion chamber, or any exhaust system constructed or capable of being operated so that the exhaust bypasses the muffler or noise-reducing device, except when a permit granted therefor for some special occasion is in effect. Operation or possession of any engine, motor, power unit, blower, or power fan not equipped with a muffler or other noise-reducing device that complies with applicable federal, state, and local standards:
- a. In any public street or public place of the city between the hours of 10:00 p.m. and 7:00 a.m.; or
  - b. Between the hours of 10:00 p.m. and 7:00 a.m. in a manner that makes sound plainly audible to a person with normal hearing from any place other than the property on which the sound source is located, shall be prima facie evidence of a violation of this subsection. This subsection shall not apply to persons who are entrants or participants in a scheduled race or sporting event that involves the use of racing motor vehicles or equipment while involved in such activities, nor to owners or operators of equipment or devices used in the construction, demolition, or similar labor or maintenance trades.
- (7) *Defect in vehicle or load.* The use of any automobile, motorcycle, or other vehicle so out of repair, or so loaded, or in such manner as to create unreasonable grating, grinding, rattling, or other noise and continuing to do so after being asked to stop.
- (8) *Loading, unloading, opening boxes.* The loading or unloading of any vehicle, or the opening or destruction of bales, boxes, crates, or containers in a manner that makes unreasonable noise and continuing to do so after being asked to stop. The emptying, pickup, or delivery of any trash container exceeding six (6) cubic feet between the hours of 10:00 p.m. and 7:00 a.m. in a manner that makes sound plainly audible to a person with normal hearing from any place other than the property on which the trash container is located, shall be prima facie evidence of a violation of this subsection.
- (9) *Construction or repairing of buildings.* The erection, demolition, alteration, or repair of any building, or the excavation therefor between the hours of 7:00 p.m. and 7:00 a.m., except:
- a. In the case of urgent necessity in the interest of public health and safety, and then only with a permit from the ~~division of compliance~~ bureau of license and permit services of the department of ~~metropolitan development~~ code enforcement, which permit may be granted for a period not to exceed three (3) days while the emergency continues and which permit may be renewed for periods of three (3) days while the emergency continues; or
  - b. If the ~~division of compliance~~ bureau of license and permit services determines that the public health and safety will not be impaired by sound made by such work between the hours of 7:00 p.m. and 7:00 a.m., and that loss or inconvenience would result to any party in interest, and the ~~division~~ bureau grants permission for such work to be done between the hours of 7:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is issued or during the progress of the work.
- (10) *Schools, courts, churches, hospitals.* The making of noise that is plainly audible to a person with normal hearing above normal ambient noise levels at a distance of fifty (50) feet from the source of the noise on any street adjacent to any school, institution of learning, church, court, or hospital while it is in use, provided that conspicuous signs are displayed in such streets indicating that the area is a school, hospital, or other such quiet zone, shall be prima facie evidence of a violation of this section, except when a permit granted therefor for some special occasion is in effect.
- (11) *Transporting metal rails, pillars, and columns.* The transportation of rails, pillars, or columns of

iron, steel, or other material over and along any public street or other public place of the city, upon carts, drays, cars, or trucks in any manner that makes unreasonable noise and continuing to do so after being asked to stop.

(12) *Railway cars, buses.* Causing or permitting unreasonable noise in the operation of a bus or railway car by reason of defective conditions therein or of its tracks and continuing to do so after being asked to stop.

(13) *Pile drivers, hammers.* The operation between the hours of 7:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, except:

- a. When being operated by a public utility in connection with emergency repairs of such utility; or
- b. If the ~~division of compliance~~ bureau of license and permit services of the department of ~~metropolitan development~~ code enforcement determines that the public health and safety will not be impaired by sound made by such operation between the hours of 7:00 p.m. and 7:00 a.m., and that loss or inconvenience would result to any party in interest, and the ~~division~~ bureau grants permission for such operation between the hours of 7:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is issued or during the progress of the work.

(14) *Vendor's vehicle.* Using, operating or playing, or permitting to be used, operated, or played, any bell, radio, musical instrument, loudspeaker, sound amplifier, or other machine or device for producing or reproducing sound in or upon any vehicle used for the transportation and sale of any goods, wares or merchandise in any public street or public place of the city, which equipment is set to produce any noise, music, or sound in excess of one hundred fifteen (115) decibels, measured at six (6) inches from the sound-producing amplifier of the speaker; the use or operation of any vehicle so equipped, with such sound-producing equipment in operation, between the hours of 10:00 p.m. and 10:00 a.m., in any public street or public place; or the operation of such sound-producing equipment on any vehicle moving along or upon any public street or public place.

(d) The first violation in any twelve (12) month period shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with chapter 103 of this Code. All second and subsequent violations in any twelve (12) month period are subject to the enforcement procedures and penalties provided in section 103-3 of this Code, and the fine imposed for a second violation in any twelve (12) month period shall not be less than two hundred fifty dollars (\$250.00), and the fine for any subsequent violation in any twelve (12) month period shall not be less than five hundred dollars (\$500.00).

SECTION 17. Sections 391-402 and 391-403 of the "Revised Code of the Consolidated City and County," regarding registration of non-commercial sound trucks, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 391-402. Registration required; necessary information; fee; term and renewal.**

(a) No person shall use, or cause to be used, a sound truck with its sound-amplifying equipment in operation for noncommercial purposes in this city, without first filing a registration statement in writing with the ~~controller in writing~~ bureau of license and permit services of the department of code enforcement. The registration statement shall be filed in duplicate and shall state the following:

- (1) The name and home address of the applicant;
- (2) The address of the place of business of the applicant;
- (3) The license number and motor number of the sound truck to be used by the applicant;
- (4) The name and address of the person who owns the sound truck;

- (5) The name and address of the person having direct charge of the sound truck;
- (6) The names and addresses of all persons who will use or operate the sound truck;
- (7) The purposes for which the sound truck will be used;
- (8) A general statement as to the section or sections of the city in which the sound truck will be used;
- (9) The proposed hours of operation of the sound truck;
- (10) The number of days of proposed operation of the sound truck;
- (11) A general description of the sound-amplifying equipment ~~which~~ that is to be used;
- (12) The maximum sound-producing power of the sound-amplifying equipment to be used in or on the sound truck, stating the following:
  - a. The wattage to be used;
  - b. The volume in decibels of the sound ~~which~~ that will be produced; and
  - c. The approximate maximum distance for which sound will be thrown from the sound truck;and
- (13) That the sound truck will not be used for any subversive or unlawful purpose, and will comply with all laws and regulations applicable thereto.

(b) The annual fee for registration of a noncommercial sound truck shall be ~~twenty dollars (\$20.00)~~ provided in section 131-501 of the code.

(c) A registration under this chapter shall be valid for a period of one (1) year, with an expiration date of December 31. If the ~~controller~~ bureau of license and permit services finds that the registrant remains qualified and has operated as required by this chapter, the ~~controller~~ bureau of license and permit services shall renew the registration automatically and without application for renewal by the registrant, unless at the time of renewal:

- (1) The registration has been revoked or suspended;
- (2) The registration is the subject of administrative or judicial proceedings ~~which~~ that have the potential to result in the revocation or suspension of the registration, in which case the registration may continue in effect until the conclusion of the administrative or judicial proceedings; or
- (3) The registrant has not paid the registration fee for the following year.

**Sec. 391-403. Issuance of registration statement; possession and display.**

The ~~controller~~ bureau of license and permit services shall return to each applicant for the registration of a noncommercial sound truck one (1) copy of the registration statement, duly certified by ~~him~~ the bureau as a correct copy of the application, which copy shall be in the possession of any person operating the sound truck at all times while its sound-amplifying equipment is in operation, and shall be promptly displayed and shown to any police officer of the city, upon request.

SECTION 18. Section 411-226 of the "Revised Code of the Consolidated City and County," regarding appeal of a decision regarding parade permits, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 411-226. Appeal procedure.**

Any person aggrieved by the action of the director on a parade permit application shall have the right to appeal the denial to the ~~license review~~ board of code enforcement under the procedures provided in Chapter 801, Art. IV, Div. 3 of the Code. The appeal shall be taken within five (5) days after receipt of the notice of denial. The ~~license review~~ board shall act upon the appeal within five (5) days after its receipt.

SECTION 19. Section 441-364 of the "Revised Code of the Consolidated City and County," regarding restriction of trucks on certain streets, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 441-364. Trucks on certain streets restricted.**

(a) The owner of any truck having a manufacturer's rating of more than one and one-half (1 1/2) tons capacity, that is registered in the office of the secretary of state and used principally for the transportation and delivery of property between two (2) or more points situated within the city, including tractors, trailers, semitrailers and farm tractors, may file with the ~~city controller~~ bureau of license and permit services of the department of code enforcement an application, on a form prescribed by ~~the city controller~~ such bureau, for an annual permit to allow the truck or other vehicle to use and be driven upon the streets described in this section, upon the condition that the maximum gross weight of such vehicle and any load shall not exceed fifteen thousand (15,000) pounds in any instance, without obtaining from ~~the controller~~ such bureau a special emergency permit therefor, which special permit may be obtained without charge for any such use found by ~~the controller~~ such bureau to be necessary. No other streets shall be so used by any such vehicles without a special permit therefor, as herein authorized.

(b) Upon the proper execution and filing of an application and the payment of a fee ~~of two dollars (\$2.00)~~ provided in section 131-501 of the Code to the ~~city controller~~ bureau of license and permit services of the department of code enforcement, to be credited to the city's general fund, ~~the city controller~~ such bureau shall issue an annual permit for each truck or other vehicle, appropriately describing it by motor number or body number, and by license number. Such permit shall not be transferable from one (1) vehicle to another vehicle, and shall be carried by the operator of the vehicle or be attached thereto, and exhibited by the operator of any such vehicle upon the request of any police officer or other person charged with the duty of enforcing this chapter. The granting of any such permit shall not be subject to the issuance fee applicable to licenses.

(c) The provisions of this section shall not apply to any private passenger automobiles, to any vehicles carrying passengers for hire, to school buses, to motorcycles or motor scooters, not to any governmental vehicles.

(d) No motor vehicle of the following designated gross weights, with load, shall use the following enumerated streets, except such portions thereof as may be state highways:

10,000 POUNDS GROSS WEIGHT

*Tenth Street*, from a point 150 feet east of Arlington Avenue to Emerson Avenue;

*Sixteenth Street*, from Arlington Avenue to the east city limits;

*Seventeenth Street*, from Central Avenue to College Avenue;

*West Seventeenth Street*, from Belleview Place to Lafayette Road (U.S. Highway 52);

*Nineteenth Street*, from Central Avenue to Park Avenue;

*Twentieth Street*, from Broadway Street to College Avenue;

*Twentieth Street*, from Parker Avenue to Olney Street;

*Thirty-third Street*, from Keystone Avenue to Temple Avenue;

*Fifty-first Street*, from Hillside Avenue to a point 150 feet east thereof;

*East Sixty-fourth Street*, from Keystone Avenue to Rural Street;

*West Seventy-sixth Street Bridge*, over Crooked Creek, in Pike Township;

*East Ninety-fifth Street*, from College Avenue to Pennsylvania Street;

*Addison Street*, from Oliver Street to McCarty Street;

*Addison Street*, from Washington Street to Turner Avenue;

*Alabama Street*, from Terrace Avenue to Lincoln Street;

*Arlington Avenue*, from Tenth Street to Brookville Road;

*Audubon Road*, from Washington Street to Brookville Road;

*North Audubon Road*, from east Tenth Street to East Sixteenth Street;

*Barrett Avenue*, from Belmont Avenue to Eagle Creek;

*Bazil Avenue*, from Washington Street to Tenth Street;

*Belleview Place*, from Sixteenth Street to Lafayette Road (U.S. Highway 52);

*Belleview Place*, from Oliver Street to McCarty Street;

*Belleview Place*, from Washington Street to Turner Avenue;

*Belleview Place*, from Washington Street to Turner Street;

*Belmar Avenue*, from Washington Street to Tenth Street;

*Blaine Avenue*, from Morris Street to Minnesota Street;

*Blaine Avenue*, from Morris Street to I-70;

*Boehning Street*, from Washington Street to Tenth Street;

*Boulevard Place*, from Thirty-eighth Street to Westfield Boulevard;

*Bradley Street*, from East Washington Street to Moore Avenue;

*Broadway Street*, from Sixteenth Street to Twenty-first Street;

*Broadway Street*, from Thirty-eighth Street to Westfield Boulevard;

*Brookside Avenue*, from Tenth Street to Parker Avenue;

*Butler Avenue*, from Twenty-third Street to Twenty-fourth Street;

*Butler Avenue*, from Twenty-fifth Street to Thirtieth Street;

*Capitol Avenue*, from Sixteenth Street to Westfield Boulevard;

*Carvel Avenue*, from Forty-sixth Street to Fifty-second Street;

*Cecil Avenue*, from Washington Street to Tenth Street;

*Central Avenue*, from East Ninety-first Street to East Ninety-sixth Street;

*Central Avenue*, from Fort Wayne Avenue to Westfield Boulevard;

*College Avenue*, from Ninth Street to the north city limits;

*Cruft Street*, from Shelby Street to Villa Avenue;

*Davis Drive*, from Mooresville Road to Murray Street;

*Dearborn Street*, from Fifty-eighth Street to Kessler Boulevard;

*Delaware Street*, from a point 350 feet south of Palmer Street to Adler Street;

*Devon Avenue*, from Washington Street to Tenth Street;

*Eastern Avenue*, from Thirtieth Street to Thirty-second Street;

*Eaton Avenue*, from Washington Street to Tenth Street;

*Edmondson Avenue*, from Washington Street to East Tenth Street;

*South Emerson Avenue*, from Washington Street to Brookville Road;

*Fall Creek Parkway, North Drive*, from Thirty-eighth Street to Meridian Street;

*Fenton Avenue*, from Washington Street to Tenth Street;

*Frontage Road*, from Post Road to Wittfield Street;

*German Church Road*, from Brookville Road to Washington Street;

*Gibson Avenue*, from Washington Street to Tenth Street;

*Glen Arm Road*, from Tenth Street to Eleventh Street;

*North Graham Avenue*, from East Tenth Street to East Sixteenth Street;

*Hamblen Drive, East*, from 1750 South Hamblen Drive to 1900 South Hamblen Drive;

*Hamblen Drive, West*, from 1750 South Hamblen Drive to 2050 South Hamblen Drive;

*Harbison Avenue*, from Washington Street to Tenth Street;

*Hawthorne Lane*, from Twenty-seventh Street to Thirtieth Street;

*Henry Street*, from McClure Street to Luett Avenue;

*Hiatt Street*, from Wyoming Street to Oliver Avenue;

*Hillside Avenue*, from Twenty-fifth Street to Thirtieth Street;

*Hillside Avenue*, from Forty-sixth Street to Fifty-first Street;

*Hobart Road*, from Walker Avenue to Wade Street;

*Holmes Avenue*, from Oliver Street to McCarty Street;

*Holmes Avenue*, from Washington Street to Turner Avenue;

*Howard Street*, from Belmont Avenue to Pershing Avenue;

*Illinois Street*, from Fortieth Street to Westfield Boulevard;

*Kansas Street*, from Meridian Street to Senate Avenue;

*Kappes Street*, from Morris Street to Wilkins Street;

*Kappes Street*, from Wyoming Street to Oliver Avenue;

*Kealing Avenue*, from East Ninth Street to East Tenth Street;

*North Kildare Avenue*, over Brookside Creek, in Center Township;

*Kingsley Drive*, from East Forty-sixth Street to East Fifty-second Street;

*Lambert Street*, from Belmont Street to Pershing Avenue;

*Lee Street*, from Morris Street to Wilkins Street;

*North Lesley Avenue*, from East Tenth Street to East Sixteenth Street;

*Luetz Avenue*, from Washington Street to Oliver Avenue;

*Lynhurst Drive*, from Mooresville Road to dead end;

*Lyons Avenue*, from Mooresville Road to Kentucky Avenue;

*Madison Avenue*, from Pleasant Run Parkway to Southern Avenue;

*Marlin Road*, from a point 2,435 feet east of Senour Road to Carroll Road;

*Martha Street*, from Belmont Avenue to Pershing Avenue;

*Maywood Road*, from Gimber Street and Tibbs Avenue to Warman Avenue;

*McClure Street*, from Washington Street to Oliver Avenue;

*McGaughey Road*, from Southeastern Avenue to Post Road;

*Michigan Street*, from Franklin Road to Post Road;

*Mills Avenue*, on both sides from Madison Avenue to East Street;

*Minnesota Street*, from Sherman Drive to Emerson Avenue;

*Mount Street*, from Washington Street to Turner Avenue;

*New Jersey Street*, from Terrace Avenue to Lincoln Street;

*New York Street*, from Franklin Road to Post Road;

*New York Street*, from Highland Avenue to Emerson Avenue;

*Park Avenue*, from Nineteenth Street to Twenty-first Street;

*Pennsylvania Street*, from Sixteenth Street to Westfield Boulevard;

*Perry Street*, from Mooresville Road to Murray Street;

*Pershing Avenue*, from Washington Street to Turner Avenue;

*South Pershing Avenue*, from Morris Street to Howard Street;

*Ralston Avenue*, from Twenty-second Street to Twenty-fifth Street;

*Ralston Avenue*, from Twenty-fifth Street to Thirtieth Street;

*Reisner Street*, from Morris Street to Oliver Avenue;

*Richland Street*, from Wyoming Street to Oliver Avenue;

*Richland Street*, from Morris Street to Wilkins Street;

*Ritter Avenue*, from Tenth Street to Brookville Road;

*North River Road*, from East Eighty-second Street (State Road 100) to North County Line Road;

*South River Road*, from Keystone Avenue to East Eighty-second Street (State Road 100);

*Riverside Drive East*, from Eighteenth Street to Twenty-ninth Street;

*Robson Street*, from Gale Street to Sherman Drive;

*Roosevelt Avenue*, from Hillside Avenue to Sherman Drive;

*Ruckle Street*, from Sixteenth Street to Twenty-first Street;

*St. Paul Street*, from Southeastern Avenue to English Avenue;

*Sargent Road*, from Fall Creek Road to Ninety-sixth Street;

*Sheffield Avenue*, from Howard Street to Morris Street;

*Sheffield Avenue*, from Washington Street to Turner Avenue;

*Shelby Street*, from Epler Avenue to US 431;

*Shepard Street*, from Wyoming Street to Oliver Avenue;

*Sherman Drive*, from Thirtieth Street to Thirty-eighth Street;

*Singleton Street*, from Raymond Street to Le Grande Avenue;

*Southern Avenue*, from Madison Avenue to Shelby Street;

*Sugar Grove Avenue*, from Eighteenth Street to Twenty-second Street;

*Tacoma Avenue*, from Thirtieth Street to Thirty-fourth Street;

*Tacoma Avenue*, from East Sixty-second Street to East Sixty-fourth Street;

*Temple Avenue*, from Thirtieth Street to Thirty-fourth Street;

*Temple Avenue*, from East Sixty-second Street to East Sixty-fourth Street;

*Terrace Avenue*, from Madison Avenue to Wright Street;  
*Tremont Street*, from Washington Street to Turner Avenue;  
*Union Street*, from Merrill Street to Adler Street;  
*East Vermont Street*, from Gale Street to North Kealing Avenue;  
*West View Drive*, from Belmont Avenue to Lee Street;  
*Washington Boulevard*, from East Ninety-first Street to East Ninety-sixth Street;  
*White River Parkway, East Drive*, from Tenth Street to New York Street;  
*Wilkens Street*, from Belmont Avenue to Blaine Avenue;  
*Windsor Street*, from Tenth Street to Nowland Avenue;  
*Wyoming Street*, from Belmont Avenue to Reisner Street;

11,000 POUNDS GROSS WEIGHT

*An alley*, being the first, west of Senate Avenue, from Morris Street to Wilkens Street;  
*Tenth Street*, from Delaware Street to Central Avenue;  
*Tenth Street Frontage Road (998 N.)*, from Thorndale Street to 10th Street (7125 W.);  
*Eleventh Street*, from Arsenal Avenue to Brookside Avenue;  
*Thirteenth Street*, from Shadeland Avenue to Shortridge Road;  
*Twenty-third Street*, from Parker Avenue to Wheeler Street;  
*Twenty-fourth Street*, from Arlington Avenue to Kenyon Street;  
*Twenty-fourth Street*, from Hillside Avenue to Keystone Avenue;  
*Twenty-fifth Street*, from Harding Street to Burton Avenue;  
*Twenty-fifth Street*, from Dr. Martin Luther King, Jr. Street to a point 200 feet east of Clifton Street;  
*Twenty-fifth Street*, from Post Road to German Church Road;  
*Twenty-sixth Street*, from Harding Street to Burton Avenue;  
*Twenty-seventh Street*, from Brouse Avenue to Keystone Avenue;  
*Twenty-eighth Street*, from Brouse Avenue to Keystone Avenue;  
*Twenty-eighth Street*, from Georgetown Road to Mussman Drive;  
*Twenty-eighth Street*, from Harding Street to E. Riverside Drive;  
*Twenty-ninth Street*, from Brouse Avenue to Keystone Avenue;  
*Thirty-second Street*, from Moller Road east to Beeler Avenue;  
*Thirty-fifth Street*, from Ralston Avenue to Orchard Avenue;

*Fortieth Street*, from Arlington Avenue to Emerson Avenue;

*Forty-second Street*, from Millersville Road to Sherman Drive;

*Fifty-sixth Street*, from Emerson Way to I-465;

*Fifty-ninth Street*, from Georgetown Road to Guion Road;

*Sixty-fifth Street*, from Allisonville Road to a point 287 feet west of Rural Street;

*Seventy-first Street* from Hague Road to Fairwood Drive;

*Seventy-second Street*, from Coffman Road to New Augusta Road;

*Seventy-fifth Street*, from Westfield Boulevard to Edgewater Drive;

*Seventy-ninth Street*, from Moore Road to Innovation Boulevard;

*Eightieth Street*, from Keystone Avenue to Westfield Boulevard;

*Eighty-fourth Street*, from College Avenue to Evergreen Avenue;

*Ninety-first Street*, from Westfield Boulevard to Haverstick Road;

*Admiral Drive*, from Twenty-first Street to Kenyon Street;

*Alabama Street*, from Fort Wayne Avenue to Sixteenth Street;

*Allison Avenue*, from Thirty-fourth Street to Ruskin Place;

*Alton Avenue*, from Sixteenth Street to Twenty-first Street;

*Applegate Street*, from Nelson Avenue to Southern Avenue;

*Arbor Avenue*, from Oliver Avenue to Gillette Street;

*Arsenal Avenue*, from Tenth Street to Twelfth Street;

*Arthur Avenue*, from Cossell Road to Vermont Street;

*Asbury Street*, from Bradbury Avenue to Walker Avenue;

*Bancroft Street*, from Michigan Street to Tenth Street;

*Banta Road*, from Belmont Street to Tibbs Avenue;

*Banta Road*, from Bluff Road to East Street;

*Banta Road*, from Stanley Road to Ratliff Road;

*Barrington Avenue*, from Minnesota Street to Rural Street;

*Bauman Street*, from Tenth Street to Thirteenth Street;

*Beechcrest Drive*, from Southern Avenue to Woodcliff Drive;

*Beechwood Avenue*, between Franklin Road and Post Road;

*Beeler Avenue*, from Thirtieth Street east to Thirty-second Street;

*Bellefontaine Street*, from Twenty-second Street to Twenty-third Street;

*Bertha Street*, from Auburn Street west to Hardin Boulevard;

*Boehning Avenue*, from Twenty-fifth Street to Routiers Avenue;

*Bradbury Avenue*, from Bradbury connector road (4250 west) to Holt Road;

*Brill Road*, from Southern Avenue to Troy Avenue;

*Brookside Parkway, North Drive*, from Brookside Avenue to Olney Street;

*Brookside Parkway, South Drive*, from Jefferson Avenue to Sherman Drive;

*Brookville Road*, from Emerson Avenue to English Avenue;

*Brookville Road*, from Bradley Street to Emerson Avenue;

*Bursdal Parkway*, from White River Parkway, East Drive, to Barnes Avenue;

*Butler Avenue*, from Lexington Avenue to English Avenue;

*Calvary Street*, from English Avenue to Shelby Street;

*Calvin Street*, from Bethel Avenue to Legrande Avenue;

*Carlsen Avenue*, from Girls School Road to Thorndale Street;

*Carrollton Avenue*, from Twenty-fifth Street to Guilford Avenue;

*Catherwood Avenue*, from Twenty-first Street to Windsor Drive;

*Chapelwood Boulevard*, from a point 637 feet south of Tenth Street to St. Clair Street;

*Chase Street*, from Oliver Avenue to Henry Street;

*Cherry Lake Road*, from Thirtieth Street to Kyle Court;

*Chester Avenue*, from Twenty-sixth Street to Thirtieth Street;

*Church Street*, from Morris Street to Wilkens Street;

*Clifton Street*, from Twenty-fifth Street to Dr. Martin Luther King, Jr. Street;

*Coffey Street*, from Oliver Avenue to Henry Street;

*Cold Spring Road*, from Lafayette Road to Thirty-eighth Street;

*Colorado Avenue*, from Tenth Street to Sixteenth Street;

*Commerce Avenue*, from Massachusetts Avenue to 12th Street;

*Conarroe Road*, from Seventy-ninth Street to Eighty-sixth Street;

*Concord Street*, from Banta Road to Epler Avenue;

*Conrad Avenue*, from Belmont Avenue to Pershing Avenue;

*Cottage Avenue*, from Perkins Avenue to Rural Street;

*Dandy Trail*, from Crawfordsville Road north to 38th Street;

*Dearborn Street*, from Thirtieth Street to Thirty-fourth Street;

*Delaware Street*, from Ninety-first Street to Ninety-sixth Street;

*Denny Street*, from Tenth Street to Eleventh Street and from Thirteenth Street to a point one hundred feet south of Sixteenth Street;

*Denny Street*, from Twenty-sixth Street to Thirtieth Street;

*Dobson Street*, from Seventy-first Street to Seventy-fourth Street;

*Doris Drive*, from Girls School Road to Sixteenth Street;

*Dunk Drive*, from Gerrard Avenue to Moller Road;

*Dunlap Avenue*, from Minnesota Street to Plainfield Avenue;

*East Street*, from Troy Avenue to Southern Avenue;

*Eleanor Avenue*, from Tenth Street to Thirteenth Street;

*Elizabeth Street*, from Thirty-eighth Street to Massachusetts Avenue;

*Ellenberger Parkway, East Drive*, from St. Clair Street to Ritter Avenue;

*Ellenberger Parkway, West Drive*, from St. Clair Street to Tenth Street;

*Elrico Drive*, from Eighty-sixth Street to Ninety-first Street;

*Emerson Avenue*, from Washington Street to Tenth Street;

*Englewood Drive*, from Sixteenth Street to Pleasant Run Parkway, South Drive;

*Epler Avenue*, from Bluff Road to Harding Street;

*Epler Avenue*, from Concord Street to Warman Avenue;

*Evergreen Avenue*, from Eighty-fourth Street to Eighty-fifth Street;

*Ewing Street*, from Tenth Street to Brookside Parkway South Drive;

*Fall Creek Road*, from Kessler Boulevard East Drive to Shadeland Avenue;

*Fall Creek Road*, from Shadeland Avenue to Ninety-sixth Street;

*Fall Creek Parkway, East Drive*, from Tenth Street to Sixteenth Street;

*Fall Creek Parkway North Drive*, from Binford Boulevard to Fifty-sixth Street;

*Fall Creek Parkway, North Drive*, from Kessler Boulevard to Fall Creek Road;

*Farley Drive*, from Eleventh Street to Doris Drive;

*Farnsworth Street*, from Holt Road to Maywood Road (Tibbs Avenue);

*Fletcher Avenue*, from Calvary Street to State Avenue;

*Fletcher Avenue*, from State Avenue to St. Paul Street;

*Foltz Street*, from Troy Street to Ironton Street;

*Forest Manor Avenue*, from Twenty-sixth Street to Thirtieth Street;

*Franklin Road*, from Washington Street to Twenty-first street;

*Gale Street*, from Tenth Street to Brookside Parkway South Drive;

*East Garfield Drive*, from Shelby Street to South Garfield Drive;

*South Garfield Drive*, from Raymond Street to East Garfield Drive;

*Gatwick Drive*, from Sterling Pointe Drive to a point 1,050 feet northwest of Sterling Pointe Road;

*Glen Arm Road*, from Tenth Street to Fourteenth Street;

*Glenn Drive*, from Parker Avenue to Wheeler Street;

*Grand Avenue*, from Lexington Avenue to English Avenue;

*Guilford Avenue*, from Twenty-fifth Street to Thirtieth Street;

*Haines Avenue*, from Belmont Avenue to Pershing Avenue;

*Halsted Drive*, from Girls School Road to Radburn Drive;

*Hamilton Avenue*, from English Avenue to Southeastern Avenue;

*Harris Avenue*, from Washington Street to Vandalia Avenue;

*Hartman Drive*, from Pendleton Pike to Thirty-eighth Street;

*Haverick Road*, from Eighty-sixth Street to Ninety-first Street;

*Henry Street*, from Harding Street to Drover Street;

*Hiner Lane*, from Shadeland Avenue to Shortridge Road;

*Hoyt Avenue*, from Sherman Drive to Grant Avenue;

*Illinois Street*, from Morris Street to Wilkens Street;

*Jackson Place*, from Illinois Street to McCrea Street;

*Johnson Road*, from Fall Creek Road to Seventy-fifth Street;

*Katherine Drive*, from Stop 11 Road to McGregor Road;

*Kealing Avenue*, from Tenth Street to Brookside Parkway South Drive;

*Kelly Street*, from Churchman Avenue to Keystone Avenue;

*Kenwood Avenue*, from Morris Street to Wilkens Street;

*Kenyon Street*, from Twenty-first Street to Twenty-fifth Street;

*Kessler Boulevard North Drive*, from Sixteenth Street to Fifty-sixth Street;

*Kessler Boulevard West Drive and East Drive*, from Fifty-sixth Street to Fall Creek Parkway North Drive;

*Kitley Avenue*, from Washington Street to Pleasant Run Parkway, S. Drive;

*Kitley Avenue*, from a point 230 feet north of Twenty-first Street to Twenty-fifth Street;

*Kittley Road*, from Brookville Road to Vandergriff Road;

*Kollman Road*, from Decatur Boulevard to Thompson Road;

*Lake Road*, from Wicker Road to a point 4,330 feet south of Southport Road;

*Lawrence Avenue*, from East Street to Madison Avenue;

*Lesley Avenue*, from Thirtieth Street to Massachusetts Avenue;

*Lexington Avenue*, from Harlan Street to St. Paul Street;

*Lockerbie Street*, from East Street to College Avenue;

*Louise Drive*, from Mary Lane to Katherine Drive;

*Lupine Terrace*, from Thirty-fourth Street to Lupine Drive;

*Manderley Drive*, between Eighty-sixth Street and Ninety-first Street;

*Margaret Avenue*, from Sherman Drive to Woodcliff Drive;

*Markwood Avenue*, from East Street to Madison Avenue;

*Marsh Road*, from Seventy-First Street to Seventy-Ninth Street;

*Mary Lane*, from Stop 11 Road to McGregor Road;

*Melvenia Street*, from Lexington Avenue to Fletcher Avenue;

*Mendenhall Road*, from Decatur Boulevard to Narita Road;

*Mildred Drive*, from Thirtieth Street to Maren Drive;

*Miley Avenue*, from Washington Street to Ohio Street;

*Milhouse Road*, from Decatur Boulevard to Flynn Road;

*Millersville Road*, from Forty-second Street to Forty-sixth Street;

*Millhouse Road*, between State Road 67 and Decatur Boulevard;

*Minnesota Street*, from Bethel Avenue to LaSalle Street;

*Minocqua Avenue*, from Minocqua Street to a point 500 feet north of Cottage Avenue;

*Moore Road*, from Lafayette Road to Ninety-sixth Street;

*Morton Avenue*, from Belmont Avenue to Pershing Avenue;

*Mussman Drive*, from Thirtieth Street to Twenty-eighth Street;

*Nelson Avenue*, from Allen Avenue to Shelby Street;

*Northeastern Avenue*, from Franklin Road to Southeastern Avenue;

*Nowland Avenue*, from Windsor Street to Jefferson Avenue;

*Oliver Avenue*, from Holt Road to Tibbs Avenue;

*Oliver Avenue*, from Lynhurst Drive west to Armentrout Lane;

*Oxford Street*, from Thirty-fourth Street to Thirty-eighth Street;

*Park Avenue*, from New York Street to Michigan Street;

*Parker Street*, from Twenty-fifth Street to a point 200 feet south of Twenty-third Street;

*Patricia Street*, from Moller Road east to Beeler Avenue;

*Payne Road*, from Seventy-ninth Street to Eighty-sixth Street;

*Pennsylvania Street*, from Schiller Street to LeGrande Avenue;

*Perkins Avenue*, from Bethel Avenue to a point 300 feet north of Cottage Avenue;

*Pershing Avenue*, from Minnesota to D.E. South;

*Pershing Avenue*, on the west side, from the north curblineline of Eleventh Street to a point 45 feet north on Pershing Avenue;

*Pershing Avenue*, on the west side, from the north curblineline of Fourteenth Street to a point 45 feet north;

*Pine Street*, from I-70 (Fletcher Avenue) to Elm Street;

*Pleasant Run Parkway, North Drive*, from Audubon Road Bridge to Arlington Avenue;

*Pleasant Run Parkway, North Drive*, from Colorado Avenue underpass to Michigan Street;

*Pleasant Run Parkway, North Drive*, from English Avenue to Brookville Road;

*Pleasant Run Parkway, North Drive*, from Southern Avenue to Prospect Street;

*Pleasant Run Parkway, South Drive*, from Arlington Avenue to Tenth Street;

*Pleasant Run Parkway, South Drive*, from Emerson Avenue to Audubon Road Bridge;

*Pleasant Run Parkway, South Drive*, from English Avenue to Colorado Underpass;

*Pleasant Run Parkway, South Drive*, from Raymond Street to Keystone Avenue;

*Pleasant Run Parkway, South Drive*, from Shadeland Avenue to Arlene Drive;

*Pleasant Run Parkway, South Drive*, from Southern Avenue to Madison Avenue;

*Pleasant Run Parkway, South Drive*, from Tenth Street to Shadeland Avenue;

*Pleasant Street*, from Harlan Street to St. Paul Street;

*Pollard Street*, from Seventy-first Street to Seventy-fourth Street;  
*Purdy Street*, from Seventy-first Street to Seventy-second Street;  
*Randolph Street*, from Cruft Street to Troy Avenue;  
*Ransdell Street*, from Sumner Avenue to Werges Avenue;  
*Riley Avenue*, from Michigan Street to Tenth Street;  
*Roache Street*, from Burton Avenue to Dr Martin Luther King, Jr. Street;  
*Routiers Avenue*, from Thirtieth Street to Twenty-fifth Street;  
*Roy Road*, from Post Road to Routiers Avenue;  
*Rucker Road*, from Fall Creek Road to Sixty-second Street;  
*Rural Street*, from Thirtieth Street to Thirty-fourth Street;  
*Rural Street*, from Thirty-fourth Street to Thirty-eighth Street;  
*Ruskin Place West*, from Moller Road to Allison Avenue;  
*St. Clair Street*, from Girls School Road to Westmore Drive;  
*St. Paul Street*, from Woodlawn Avenue to Lexington Avenue;  
*St. Peter Street*, from English Avenue to Southeastern Avenue;  
*Schiller Street*, from the first alley east of Meridian Street to Pennsylvania Street;  
*Senate Avenue*, from Morris Street to Wilkens Street;  
*Shanghai Road*, from Lafayette Road to Seventy-first Street;  
*Sheridan Avenue*, from Southeastern Avenue to Troy Avenue;  
*Shortridge Road*, from Tenth Street to Fourteenth Street;  
*Spencer Avenue*, from Lexington Avenue to English Avenue;  
*Spring Mill Road*, from Ninety-sixty Street to Kessler Boulevard, West Drive;  
*Stanley Avenue*, from Camby Road to Banta Road;  
*Stanley Avenue*, from Nelson Avenue to Southern Avenue;  
*Sterling Pointe Drive*, between State Road 67 and Kirkwood Club Drive;  
*Stop 10 Road*, from Madison Avenue to Shelby Street;  
*Temple Avenue*, from English Avenue to Hoyt Avenue;  
*Thompson Road*, from Sandhurst Drive to Warman Avenue;  
*Thompson Road*, from State Road 67 to Decatur Boulevard;

*Trowbridge Street*, from English Avenue to Hoyt Avenue;

*Udell Street*, from Harding Street to Riverside Drive;

*Valley Mills Avenue*, from Depot Street to Kollman Road;

*Vermont Street*, from East Street to College Avenue;

*Villa Avenue*, from Walker Street to Troy Avenue;

*Village Way*, from Eighty-sixth Street to Ninety-sixth Street;

*Waldemere Avenue*, from Washington Street to Chelsea Road;

*Washington Boulevard*, from Fall Creek Parkway, North Drive, to Westfield Boulevard;

*Westmore Drive*, from Tenth Street to St. Clair Street;

*Wheeler Street*, from Twenty-fifth Street to a point 375 feet south of Twenty-third Street;

*White River Parkway, East Drive*, from Tenth Street to New York Street;

*White River Parkway, East Drive*, from West Eighteenth Street to West Thirtieth Street;

*White River Parkway, East Drive*, from West Thirtieth Street to West Thirty-eighth Street;

*White River Parkway West Drive*, from Thirtieth Street to Cold Spring Road;

*Windsor Drive*, from Arlington Avenue to Kenyon Street;

*Woodcliff Drive*, from Beechcrest Drive to Sherman Drive;

*Woodlawn Avenue*, from Virginia Avenue to Leonard Street;

16,000 POUNDS GROSS WEIGHT

*East Seventy-fifth Street*, over Williams Creek;

*Market Street*, from Miley Avenue to Indianapolis Union Railroad Tracks (1650 W); and

20,000 POUNDS GROSS WEIGHT

*Southern Avenue*, from Tibbs Avenue to Centennial Street.

SECTION 20. Section 536-111 of the "Revised Code of the Consolidated City and County," regarding definitions used in Chapter 536, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 536-111. Definitions.**

Unless otherwise clearly indicated by the context, the terms defined in this section shall have the ~~specified~~ meanings ascribed to them in this section when used in this chapter and chapter 875. If a term defined in this section is inconsistent or conflicts with any term defined in a rule promulgated by the fire prevention and building safety commission, then the term, as defined by the fire prevention and building safety commission, will be applied to the rules promulgated by the fire prevention and building safety commission and incorporated by reference under Article VIII of this chapter.

*Building equipment* means any machine, device, apparatus or material used as part of permanent heating, ventilation, air conditioning, electrical, plumbing sanitary, emergency detection, emergency

communication, or fire or explosion systems.

*Building standards and procedures* means regulations, standards or requirements relative to either construction or the condition of existing structures or building equipment established by or under federal law, state law or city ordinances. Building standards and procedures shall specifically include rules promulgated by the Fire Prevention and Building Safety Commission, adopted herein by reference, and the substantive and procedural provisions of this chapter.

*Bureau of construction services* means the bureau of construction services of the department of code enforcement.

*Bureau of license and permit services or bureau* means the bureau of license and permit services of the department of code enforcement.

*Class 1 structure* means any part of the following:

- (1) A building or structure that is intended to be or is occupied or otherwise used in any part by any of the following:
  - a. The public;
  - b. Three (3) or more tenants; or
  - c. One (1) or more persons who act as the employees of another;
- (2) A site improvement affecting access by persons with physical disabilities to a building or structure described in subdivision (1); or
- (3) Any class of buildings or structures that the Indiana Fire Prevention and Building Safety Commission determines by rules to affect a building or structure described in subdivision (1).

Class 1 structure includes a structure that contains three (3) or more condominium units (as defined in IC 32-1-6-2) or other units that:

- (1) Are intended to be or are used or leased by the owner of the unit; and
- (2) Are not completely separated from each other by an unimproved space.

Class 1 structure does not include a building or structure that:

- (1) Is intended to be or is used only for an agricultural purpose on the land where it is located; and
- (2) Is not used for retail trade or is a stand used for retail sales of farm produce for eight (8) or less consecutive months in a calendar year.

Class 1 structure does not include a Class 2 structure or a vehicular bridge.

*Class 2 structure* means any part of the following:

- (1) A building or structure that is intended to contain or contains only one (1) dwelling unit or two (2) dwelling units unless any part of the building or structure is regularly used as a Class 1 structure; or
- (2) An outbuilding for a structure described in subdivision (1), such as a garage, barn, or family swimming pool, unless any part of the outbuilding is regularly used as a Class 1 structure.

Class 2 structure does not include a vehicular bridge.

*Construction* means any of the following:

- (1) Fabrication of any part of an industrialized building system or mobile structure for use at another site;
- (2) Erection or assembly of any part of a Class 1 or Class 2 structure at the site where it will be used;
- (3) Installation of any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion suppression systems for a Class 1 or Class 2 structure at the site where it will be used;
- (4) Work undertaken to alter, remodel, rehabilitate, or add to any part of a Class 1 or Class 2 structure; or
- (5) Work undertaken to relocate any part of a Class 1 or Class 2 structure, except a mobile structure.

*Cooling system* means a system ~~which~~ that utilizes a source of energy to accomplish the cooling (not below a constant temperature of sixty (60) degrees Fahrenheit) of more than one (1) partitioned space in a structure or to accomplish the cooling of all or part of a structure by distribution of air through ductwork extending more than twelve (12) inches from the appliance collars, or distribution of liquid or vapor through on-site piping.

*Division of inspections* means the division of inspections of the department of code enforcement.

*Electrical power distribution system* means a system for the distribution of electrical current both within and on the exterior of a structure, from an electrical power source to receptacles or equipment ~~which~~ that uses electricity; provided, however, that class 2 and class 3 circuits (as defined by the Indiana Electrical Code) shall not be considered part of an electrical power distribution system for purposes of this definition.

*Heating system* means a system ~~which~~ that utilizes a source of energy including, but not limited to, electricity, fossil fuels, geothermal, solar and wind, to accomplish the warming of more than one (1) partitioned space in a structure or to accomplish the warming of all or part of a structure by distribution of air through ductwork extending more than twelve (12) inches from the appliance collars, or distribution of liquid or vapor through on-site piping; provided, however, that a structural design ~~which~~ that utilizes largely natural means to cause flow of thermal energy from the sun to accomplish warming of all or part of a structure shall not be considered a heating system for purposes of this definition.

*Industrialized building system* means any part of a building or other structure that is in whole or in substantial part fabricated in an off-site manufacturing facility for installation or assembly at the building site as part of a Class 1 structure, a Class 2 structure, or another building or structure. However, the term does not include a mobile structure or a system that is capable of inspection at the building site.

*Manufactured home* has the meaning set forth in 42 U.S.C. 5402 as it existed on January 1, 1984.

*Mobile structure* means any part of a fabricated unit that is designed to be:

- (1) Towed on its own chassis; and
- (2) Connected to utilities for year-round occupancy or use as a Class 1 structure, a Class 2 structure, or another structure.

The term includes the following:

- (1) Two (2) or more components that can be retracted for towing purposes and subsequently expanded for additional capacity; or
- (2) Two (2) or more units that are separately towable but designed to be joined into one (1) integral unit.

*One- or two-family residential structure* means a Class 2 Structure.

*Ordinary maintenance and repair* means construction commonly accomplished in or on an existing structure for the purpose of preventing deterioration or performance deficiencies, maintaining appearance, or securing the original level of performance. Preventing deterioration or deficient performance shall include such activities as caulking windows, painting, pointing bricks, oiling machinery and replacing filters. Maintaining appearance shall include such activities as sandblasting masonry and cleaning equipment. Securing the original level of performance shall include such activities as replacing broken glass, patching a roof, disassembling and reassembling a piece of building equipment, welding a broken part and replacing a component of a heating system (but not a furnace) with an identical component. Ordinary maintenance and repair shall not include any construction ~~which that~~ alters the prior or initial capacity, performance specifications, type of required energy or functional features of an existing structure or building equipment.

*Partnership or corporation* means a partnership, corporation, or other business association, including limited liability company, organized and authorized to do business under the laws of Indiana.

*Person* means an individual human being.

*Refrigeration equipment* means equipment ~~which that~~ utilizes a source of energy to accomplish the cooling of a space or materials to a constant temperature below sixty (60) degrees Fahrenheit, typically for such purposes as food storage, mechanical fabrication, or industrial processing; provided, however, that plug-in electrical appliances such as freezers or icemakers that do not require more than twelve (12) amperes of current at a nominal one hundred fifteen (115) volts shall not be considered refrigeration equipment for purposes of this definition.

*Service equipment* means the necessary equipment, usually consisting of a circuit breaker or switch and fuses and their accessories, located near the point of entrance of electrical supply conductors to a structure or an otherwise defined area, intended to constitute the main control and means of cutoff of the electrical supply.

*Space cooling equipment* means equipment ~~which that~~ utilizes a source of energy to accomplish the cooling (not below a constant temperature of sixty (60) degrees Fahrenheit) of an unpartitioned space within a structure in which the equipment is located without the use of duct work for the distribution of air extending more than twelve (12) inches beyond the appliance collars or the use of on-site piping for the distribution of liquid or vapor; provided, however, that plug-in electrical appliances such as window air conditioners that do not require more than twelve (12) amperes of current at a nominal one hundred fifteen (115) volts shall not be considered space cooling equipment for purposes of this definition.

*Space heating equipment* means equipment ~~which that~~ utilizes a source of energy including, but not limited to, electricity, fossil fuels, geothermal, solar and wind, to accomplish the warming of an unpartitioned space within a structure in which the equipment is located without the use of air distribution ductwork ~~which that~~ extends more than twelve (12) inches beyond the appliance collars or the use of on-site piping for the distribution of liquid or vapor; provided, however, that the following shall not be considered space heating equipment for purposes of this definition:

- (1) Plug-in electrical appliances such as freestanding room heaters that do not require more than twelve (12) amperes of current at a nominal one hundred fifteen (115) volts;
- (2) Self-contained fireplaces; and
- (3) A structural design ~~which that~~ utilizes largely natural means to cause flow of thermal energy from the sun to accomplish warming of all or part of a structure.

*Structure* means that which is built or constructed, such as an edifice or building of any kind, or any piece of work artificially built up or composed of parts formed together in some definite manner, or any part thereof. The word "structure" shall not include improvements such as public roadways or bridges.

SECTION 21. Section 536-121 of the "Revised Code of the Consolidated City and County," regarding

administration of the city's building standards and procedures, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 536-121. Administration of building code.**

The director of the department of ~~metropolitan development~~ code enforcement, or his or her designee, shall administer and enforce the provisions of this chapter. Whenever in this chapter, it is provided that anything must be done to the approval of or subject to the direction of the director of the department of ~~metropolitan development~~ code enforcement or any other officer of the City of Indianapolis, this shall be construed to give such officer only the discretion of determining whether this Code has been complied with; and no such provisions shall be construed as giving any officer discretionary powers as to what this Code shall be, or power to require conditions not prescribed by ordinances or to enforce this chapter in an arbitrary or discriminatory manner. Any variance from adopted building rules promulgated by the fire prevention and building safety commission are subject to approval under IC 22-13-2-7.

SECTION 22. Section 536-124 of the "Revised Code of the Consolidated City and County," regarding forms relating to the city's building standards and procedures, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 536-124. Discretion to modify forms.**

The director of the department of ~~metropolitan development~~ code enforcement, or his or her designee, is authorized to modify any of the forms set forth in this Chapter 536 so long as the altered form requests the same basic information. The director, or his or her designee, for example, may replace questions, add reasonably related questions or explanatory material, reformat the form or combine the form with another form. The director, or his or her designee, may authorize the form to be completed, used or stored electronically.

SECTION 23. Sections 536-201, 536-202, and 536-203 of the "Revised Code of the Consolidated City and County," regarding powers and duties of the division of compliance, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 536-201. When building permits required; enforcement.**

(a) *Permit required.* Except for construction specified in subsections (b) and (c), it shall be unlawful for a person, partnership or corporation to engage in any construction or demolition or removal of structures unless a written building permit issued by the ~~division of compliance~~ bureau of license and permit services describing the activity has been obtained by and is in force relative to the person, partnership or corporation ~~which that~~ is actually accomplishing, supervising accomplishment or is contractually responsible for accomplishment of the construction allowed by the building permit. A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars (\$100.00), and each day that an offense continues shall constitute a separate violation. The city controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the department of ~~metropolitan development~~ code enforcement.

(b) *Exemptions for one- and two-family dwellings.* With respect to Class 2 structures, the permit specified in subsection (a) shall not be required for:

- (1) Replacement of exterior prime doors and windows (limited to like for like in a wall opening of the same dimensions ~~which that~~ does not reduce the egress required by code provision existing at the time the building was constructed) if performed by a listed contractor that complies with the notice and posting requirements of section 536-216; additionally, a person who owns or is purchasing a Class 2 structure on contract with intention to utilize the property for his or her own occupancy may likewise replace without permit prime doors and windows in such structure; ~~or~~
- (2) Replacement of an existing roof if performed by a listed contractor that complies with the notice and posting requirements of section 536-216; and that construction does not involve:

- a. A change in roof configuration; ~~or~~
- b. A change in type of roof covering (e.g., tile roofing replacing asphalt shingles) that would increase the dead load on the structure; ~~or~~
- c. The replacement of basic structural members that support the roof (e.g., replacement of a rafter or more than one hundred twenty-eight (128) feet of decking); or
- d. The installation of heat-applied roofing material;

Additionally, a person who owns or is purchasing a Class 2 structure on contract with the intention to utilize the property for his or her own occupancy may affix without permit a layer of replacement shingles to a single layer of existing shingles provided that a layer of shingles is not removed and provided that the total shingle-roof application is performed by the owner or contract purchaser with assistance only by noncompensated volunteers;

- (3) Installation and replacement of exterior siding if performed by a listed contractor that complies with the notice and posting requirements of section 536-216; additionally, a person who owns or is purchasing a Class 2 structure on contract with the intention to utilize the property for his or her own occupancy may attach without permit a layer of siding to the existing sheathing without removal of existing sheathing, provided that the total siding application is performed by the owner or contract purchaser assisted only by noncompensated volunteers; ~~or~~
- (4) Ordinary maintenance and repair of a structure where the work does not reduce performance or create additional health or safety risks as defined in section 536-111(i); ~~or~~
- (5) Installation and replacement of fixtures attached to the walls or floors such as cupboards, cabinets, shelving, railings, tracks, wall and floor coverings, and doors; ~~or~~
- (6) Installation, maintenance and repair of storm windows and other exterior windows designed and used as protection against severe weather; ~~or~~
- (7) Exterior repair or renovation of a masonry chimney above the roof line that does not reduce the size of the flue opening; ~~or~~
- (8) Gutter replacement or installation; ~~or~~
- (9) Attachment of window awnings to exterior walls where the awnings project not more than forty-eight (48) inches from any wall; ~~or~~
- (10) Installation of thermal insulation; ~~or~~
- (11) Installation of additional non-load bearing walls that do not result in the creation of sleeping rooms; provided however, permits are required (except as otherwise specifically exempted by provisions of this section) for electrical, heating and cooling, or plumbing work; ~~or~~
- (12) Replacement of an attic fan, bathroom exhaust fan, range hood exhaust fan or whole house fan; ~~or~~
- (13) Erection or installation of a fence or structural barrier in conformance with zoning requirements and any necessary certificates of appropriateness in a historic district; ~~or~~
- (14) Erection or installation of an aboveground swimming pool thirty (30) inches or less deep and fifteen (15) feet or less at its widest points; ~~or~~
- (15) Erection or installation of a deck where:
  - a. No part of the floor is more than thirty (30) inches above finished grade; and

b. There is compliance with the assessor notification requirements of section 536-215; ~~or~~

(16)Erection of retaining walls ~~which that~~ are not over four (4) feet in height measured from the lowest finished grade to the top of the wall, unless the walls are supporting a surcharge; ~~or~~

(17)Erection of a structure ~~which that~~ spans one hundred twenty (120) square feet or less of base area, is less than fifteen (15) feet in height, is not placed on or attached to a permanent foundation and does not contain an electrical power distribution system, heating system, space heating equipment, cooling system, or space cooling equipment; ~~or~~

(18)Ordinary maintenance and repair of building equipment where the work does not reduce performance or create additional safety or health risks; ~~or~~

(19)Installation of a single-phase electric circuit not exceeding sixty (60) amperes at a nominal 120/240 volts ~~which that~~ involves the installation, modernization, replacement, service or repair of a heating system, space heating equipment, cooling system, space cooling equipment, a water heater or a food waste disposer for which a building permit has been issued; ~~or~~

(20)Installation of household appliances such as window air conditioners, refrigerators, refrigerators with automatic icemakers, ranges, microwave ovens, clothes washers, clothes dryers, dishwashers, food waste disposers and trash compactors when such installation does not include the installation of an electrical circuit; ~~or~~

(21)Replacement in kind of piping in a plumbing system when the replacement piping meets the same performance specifications and has the same capacity as the piping being replaced and not more than twenty (20) percent of all piping in the structure is replaced; ~~or~~

(22)Replacement of appliances, fixtures, traps and valves in a plumbing system; ~~or~~

(23)Replacement of a water heater with one (1) that is identical as to venting arrangement and type of fuel or energy input; ~~or~~

(24)Extension of heating or cooling duct work; ~~or~~

(25)Placement of a manufactured home not on a permanent foundation in a manufactured home park licensed by the Indiana State Department of Health; ~~or~~

(26)Initial connection or reconnection of plumbing to a manufactured home not placed on a permanent foundation located in a manufactured home park licensed by the Indiana State Department of Health; ~~or~~

(27)Erection of real estate signs advertising real estate for sale or for rent in conformance with the size limitations of the zoning ordinance governing signs; ~~or~~

(28)Connection, provision or use of temporary electrical power for on-site construction.

(c) *Exemptions for commercial construction.* With respect to Class 1 structures, permits specified in subsection (a) shall not be required for:

(1) Ordinary maintenance and repair of a structure where the work does not reduce performance or create additional safety or health risks as defined in section 536-111(i); ~~or~~

(2) Installation, maintenance and repair of storm windows and other exterior windows designed and used as protection against severe weather; ~~or~~

(3) Attachment of window awnings to exterior walls where the awnings project not more than forty-eight (48) inches from any wall; ~~or~~

- (4) Painting, papering and similar finish work; ~~or~~
- (5) Installation of movable cases, counters and partitions not over sixty-nine (69) inches high; ~~or~~
- (6) Erection or installation of temporary motion picture, television and theater stage sets and scenery; ~~or~~
- (7) Installation of thermal insulation; ~~or~~
- (8) Erection or installation of a fence or structural barrier in conformance with zoning requirements and any necessary certificates of appropriateness in a historic district; ~~or~~
- (9) Erection or installation of an aboveground swimming pool thirty (30) inches or less deep and fifteen (15) feet or less at its widest points; ~~or~~
- (10) Erection or installation of platforms not more than thirty (30) inches above grade and not over any basement or story below; ~~or~~
- (11) Installation of water tanks supported directly upon grade if the capacity does not exceed five thousand (5,000) gallons and the ratio of height to diameter or width does not exceed two (2) to one (1); ~~or~~
- (12) Erection of oil derricks; ~~or~~
- (13) Erection of retaining walls ~~which that~~ are not over four (4) feet in height measured from the lowest finished grade to the top of the wall, unless the walls are supporting a surcharge or used as a dike to impound flammable or combustible liquids or products that pose a health or safety risk (e.g., corrosives, oxidizers, poisons); ~~or~~
- (14) Erection of a structure ~~which that~~ spans one hundred twenty (120) square feet or less of base area, is less than fifteen (15) feet in height, is not placed on or attached to a permanent foundation and does not contain an electrical power distribution system, heating system, space heating equipment, cooling system, or space cooling equipment; ~~or~~
- (15) Erection of any sign in conformance with zoning requirements; ~~or~~
- (16) Ordinary maintenance and repair of building equipment where the work does not reduce performance or create additional safety or health risks; ~~or~~
- (17) Connection, provisions or use of temporary electrical power for on-site construction; ~~or~~
- (18) Installation of household appliance such as window air conditioners, refrigerators, refrigerators with automatic icemakers, ranges, microwave ovens, clothes washers, clothes dryers, dishwashers, food waste disposers and trash compactors in apartment buildings when such installation does not include the installation of an electrical circuit; ~~or~~
- (19) Replacement in kind of piping in a plumbing system when the replacement piping meets the same performance specifications and has the same capacity as the piping being replaced and not more than twenty (20) percent of the piping in an area occupied by a single tenant in the structure is replaced; ~~or~~
- (20) Replacement of appliances, fixtures, traps and valves in a plumbing system; or
- (21) Replacement of a water heater with one (1) that is identical as to venting arrangement and type of fuel or energy input.

(d) *Preservation districts.* Provisions in subsection (b) or (c) that exempt those engaged in certain construction from the obligation to secure a building permit do not affect the possible obligation to secure a certificate of appropriateness for construction either in an historic area designated by the Indianapolis

Historic Preservation Commission or in the Meridian Street Preservation District designated by the Indiana Code. While a building permit may not be required, a certificate of appropriateness from the Indianapolis Historic Preservation Commission or the Meridian Street Preservation Commission may be required in such an area.

(e) *Flood control districts.* Provisions in subsection (b) or (c) that exempt those engaged in certain construction from the obligation to secure a building permit do not affect the possible obligation to secure a floodplain development permit for construction in the flood control districts as designated by the ~~Flood Control Districts Zoning Ordinance, General Ordinance No. 64, 1992 Chapter 735, Article III, of the Code.~~ While a building permit may not be required, a floodplain development permit may be required in such areas.

**Sec. 536-202. Eligibility to obtain and apply for a building permit.**

(a) To obtain a building permit a person, partnership or corporation must meet the requirements of paragraphs (1) through (5) below and must be the person, partnership or corporation ~~which that~~ will either actually accomplish, supervise accomplishment or be contractually responsible for accomplishment of the construction allowed by the building permit:

- (1) Any person, partnership or corporation ~~which that~~ is a listed contractor under Article I of Chapter 875 may:
  - a. Obtain a building permit to accomplish any construction except work for which Articles II, III or IV of Chapter 875 require licensure or IC 25-28.5-1 requires a state license; or
  - b. Obtain a master building permit under sections 536-203 or 536-204;
- (2) Any person, partnership or corporation licensed under Articles II, III or IV of Chapter 875 may obtain a building permit solely to accomplish construction allowed by the license or type of license held by the person, partnership or corporation;
- (3) Any person or corporation registered under Article V of Chapter 875 may obtain a building permit solely to accomplish construction for which state licensure as a plumbing contractor is required;
- (4) Any person who is either a registered architect or registered engineer licensed to practice in the State of Indiana may obtain a building permit to accomplish any construction for which a design release is required and has been given by the office of the state building commissioner. Such architect or engineer, however, may not obtain a building permit for work relative to which Articles II, III or IV of Chapter 875 require a license; and
- (5) Any person, partnership or corporation ~~which that~~ owns, is a contract purchaser or is a long-term lessee of an improved or unimproved parcel of land ~~which that~~ the person, partnership or corporation intends to utilize for its own purposes (e.g., permanent business location, place of residence, rental property that the owner is obligated to maintain) may obtain a building permit to accomplish construction on such parcel carried out through direct efforts of:
  - a. The person; ~~or~~
  - b. One (1) or more employees of the person, partnership or corporation (including temporary employees hired to do construction work); or
  - c. Persons who volunteer to work on the construction and who are not compensated for their services.

Such a person, partnership or corporation may not obtain a building permit to wreck a structure for which Article IV of Chapter 875 requires licensure. Such a person, partnership or corporation may not obtain a building permit for work relative to which IC 25-28.5-1 requires a state license. The requirements of section 875-222 and section 875-321 must be met for such a person, partnership or corporation to obtain a building permit to accomplish construction relative to which

Articles II and III of Chapter 875 require licensure. In addition, any person, partnership or corporation ~~which that~~ owns, is a contract purchaser or is a long-term lessee of an improved or unimproved parcel of land ~~which that~~ the person, partnership or corporation intends to utilize for its own purposes (e.g., permanent business location, place of residence, rental property that the owner is obligated to maintain) may obtain a building permit to allow construction on such parcel to be carried out by one (1) or more listed contractors as long as a single listed contractor is not responsible for all of the construction to be done on the parcel. Such a person, partnership or corporation may not obtain a permit to demolish or remove a structure for which Article IV of Chapter 875 requires licensure. Such a person, partnership or corporation may not obtain a building permit for work relative to which IC 25-28.5-1 requires a state license. The requirements of section 875-222 and section 875-321 must be met for such a person, partnership or corporation to obtain a building permit to accomplish construction relative to which Articles II and III of Chapter 875 require licensure.

(b) Application for a building permit may be made by the person entitled to obtain the permit or by an employee of the person, partnership or corporation entitled to obtain the permit, or by an employee of a company in the business of obtaining permits for persons, partnerships and corporations listed or licensed under provisions of this chapter. ~~The division of compliance~~ bureau of license and permit services may require that an employee or agent provide written authority to apply for the permit.

**Sec. 536-203. Master permit.**

A person, partnership or corporation listed as a contractor under section 875-106 may elect to obtain a master permit for all construction occurring at a structure. (However, ~~the division of compliance~~ bureau of license and permit services is not obligated to start issuing master permits until computer equipment and programs needed to make issuance of such permits practicable and effective have been secured.) The master permit shall identify all construction to occur at the structure and shall be the sole permit needed to accomplish all work identified on the permit at the structure. The person, partnership or corporation obtaining the master permit shall be responsible for all construction occurring at the structure, including code compliance for all construction for which Articles II, III or IV of Chapter 875 of this Revised Code require licensure or IC 25-28.5-1 requires a state license.

SECTION 24. Section 536-205 of the "Revised Code of the Consolidated City and County," regarding building permits, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 536-205. Building permits obtained by written application.**

(a) Application for a building permit shall be made to the ~~division of compliance~~ bureau of license and permit services. The application shall be made in accordance with this section, unless each and every requirement of section 536-209 is met and the administrator decides to issue a building permit on the basis of that section.

(b) The application shall be in writing on a form prescribed by the ~~division of compliance~~ bureau of license and permit services and shall be supported with:

- (1) Two (2) copies of detailed plans and specifications drawn to scale ~~which that~~ indicate in a precise manner the nature and location of all work to be accomplished pursuant to the building permit. In lieu thereof, it shall be within the discretion of the administrator of the ~~division of compliance~~ bureau to accept two (2) copies of a written statement indicating the nature and location of the work to be done pursuant to the building permit where such written statement describes the work as precisely as a copy of detailed plans and specifications drawn to scale.
- (2) Two (2) copies of a plot plan drawn to scale ~~which that~~ reflect the location of the structure in relation to existing property lines and ~~which that~~ show streets, curbs and sidewalks and proposed changes or additions to such streets, curbs and sidewalks; provided, however, such plot plan shall not be required in the instance where all of the construction is to occur inside an existing structure.

- (3) An improvement location permit, issued by the ~~division of compliance~~ bureau, if required by the ordinance providing for the improvement location permit.
- (4) Written approval from the Marion County Health and Hospital Corporation for any contemplated private sewage disposal system.
- (5) Design release from the office of the state building commissioner, in concurrence with the state fire ~~marshal~~ marshal, if required by Indiana law or any rule of the fire prevention and building safety commission.
- (6) A drainage permit, issued by the division of ~~division of compliance~~ bureau, if required by the ordinance providing for a drainage permit.
- (7) A connection permit, issued by the ~~division of compliance~~ bureau, if required by the ordinance requiring a permit for connection to a sewer.

(c) In the instance where a building permit is requested for the purpose of allowing the demolition or removal of a structure, such application shall be supported with a written statement from each utility that its service to the premises has been disconnected, and with either a written statement from the record titleholder of such premises authorizing the demolition or removal or a court order or administrative order requiring the demolition or removal of the structure.

(d) In the instance where a building permit is requested for the purpose of allowing the demolition or removal of a structure ~~which that~~ is in excess of seventy-five (75) feet in height, such application shall be supported by a certificate of insurance reflecting that the obtainer of the building permit has a public liability and property damage insurance policy naming the licensee and the Consolidated City of Indianapolis as the assured and providing also for the payment of any liability imposed by law on such licensee or the Consolidated City of Indianapolis in the minimum amounts of one million dollars (\$1,000,000.00) for any occurrence relative to which there is injury to or death of one (1) or more persons and five hundred thousand dollars (\$500,000.00) for any occurrence relative to which there is property damage.

(e) In the instance where a building permit is requested for the purpose of constructing a swimming pool, such application shall include the name of the person responsible for constructing the required fence or safety pool cover.

(f) Except as provided in section 536-701 or 536-702, a building permit shall be issued if:

- (1) The application and supporting information required by this section have been properly prepared and submitted; ~~and~~
- (2) The application and supporting information filed in accordance with this section reflect compliance with building standards and procedures; ~~and~~
- (3) The fee has been paid in compliance with Article VI of this chapter; ~~and~~
- (4) The person, partnership or corporation obtaining the building permit complies with the requirements of section 536-202; and
- (5) The person applying for the building permit complies with the requirements of section 536-202.

(g) By making payment for the building permit, the applicant and obtainer shall be deemed to represent and certify that the information contained in that permit is complete and accurate, unless the applicant or obtainer shall within ten (10) days provide in writing to the ~~division of compliance~~ bureau of license and permit services any additions or corrections to that information.

SECTION 25. Sections 536-208 through 536-211, inclusive, of the "Revised Code of the Consolidated City and County," regarding building permits, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 536-208. Examination of detailed plans and specifications.**

The purpose of any examination of detailed plans and specifications and plot plans shall be to determine consistency with building standards and procedures. Design characteristics not affecting consistency with building standards and procedures shall not be considered in any examination of detailed plans and specifications and plot plans. Issuance of a building permit relative to plans ~~which that~~ do not comply with building standards and procedures shall not relieve the person, partnership or corporation who applied for or obtained the building permit of the responsibility of complying with all building standards and procedures. The ~~division of compliance~~ bureau of license and permit services shall file-mark all acceptable plans "plans received and application approved" and then return one (1) copy of the detailed plans and specifications and one (1) copy of the plot plan to the applicant.

**Sec. 536-209. Permits obtained by a telephone communication or facsimile machine.**

(a) The administrator may, but is not required to, issue a permit on the basis of information received by a telephone call over a specified telephone line in the office of the ~~division of compliance~~ bureau of license and permit services (to which may be attached a recording device to make a record of all information supplied) or on the basis of an application submitted by facsimile machine over a specified telephone line in the office of the ~~division of compliance~~ bureau.

(b) To receive a permit on the basis of a telephone communication or facsimile, all of the following requirements must be met:

- (1) The person, partnership or corporation obtaining the permit and the person applying for the permit are eligible to obtain and apply for a building permit pursuant to section 536-202, and:
  - a. Have accomplished construction in the consolidated city for a period of the preceding twelve (12) calendar months without a violation of building standards or procedures ~~which that~~ caused a revocation of a building permit pursuant to section 536-704; issuance of and failure to correct violations cited in a stop-work order pursuant to section 536-705; issuance of an order forbidding occupancy pursuant to section 536-706; initiation of a civil action filed pursuant to section 536-707; forfeiture of a licensing bond pursuant to section 536-708; or a judicially imposed fine or imprisonment pursuant to section 536-709; and
  - b. Have over the period of the previous one hundred eighty (180) days made prompt payment of all building permit fees for permits issued under this chapter;
- (2) The construction is being accomplished in or on an existing structure;
- (3) The construction does not involve the demolition or removal of a structure;
- (4) The construction does not require the issuance of a design release by the office of the state building commissioner;
- (5) An improvement location permit, issued by the ~~division of compliance~~ bureau of license and permit services, is not required;
- (6) Approval of the Marion County Health and Hospital Corporation for a private sewage disposal system is not required;
- (7) The construction does not require a drainage permit; and
- (8) The construction is susceptible to being accurately described without the aid of either a plot plan or detailed plans and specifications.

(c) The following information shall be supplied over the specified telephone line in order to obtain a building permit under this section 536-209:

- (1) The name of the person telephoning (applicant);
- (2) The name, and listing or license number of the contractor in whose name the requested building permit is being issued (obtainer);
- (3) The address of the construction;
- (4) A precise description of the construction to be accomplished; and
- (5) The value of the construction.

(d) The obtainer of the building permit shall remit fees for the permit and for obtaining the permit by telephone communication or facsimile machine as provided in section 131-501 of the code, along with a written application (as provided for in section 536-205) to the division of compliance bureau of license and permit services within five (5) business days following the date of the permit's issuance by check or money order made payable to the controller of the City of Indianapolis. The permit number shall be clearly marked on the face of the check or money order. Payment shall be made in the office of the division of compliance bureau or through the United States Postal Service. If mailed, the postmark on the envelope shall be evidence of compliance with the five-day remittance requirement. If payment is not received within five (5) business days, the permit shall be voidable by order of the administrator. If a permit issued under this section is voided, no further construction shall be accomplished under that permit.

(e) The building permit obtained in accordance with this section shall be in full force and effect at the time a building permit number is furnished by the division of compliance bureau of license and permit services over the telephone line to the applicant. Following the issuance of the building permit in accordance with this section, the division of compliance bureau shall, as soon as conveniently possible after the payment of the permit fee, mail a copy of the building permit document to the applicant for the building permit.

(f) By making payment for the building permit, the applicant and obtainer shall be deemed to represent and certify that the information contained in that permit is complete and accurate, unless the applicant or obtainer shall within ten (10) days provide in writing to the division of compliance bureau of license and permit services any additions or corrections to that information.

**Sec. 536-210. Permit and file-marked plans to be available.**

Any person, partnership or corporation to which a building permit has been issued shall prominently display such permit or a document bearing the permit number provided by the division of compliance which bureau of license and permit services that evidences permit issuance, or, in the instance of a permit obtained by telephone communication, a paper bearing the authorization number, at the job site during construction. If required to submit detailed plans and specifications in order to obtain a building permit such person, partnership or corporation shall have available for inspection at all times a copy of the detailed plans and specifications bearing the file mark of the division of compliance bureau. Any change in such detailed plans and specifications, except for minor deviations that neither diminish structural quality nor would cause noncompliance with applicable building standards and procedures, shall be filed with and approved by the division of compliance bureau prior to the time construction involving the change occurs.

**Sec. 536-211. Transfer of building permits; fee.**

(a) A building permit may be transferred with the approval of the administrator of the division of compliance bureau of license and permit services to a person, partnership or corporation which that would be eligible under section 536-202 to obtain such building permit in the first instance (hereinafter called "transferee"), after both the payment of a fee and the execution and filing of a form furnished by the division of compliance bureau. Such transfer form shall contain, in substance, the following certifications, release and agreement:

- (1) The person who obtained the original building permit or a person who is employed by and

authorized to act for the obtainer (hereinafter called "transferor") shall:

- a. Certify under penalties for perjury that such person is familiar with construction accomplished pursuant to the building permit; such person is familiar with the building standards and procedures applicable to the construction; and to the best of such person's knowledge, information and belief the construction, to the extent performed, is in conformity with all building standards and procedures; and
- b. Sign a statement releasing all rights and privileges secured under the building permit to the transferee.

(2) The transferee shall:

- a. Certify that the transferee is familiar with the information contained in the original building permit application, the detailed plans and specifications, the plot plan and any other documents filed in support of the application for the original building permit; ~~and~~
- b. Certify that the transferee is familiar with the present condition of the premises on which construction is to be accomplished pursuant to the building permit; and
- c. Agree to adopt and be bound by the information contained in the original application for the building permit, the detailed plans and specifications, the plot plan and other documents supporting the original building permit application; or in the alternative, agree to be bound by such application plans and documents modified by plan amendments submitted to the ~~division of compliance~~ bureau for approval.

(b) The transferee shall assume the responsibilities and obligations of and shall comply with the same procedures required of the transferor (including, but not being limited to, the requirement of section 536-301 that a certificate of completion and compliance be executed and filed and the requirement of sections 536-402 and 536-403 that further construction not be accomplished without notice of and opportunity for inspection at certain stages) and shall be subject to any written orders issued by the administrator or his or her authorized representative.

(c) A permit for construction at a specified location may not be transferred to construction at a different location.

(d) The fee for transfer of a building permit shall be provided in section 131-501 of the code.

SECTION 26. Sections 536-213 and 536-214 of the "Revised Code of the Consolidated City and County," regarding building permits, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 536-213. Expiration of building permits by operation of law; extensions.**

(a) If construction, other than activity involving the removal of all or part of a structure, has not been commenced within one hundred eighty (180) days from the date of issuance of the building permit, the permit shall expire by operation of law and shall no longer be of any force or effect; provided, however, the administrator of the ~~division of compliance~~ bureau of license and permit services may, for good cause shown in writing, extend the validity of any such permit for an additional period ~~which that~~ is reasonable under the circumstances to allow commencement of the construction. In no event shall the extension exceed a period of sixty (60) days.

(b) If the construction has been commenced but only partially completed, and thereafter substantially no construction occurs on the construction-site over a period of one hundred eighty (180) days, the permit shall expire by operation of law and no longer be of any force or effect; provided, however, the administrator may, for good cause shown in writing, extend the validity of any such permit for an additional period ~~which that~~ is reasonable under the circumstances to allow resumption of construction.

(c) If construction involving removal of a structure or part of a structure has not been completed

within the following time periods, the building permit shall expire by operation of law and shall no longer be of any force or effect:

- (1) Removal of all or part of a Class 2, thirty (30) days after issuance; and
- (2) Removal of all or part of a Class 1 structure, sixty (60) days after issuance.

Provided, however, the administrator of the ~~division of compliance~~ bureau may, for good cause shown in writing, extend the validity of any such permit for an additional period that is reasonable under the circumstances up to forty-five (45) days in length.

- (d) An extension granted under this section shall be confirmed in writing.

**Sec. 536-214. Defacing permit.**

It shall be unlawful for any person, other than an employee of the ~~division of compliance~~ bureau of license and permit services, to intentionally remove, deface, obscure, mutilate, mark or sign a posted building permit or a document bearing the permit number provided by the ~~division of compliance~~ which bureau that evidences permit issuance without authorization from the administrator of the ~~division of compliance, bureau~~ or his or her authorized representative, until fifteen (15) calendar days after both the construction is completed and the ~~division of compliance~~ bureau is notified of such completion.

SECTION 27. Sections 536-216 and 536-217 of the "Revised Code of the Consolidated City and County," regarding building permits, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 536-216. Posting of contractor notification form at work site, notification to division and owners.**

(a) Prior to the commencement of construction for which a listed contractor is not required to obtain a building permit because of an exemption provided in paragraphs (1), (2) or (3) of subsection (b) of section 536-201, the listed contractor shall complete the notification form prescribed in subsection (b), place the form on the site as specified in subsection (c) and notify the ~~division of compliance~~ bureau of license and permit services as specified in subsection (d).

(b) The form shall be made of a reasonably durable material and shall contain the following information:

- (1) Listing number assigned to the contractor by the city; ;
- (2) Name of contractor; ;
- (3) A description of the construction ~~which~~ that is exempt from the building permit requirements; ;
- (4) Address of the construction; ;
- (5) Date when the construction will be initiated; ;
- (6) Certification by the contractor or an employee of the contractor that the contractor is listed, has a current bond and insurance, and is the contractor doing the construction at the job site; ;
- (7) Verification number, if any, provided by the ~~division of compliance~~ bureau of license and permit services to the contractor when notice of the construction was given to the division by the contractor; ;
- (8) Signature of the owner (or a responsible person acting for the owner) indicating that the owner is aware that the division of ~~compliance~~ inspections will make an inspection of the construction at the request of the owner; ; and

- (9) Notice to the owner of the owner's right to request an inspection of the construction within ninety (90) days of completion.

The listing number shall be at least one (1) inch in height. The form shall include a notice indicating how the listing of the contractor can be verified by communicating with the ~~division of compliance bureau of license and permit services~~ and how the owner can secure an inspection of the construction by the division of ~~compliance inspections~~. The administrator of the ~~division of compliance bureau~~ shall specify the size, format, text and color of the form.

(c) The listed contractor shall place a copy of the completed contractor notification form at a prominent location at the work site where it can be easily seen and would be noticed. It is not necessary to post the notification form as required by subsection (a) if a building permit has been secured and is posted at the job site in accordance with section 536-210 of this chapter. The notification shall remain posted until the completion of the construction.

(d) The listed contractor shall deliver to the ~~division of compliance~~ bureau of license and permit services a copy of the notification form specified in subsection (b).

**Sec. 536-217. Notice of change in permit information; amendment of permits and plans.**

(a) After a permit has been issued, the permittee shall give prompt written notice to the administrator of the ~~division of compliance~~ bureau of license and permit services of any addition to or change in the information contained in the permit application.

(b) After a permit has been issued, any material deviation or change in the information contained in the permit application, the plans and specifications, or the plot plans shall be considered an amendment subject to approval by the ~~division of compliance~~ bureau. Prior to the time construction involving the change occurs, the permittee shall file with the ~~division of compliance~~ bureau a written request for amendment, including a detailed statement of the requested change and the submission of any amended plans.

(c) The administrator shall give the permittee written notice that the request for amendment has been approved or denied, and if approved, copies of the amended application or plans shall be attached to the original application or plans. Reinspection fees or other fees ~~which that~~ are occasioned by the amendment shall be assessed and paid in the same manner as for original permits or plans.

SECTION 28. Articles III, IV, V, and VI of Chapter 536 of the "Revised Code of the Consolidated City and County," regarding building and construction certificates of completion and compliance, investigation and inspection of construction activities, inspection of existing structures, and fees for building and construction permits, respectively, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**ARTICLE III. CERTIFICATE OF COMPLETION AND COMPLIANCE**

**Sec. 536-301. Filing of certificate of completion and compliance.**

Within fourteen (14) days after completion of the construction for which a building permit has been issued pursuant to the provisions of this chapter and prior to the occupancy or use of the structure, the obtainer of the building permit (or an employee of the obtainer who is authorized to act for the obtainer) for such construction shall execute and file a certificate of completion and compliance with the ~~division of compliance bureau of license and permit services~~. Such certificate shall be in the following form:

**CERTIFICATE OF COMPLETION AND COMPLIANCE**

Address of premises on which construction activity was accomplished:

\_\_\_\_\_

Permit number: \_\_\_\_\_

The undersigned person hereby certifies under the penalties for perjury that:

1. I obtained the above referenced building permit or am an employee of the obtainer, and
2. I am familiar with the construction accomplished pursuant to that building permit, and
3. I know such construction has been completed with exceptions here noted \_\_\_\_\_, and
4. I am familiar with building standards and procedures applicable to such construction, and
5. To the best of my knowledge, information and belief such construction has been performed in conformity with all building standards and procedures.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_ Typed or printed name \_\_\_\_\_

Electrical, heating and cooling or wrecking contractor license number, plumbing contractor registration number, contractor listing number, or registered architect or registered engineer registration number: \_\_\_\_\_

If a registered architect or registered engineer has properly executed and delivered or mailed an architect's or engineer's certificate of completion and compliance pursuant to section 536-303, he or she shall not be required to file the above certificate of completion and compliance.

**Sec. 536-302. Filing of certificate of completion and compliance for work done under a master permit.**

Within fourteen (14) days after the completion of construction for which a master building permit has been issued pursuant to the provisions of this chapter and prior to the occupancy or use of the structure, the obtainer of the master permit (or an employee of the obtainer authorized to act for the obtainer) shall execute and file a certificate of completion for work done under a master permit with the ~~division of compliance~~ bureau of license and permit services. All licensed or registered subcontractors who worked on the structure shall also execute the certificate. Such certificate shall be in the following form:

CERTIFICATE OF COMPLETION AND COMPLIANCE  
FOR WORK DONE UNDER A MASTER PERMIT

Address of premises on which construction was accomplished: \_\_\_\_\_

Permit Number: \_\_\_\_\_

The undersigned person(s) hereby certify under the penalties for perjury that:

1. I either:
  - (a) Obtained the above referenced building permit (or am an employee of the obtainer); or
  - (b) Am a licensed or registered subcontractor who performed work on the structure; and
2. I am familiar with that part of the construction accomplished pursuant to that building permit that is indicated below; and
3. I know the construction indicated below has been completed with exceptions noted below; and
4. I am familiar with building standards and procedures applicable to such construction; and
5. To the best of my knowledge, information and belief, such construction indicated below has been performed in conformity with all building standards and procedures.

\_\_\_\_\_

Structural

Listing #

Exception to work done

Signature

Typed or printed name

Date

---

Electrical  
License #  
Exception to work done  
Signature  
Typed or printed name  
Date

---

Heating and Cooling  
License #  
Exception to work done  
Signature  
Typed or printed name  
Date

---

Plumbing  
Registration #  
Exception to work done  
Signature  
Typed or printed name  
Date

---

Wrecking  
License #  
Exception to work done  
Signature  
Typed or printed name  
Date

---

**Sec. 536-303. Filing of architect's or engineer's certificate of completion and compliance.**

Within fourteen (14) days after the completion of construction for which a building permit was issued pursuant to this chapter and for which review and monitoring of construction by an architect or engineer is required by the rules of the fire prevention and building safety commission, the architect or engineer who observed the construction accomplished pursuant to the permit shall execute and file an architect's or engineer's certificate of completion and compliance with the ~~division of compliance~~ bureau of license and permit services in the following form:

ARCHITECT'S AND ENGINEER'S CERTIFICATE OF COMPLETION AND COMPLIANCE

Address of construction: \_\_\_\_\_

Permit number: \_\_\_\_\_

The undersigned architect or engineer hereby states under penalties for perjury that:

1. I have made reasonable and periodic observation of the above mentioned construction project to determine whether the work accomplished is in accordance with the plans and specifications for this project as released by the Office of the State Building Commissioner and whether the work accomplished is in compliance with rules promulgated by the Indiana Fire Prevention and Building Safety Commission and provisions of Chapter 536 of the Revised Code of the Consolidated City and County, with the following exceptions hereafter noted: \_\_\_\_\_  
\_\_\_\_\_
2. I am familiar with such building standards and the provisions of Chapter 536 applicable to the work accomplished; and
3. To the best of my knowledge, information and belief such work has been accomplished in conformity with such building standards promulgated by the Office of the State Building Commissioner and the provisions of Article III of Chapter 536.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

SEAL      Typed name: \_\_\_\_\_

Architect No.: \_\_\_\_\_

Engineer No.: \_\_\_\_\_

Indiana Registration No.: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

#### **ARTICLE IV. INVESTIGATIONS AND INSPECTIONS OF CONSTRUCTION ACTIVITIES**

##### **Sec. 536-401. General authority to make investigations and inspections.**

The administrator of the ~~division of compliance~~ bureau of construction services or his or her authorized representative may at any reasonable time go in, upon, around or about the premises where any structure or building equipment subject to the provisions of this chapter or to the rules of the fire prevention and building safety commission is located (irrespective of whether a building permit has been or is required to be obtained) for the purpose of investigation and inspection of such structure or building equipment. Such investigation and inspection may be made either before or after construction on the project is completed for the purposes of determining whether the structure or building equipment meets building standards and procedures, and ascertaining whether the construction and procedures have been accomplished in a manner consistent with a certificate filed pursuant to sections 536-301, 536-302, 536-303 or 536-404(b)(3). All construction shall be subject to periodic inspections, and reasonable efforts to afford an opportunity for investigation and inspection of the structure or building equipment by the ~~division of compliance~~ bureau of construction services shall be made by persons working on or having control of the construction. However, nothing in this section shall be construed to require the administrator to make inspections and investigations.

##### **Sec. 536-402. Notice of availability for inspection as a condition to the accomplishment of further work.**

(a) Whenever a stage of construction is reached ~~which~~ that is designated below, the person, partnership or corporation ~~which~~ that obtained the permit shall be under a duty to give appropriate notice to the administrator of the ~~division of compliance~~ bureau of construction services that the construction is available for inspection.

(b) Relative to the construction of, remodeling of or addition to a structure, notice of availability is

required, as applicable, for:

- (1) A "foundation inspection" after poles or piers are set, trenches or basement areas excavated, any required reinforcing steel is in place, but prior to the placing of concrete; and
- (2) A "frame and masonry inspection" after the roof, masonry, all framing, firestopping and bracings are in place and all electrical wiring, pipes, chimneys and vents are complete, but prior to the interior covering of walls.

(c) Relative to the installation, modernization or replacement of building equipment (including but not limited to plumbing work for which licensure is required by the Indiana Plumbing Commission, or work on electrical power distribution systems, heating systems, space heating equipment, cooling systems or space cooling equipment), notice of availability for a separate "rough inspection" is required, as applicable, for each of the three (3) crafts after installation, but prior to the covering or concealment thereof and before fixtures are set.

(d) Relative to demolition or removal of a structure, notice of availability for a "fill inspection" is required (in the instance when a basement or subgrade chamber exists) after demolition or removal and prior to placing fill.

(e) The administrator or the administrator's authorized representative may, relative to any construction, add a reasonable number of other construction stages by communicating the additional stage requirements to the person obtaining the building permit for that construction.

(f) Notice of availability shall be given either by telephone communication over a specified telephone line in the office of the ~~division of compliance~~ bureau of construction services (to which may be attached a recording device to make a record of all information supplied), by electronic means, by hand-delivered written notice or by a letter delivered by the United States Postal Service.

#### **Sec. 536-403. Requirement that construction remain available for inspection.**

(a) Whenever a stage of construction designated in section 536-402 is reached, no person shall take any action or accomplish any additional construction ~~which~~ that would substantially impede the opportunity of the administrator or the administrator's authorized representative to inspect that stage of construction for a period of at least forty-eight (48) hours after notice of the availability for inspection has been received during business hours in the ~~division of compliance~~ bureau of construction services or until after an inspection is made, whichever first occurs; provided, however, if the forty-eight-hour period expires on a Saturday, Sunday, or legal holiday, the construction shall remain available for inspection until 5:00 p.m. on the next regular business day or until after an inspection is made, whichever first occurs. The forty-eight-hour period shall begin to run upon actual receipt of the notice during business hours but shall not run during any day when an inspection attempt by a representative of the ~~division of compliance~~ bureau of construction services is unsuccessful because the work is not accessible.

(b) A person, partnership or corporation may, however, pour a foundation two (2) hours after notification is received in the office of the ~~division of compliance~~ bureau of construction services. If a foundation is so poured, the remainder of the excavation must remain open for a period of forty-eight (48) hours from the time when notice is received and the person, partnership or corporation must assist an inspector in making the excavation available for proper inspection; provided, however, if the forty-eight-hour period expires on a Saturday, Sunday, or legal holiday, the remainder of the excavation shall remain open until 5:00 p.m. on the next regular business day or until after an inspection is made, whichever first occurs.

#### **Sec. 536-404. Connection, provision or use of electrical power.**

(a) No person, partnership or corporation shall accomplish or allow the connection, provision or use of electrical power relative to an electrical power distribution system in or on a structure where construction (for which a building permit has been or is required to be obtained pursuant to this chapter) has been accomplished, until after an inspection has been made and a distinctive sticker (signifying the electrical power distribution system may be used) has been attached to each service equipment by the

administrator or the administrator's authorized representative. It shall be unlawful for any person other than the administrator or the administrator's authorized representative to use, complete, apply or alter such sticker.

(b) As an alternative to section 536-404(a), the administrator of the ~~division of compliance~~ bureau of construction services may allow the connection, provision or use of electrical power on the basis of certification by a person who is a licensed electrical contractor if all of the following requirements are met:

- (1) After the completion of the work and before use of the electrical power distribution system is initiated, the licensed electrical contractor who applied for the building permit shall communicate over a specified telephone line in the office of the ~~division of compliance~~ bureau of construction services during business hours (to which the ~~division of compliance~~ bureau of construction services may attach a recording device to make a record of all information supplied) the following information:
  - a. The name of the person telephoning;
  - b. The electrical contractor license number of the person telephoning;
  - c. The address of the affected premises;
  - d. The building permit number under which the construction was accomplished; and
  - e. The serial number of the electrical craft work certificate of compliance form to be used.
- (2) If such information is in order and if the licensed electrical contractor has accomplished construction for a period of the preceding twelve (12) calendar months without violation of building standards or procedures ~~which that~~ in the discretion of the administrator are of sufficient seriousness to make the contractor ineligible to use the certificate, the ~~division of compliance~~ bureau of construction services shall indicate over the specified telephone line authorization to attach a certificate to each service equipment and assign an authorization number to be placed on each certificate by the licensee.
- (3) A certificate, in the following form, must then be executed and attached to each service equipment as a precondition to the connection, provision or use of electrical power.

#### ELECTRICAL CRAFT WORK CERTIFICATE OF COMPLIANCE

Address of the craft work: \_\_\_\_\_

Serial number: \_\_\_\_\_

Permit number: \_\_\_\_\_

Authorization number: \_\_\_\_\_

The undersigned licensee hereby certifies under the penalties for perjury that:

1. I am an electrical contractor licensed in accordance with Chapter 875 of the Revised Code of Indianapolis-Marion County, Indiana;
2. I am responsible for the proper completion of the construction ~~which that~~ is the subject of the above referenced building permit as applicant for the permit or applicant representing the transferee of the permit; and
3. I have either personally accomplished or personally inspected all such construction, or in the alternative, I have caused the construction to be inspected by a responsible and competent employee who works under my direction and control, who has fully reported to me the condition of the construction; and
4. I know that such construction is in condition for immediate connection on the date stated below; and

5. I am familiar with building standards and procedures applicable to such construction; and
6. I know that such construction has been done in compliance with all building standards and procedures; and
7. I acknowledge and understand that if such construction is done in violation of building standards and procedures, that under the provisions of Chapter 875 my electrical contractor's license may be suspended or revoked.

Date certificate attached to service equipment: \_\_\_\_\_

Signature: \_\_\_\_\_

Electrical contractor license number: \_\_\_\_\_

Typed or printed name: \_\_\_\_\_

After the signatory attaches a certificate to each service equipment, such person shall cause a duplicate copy of each certificate to be either delivered to the ~~division of compliance~~ bureau of construction services or postmarked no later than the next business day by the United States Postal Service.

(c) It shall be unlawful for any person, partnership or corporation to accomplish the connection, provision or use of electrical power relative to an electrical power distribution system without first receiving authorization from the ~~division of compliance~~ bureau of construction services either by telephone communication and attachment of an electrical craft work certificate of completion and compliance or by the distinctive sticker described in section 536-404(a).

(d) Nothing stated in this section shall be construed to deny the right of the ~~division of compliance~~ bureau of construction services to inspect the electrical power distribution system to which electrical power is connected either before or after such connection is made or before or after the electrical power distribution system is used.

(e) Electrical craft work certificates of completion and compliance may be purchased only by a licensed electrical contractor who is eligible to use such forms from the ~~division of compliance acting on behalf of the controller~~ bureau of license and permit services, for a fee specified in Article VI of this chapter. Each certificate form shall bear a different serialized number ~~which that~~ shall be recorded by the ~~division of compliance~~ bureau along with the name and licensure number of the electrical contractor who purchases the form. The certificate may only be signed and attached by the licensed electrical contractor who purchased it from the ~~division of compliance~~ bureau. It shall be unlawful to sell or transfer such certificate and unlawful to use, complete, sign or attach such a certificate except as prescribed in this section.

**Sec. 536-405. Inspection of Class 2 structures at request of owner.**

An owner of a Class 2 structure or a contract purchaser of such a structure who occupies the structure may request the ~~division of compliance~~ bureau of construction services to inspect construction that has been completed within the preceding ninety (90) days on that structure. The request may be made irrespective of whether a building permit was required, or if required, whether a permit was obtained. The ~~division of compliance~~ bureau of construction services shall accomplish an inspection if reasonably practicable. The person requesting the inspection must be willing to be present during the inspection. No charge shall be made for the inspection.

**ARTICLE V. INSPECTION OF EXISTING STRUCTURES AND BUILDING EQUIPMENT  
CONTAINED THEREIN; SPECIAL STRUCTURES**

**Sec. 536-501. Inspection of existing public, institutional, commercial and industrial structures and building equipment contained therein.**

The ~~director of the department of metropolitan development~~ administrator of the bureau of

construction services or ~~the director's~~ his or her authorized representative may inspect public school buildings, public assembly halls, churches, theaters, grandstands, buildings used for manufacturing or commercial purposes, hotels, motels, apartment houses, hospitals, nursing homes, buildings used for entertainment or amusement, and all other structures ~~which~~ that are used, occupied or frequented by large numbers of people for the purpose of determining whether such structures and the building equipment related to such structures are safe and comply with applicable building standards and procedures.

**Sec. 536-502. Inspection of dangerous structures.**

The ~~director of the department of metropolitan development~~ administrator of the bureau of construction services or ~~the director's~~ his or her authorized representative may inspect any structure or building equipment reported or appearing to be defective, dangerous or damaged by fire, casualty or vandalism for the purpose of determining whether such structure or building equipment is safe and complies with applicable building standards and procedures.

**Sec. 536-503. Inspection of premises on which municipally licensed activities are to be carried out.**

~~At the request of the controller, the director of the department of metropolitan development~~ The administrator of the bureau of construction services or ~~the director's~~ his or her authorized representative may inspect the structure and building equipment on any premises ~~which~~ that are being used or may be used in connection with a business operation licensed pursuant to Title IV of this Code. Such inspection shall be made for the purpose of determining whether such structure and building equipment are safe and comply with applicable building standards and procedures. ~~A fee specified by Article VI~~ Fees as provided in section 131-501 of the code shall be paid for the original ~~inspection~~ building and fire inspections and each annual ~~reinspection~~ building and fire reinspections by the person, partnership or corporation ~~which~~ that made application to the ~~controller~~ bureau of license and permit services for licensure of such business operation. The ~~controller~~ bureau of license and permit services shall cause any fees collected under this section to be deposited into an account for the use and benefit of the department of ~~metropolitan development~~ code enforcement.

**ARTICLE VI. FEES**

**Sec. 536-601. Payment of fees; determination of floor area.**

(a) Fees required for activities regulated by this chapter shall be collected by the administrator, ~~division of compliance, acting on behalf of the city controller~~ of the bureau of license and permit services and the deputy director for the division of inspections and are specified in the following sections.

(b) For fees that are calculated on the basis of floor area, ~~F~~loor area shall be determined on the basis of exterior dimensions.

**Sec. 536-602. Permit fee for construction, placement or additions to structures.**

~~(a)~~ The permit fee for construction or placement of, or additions to, ~~Class 2 structures is as follows:~~

(1) ~~For a~~ A primary Class 2 structure, ~~the greater of the following:~~ or an accessory Class 2 structure appurtenant to a primary Class 2 structure; or

a. A minimum fee of one hundred thirty five dollars (\$135.00); or

b. The product of five cents (\$0.05) per square foot of gross floor area, which shall include the area of an attached garage or carport and the area of a finished basement or attic, but exclude the area of an unfinished basement or attic.

~~(2)~~ For an accessory Class 2 structure appurtenant to a primary Class 2 structure, the greater of the following:

- a. ~~A minimum fee of sixty-five dollars (\$65.00); or~~
- b. ~~The product of five cents (\$0.05) per square foot of gross floor area.~~

~~(b2) The permit fee for construction or placement of, or additions to, A Class 1 structures is the greater of the following: structure:~~

- ~~(1) A minimum fee of two hundred fifteen dollars (\$215.00); or~~
- ~~(2) The product of ten cents (\$0.10) per square foot of gross floor area, each floor.~~

shall be provided in section 131-501 of the code.

**Sec. 536-603. Permit fee for remodeling, alteration, or repair of structures.**

(a) The permit fee for remodeling, alteration, or repair of Class 2 structures ~~is the greater of the following:~~

- ~~(1) A minimum fee of sixty-five dollars (\$65.00); or~~
- ~~(2) The lesser product of the following:~~
  - a. ~~Fifteen dollars (\$15.00) per one thousand dollars (\$1,000.00) of the total value; or~~
  - b. ~~Five cents (\$0.05) per square foot of gross floor area of each floor being remodeled or altered.~~

shall be provided in section 131-501 of the code; ~~Provided, however, that when remodeling, alteration, or repair of a Class 2 structure is accomplished at the same time as an addition to an existing structure, a single permit fee shall be determined according to section 536-602.~~

(b) The permit fee for remodeling, alteration, or repair of Class 1 structures ~~is the greater of the following: shall be provided in section 131-501 of the code.~~

- ~~(1) A minimum fee of one hundred twenty dollars (\$120.00); or~~
- ~~(2) The lesser product of the following:~~
  - a. ~~Fifteen dollars (\$15.00) per one thousand dollars (\$1,000.00) of the total value; or~~
  - b. ~~Ten cents (\$0.10) per square foot of gross floor area of each floor being remodeled or altered.~~

**Sec. 536-604. Permit fee for plumbing activity.**

(a) The permit ~~fee~~ fees for the following plumbing activity shall be provided in section 131-501 of the code:

~~(1) i~~Installation of a plumbing system in a new structure or in an addition to an existing Class 1 structure is the greater of the following:

- ~~(1) A minimum fee of fifty dollars (\$50.00); or~~
- ~~(2) Fifteen (15) percent of the fee for the building permit (as provided for in section 536-602) which has been obtained for the new structure.~~

~~(b2) The permit fee for a~~Alteration, repair or replacement of plumbing in an existing structure or in an addition to an existing Class 2 structure is the greater of the following:

- ~~(1) A minimum fee of thirty-five dollars (\$35.00); or~~
- ~~(2) The product of ten dollars (\$10.00) per one thousand dollars (\$1,000.00) of total value; provided, however, that the plumbing permit fee shall not exceed the structural permit fee (as provided in subsection 536-602(a) or in section 536-603).~~
- ~~(e3) The permit fee for initial connection or reconnection of plumbing to a structure which that has been removed from one (1) location and is being placed at another location or to a factory constructed building is ~~forty dollars (\$40.00); and~~~~
- ~~(d4) If plumbing activity is limited solely to replacement or installation of one (1) or more water heaters in a structure the permit fee is the greater of the following:~~

- ~~(1) A minimum of twenty-five dollars (\$25.00); or~~
- ~~(2) The product of ten dollars (\$10.00) per one thousand dollars (\$1,000.00) of total value.~~

~~(e) A permit may encompass plumbing activity in one (1) fee category to be accomplished within a single structure, regardless of the number of independent systems in the structure. Notwithstanding the provisions of this section or of section 131-501 of the code, ~~the~~ the amount of the permit fee for such activity shall be the minimum fee or the general rate, whichever is higher.~~

**Sec. 536-605. Permit fee for electrical activity.**

~~(a) The permit ~~fee~~ fees for the following electrical activity shall be provided in section 131-501 of the code:~~

- ~~(1) Installation of an electrical power distribution system in a new structure or in an addition to an existing structure other than a Class 2 structure is the greater of the following:~~
- ~~(1) A minimum fee of fifty-five dollars (\$55.00); or~~
- ~~(2) Twenty (20) percent of the fee for the building permit (as provided for in section 536-602) which has been obtained for the new structure or addition.~~

~~(b2) The permit fee for rRepair, alteration or remodeling of an electrical power distribution system in an existing structure, or in an addition to a Class 2 structure is the greater of the following:~~

- ~~(1) A minimum of thirty-five dollars (\$35.00); or~~
- ~~(2) The product of ten dollars (\$10.00) per one thousand dollars (\$1,000.00) total value; provided, however, that when documentation submitted prior to the issuance of a permit indicates that the value to the structural work is greater than or equal to the value of the electrical work, the electrical permit fee shall not exceed the structural permit fee (as provided for in section 536-602(a)).~~

~~(e3) The permit fee for iInstallation or replacement of space heating equipment using electricity as its primary source of energy is the greater of the following:~~

- ~~(1) A minimum fee of thirty-five dollars (\$35.00); or~~
- ~~(2) The product of twenty-five cents (\$0.25) per each one thousand (1,000) Btuh of output capacity up to the first one million two hundred thousand (1,200,000) Btuh and fifteen cents (\$0.15) per each additional one thousand (1,000) Btuh.~~

~~(d4) The permit fee for iInstallation or replacement of space cooling equipment using electricity as its primary source of energy is as follows:~~

- ~~(1) A minimum fee of thirty-five dollars (\$35.00); or~~

- (2) ~~The product of thirty five cents (\$0.35) per one thousand (1,000) Btuh of output capacity up to the first six hundred thousand (600,000) Btuh, and fifteen cents (\$0.15) per each additional one thousand (1,000) Btuh.~~
- (e5) ~~The permit fee for i)Installation or replacement of combined space heating and space cooling equipment using electricity as their primary source of energy is the greater of the following:~~
- (1) ~~A minimum fee of forty dollars (\$40.00); or~~
- (2) ~~Seventy (70) percent of the sum of both general rates provided above in subsection 536-605(c)(2) and (d)(2) as they are applied to the heating output capacity and cooling output capacity, respectively, of the combined space equipment.~~
- (f6) ~~The permit fee for i)Initial connection or reconnection of electrical power to a structure which that has been removed from one (1) location and is being placed at another location or to a factory constructed building is ~~forty dollars (\$40.00);~~~~
- (g7) ~~The permit fee for i)Installation, alteration, replacement or repair of a system distributing electrical power to service equipment supplying power to manufactured home located in a manufactured home park is the greater of the following: and~~
- (1) ~~A minimum fee of forty dollars (\$40.00); or~~
- (2) ~~Ten dollars (\$10.00) per service equipment assembly located on property owned by the same person, partnership or corporation and available for inspection at one (1) time.~~
- (h8) ~~The fee for e)Obtaining each "electrical craft work certificate of compliance" form, as allowed in subsection 536-404(b), is ~~fifteen dollars (\$15.00).~~~~
- (ib) A permit may encompass electrical activity in one (1) fee category to be accomplished within a single structure, regardless of the number of independent systems or equipment units in the structure. Notwithstanding the provisions of this section or of section 131-501 of the code, ~~The~~ amount of the permit fee for such activity shall be the minimum fee or the general rate, whichever is higher.

**Sec. 536-606. Permit fee for heating, cooling and refrigeration activity.**

(a) The permit fee fees for the following heating, cooling and refrigeration activity shall be provided in section 131-501 of the code:

- (1) ~~i)Installation, replacement, or addition of a heating system, space heating equipment or other types of heating transfer, or installation, replacement, alteration, or addition of duct work only is the greater of the following:~~
- (1) ~~A minimum fee of forty dollars (\$40.00); or~~
- (2) ~~The product of twenty five cents (\$0.25) per each one thousand (1,000) Btuh of input capacity up to the first one million two hundred thousand (1,200,000) Btuh, and fifteen cents (\$0.15) per additional one thousand (1,000) Btuh.~~
- (b2) ~~The permit fee for i)Installation, addition or replacement of a cooling system, space cooling equipment, or other types of cooling transfer, or installation, replacement, alteration, or addition to duct work only is as follows:~~
- (1) ~~A minimum fee of forty dollars (\$40.00); or~~
- (2) ~~The product of thirty five cents (\$0.35) per each one thousand (1,000) Btuh of input capacity up to the first six hundred thousand (600,000) Btuh, and fifteen cents (\$0.15) per additional one thousand (1,000) Btuh.~~

~~(c3) The permit fee for i)Installation, replacement, or addition of combined heating systems and cooling systems, combined space heating equipment and space cooling equipment, or other types of heating or cooling transfer, or installation, replacement, alteration, or addition of duct work only is the greater of the following; and~~

~~(1) A minimum fee of fifty dollars (\$50.00); or~~

~~(2) Seventy (70) percent of the sum of both general rates provided above in subsection 536-606(a)(1)b and 536-606(b)(1)b as they are applied to the heating input capacity and cooling input capacity, respectively, of the combined systems.~~

~~(d4) The permit fee for r)Refrigeration equipment is the greater of the following;:~~

~~(1) A minimum of forty dollars (\$40.00); or~~

~~(2) The product of thirty five cents (\$0.35) per one thousand (1,000) Btuh of input capacity up to the first sixty thousand (60,000) Btuh and fifteen cents (\$0.15) per each additional one thousand (1,000) Btuh.~~

~~(e)A permit may encompass heating, cooling and refrigeration activity in one (1) fee category to be accomplished within a single structure, regardless of the number of independent systems or equipment units in the structure. Notwithstanding the provisions of this section or of section 131-501 of the code, The amount of the permit fee for such activity shall be the minimum fee or the general rate, whichever is higher.~~

#### **Sec. 536-607. Permit fee for demolition or removal of structures.**

~~(a) The permit fee fees for demolition or removal of Class 2 structures is as follows:~~

~~(1) For p)Primary Class 2 structures located on the same premises; or any accessory Class 2 structure;~~

~~a. If no building has more than two (2) stories above grade, the base fee is sixty five dollars (\$65.00);~~

~~b. For each additional story of tallest building over two (2) stories, add twenty five dollars (\$25.00).~~

~~(2) For any accessory Class 2 structure, the fee is forty dollars (\$40.00).~~

~~(b2) The permit fee for demolition or removal of Class 1 structures is as follows;: and~~

~~(1) For each one (1) story Class 1 structure:~~

~~a. Ground floor area up to two thousand (2,000) square feet: Seventy dollars (\$70.00);~~

~~b. Ground floor area up to four thousand (4,000) square feet: One hundred thirty five dollars (\$135.00);~~

~~c. Ground floor area up to ten thousand (10,000) square feet: Two hundred dollars (\$200.00);~~

~~d. Ground floor area up to twenty thousand (20,000) square feet: Two hundred eighty five dollars (\$285.00);~~

~~e. Ground floor area over twenty thousand (20,000) square feet: Five hundred sixty dollars (\$560.00);~~

~~(2) For each additional story over one (1) story, add fifty (50) percent of the ground floor area fee~~

~~determined pursuant to subsection (b)(1).~~

~~(e3) The permit fee for demolition or removal of smokestacks, aboveground storage tanks, overhead hoppers, or other similar structures is one hundred sixty Dollars (\$160.00);~~

shall be provided in section 131-501 of the code.

**Sec. 536-608. Fee for master permit.**

The fee for the master permit shall be the sum of the fees (calculated according to sections 536-602, 536-603, 536-604, 536-605, 536-606, and 536-607 and 131-501) for the structural and craft work for which the master permit is issued.

**Sec. 536-609. Administrative fee.**

~~(a) An administrative fee of one hundred twenty-five dollars (\$125.00) To compensate the department of code enforcement for the administrative expenses incurred by its bureaus as listed in this section, a fee provided in section 131-501 of the code may be assessed at the discretion of the administrator deputy director in charge of the division of administration, logistics, licenses and permits (in accordance with a written policy established by the administrator deputy director) against a person, partnership, or corporation relative to construction for which the person, partnership, or corporation has obtained a building permit, and:~~

- ~~(1) Notice was not given that construction was available for inspection within the time period required by section 536-402 and the construction is no longer available for inspection; or~~
- ~~(2) Notice was given pursuant to section 536-402 that construction was available for inspection; and:~~
  - ~~a. The construction could not be found because the construction address provided on the permit application was incorrect; or~~
  - ~~b. The construction was not accessible when the inspector attempted to make the requested inspection at the time agreed upon for the inspection (or if no time was agreed upon, between 8:00 a.m. and 5:00 p.m. Monday through Friday on a day that is not a holiday); or~~
  - ~~c. The construction was not yet sufficiently completed for an inspection to be made; or~~
  - ~~d. The construction was covered or otherwise concealed and therefore not available for inspection; or~~
- ~~(3) A notice of correction was issued to the person, partnership, or corporation and either no response from the person, partnership, or corporation was made within the time specified for reinspection or the person, partnership, or corporation requested reinspection of corrections and the corrections were not properly completed; or~~
- ~~(4) A certificate required by section 536-301, 536-302, 536-303 or 536-404 was not filed within the time period required by those sections.~~

~~(b) An administrative fee of one hundred twenty-five dollars (\$125.00) To compensate the department of code enforcement for the administrative expenses incurred by its bureaus as listed in this section, a fee provided in section 131-501 of the code may be assessed at the discretion of the administrator deputy director in charge of the division of administration, logistics, licenses and permits of the department of code enforcement (in accordance with a written policy established by the administrator deputy director), as follows:~~

- ~~(1) a) Against a person, partnership, or corporation when an inspection reveals that construction has started or is completed that requires a permit and that a permit was not obtained prior to the time of inspection;~~

~~(e2) An administrative fee of one hundred twenty-five dollars (\$125.00) may be assessed at the discretion of the administrator (in accordance with a written policy established by the administrator) against a contractor when an inspection reveals that construction has started or is completed that requires notification under section 536-216 and notification was not obtained and posted prior to the time of inspection;~~

~~(d3) An administrative fee of one hundred twenty-five dollars (\$125.00) may be assessed at the discretion of the administrator (in accordance with a written policy established by the administrator) against a person, partnership, or corporation relative to construction for which a building permit is not required when an inspection visit to the construction address is needed because the inspector receives information that there exists a substantive violation of the building standards and procedures, resulting in the issuance of a notice of correction;~~

~~(e4) An administrative fee of one hundred twenty-five dollars (\$125.00) may be assessed (in accordance with a written policy established by the administrator) where if a certificate required by section 536-301, 536-302, 536-303 or 536-404 was not filed with the division of compliance bureau of license and permit services, the permit has expired for a period of more than 30-days, and a request for renewal of the permit provided for in section 536-616 was not requested prior to the issuance of the administrative fee; and~~

~~(f5) An administrative fee of one hundred twenty five dollars (\$125.00) may be assessed at the discretion of the administrator (in accordance with a written policy established by the administrator) against a person, partnership, or corporation relative to zoning violations when any subsequent inspection visit to the address is needed because a violation has not been corrected and a notice of violation or citation has been issued.~~

~~(g) The administrator of the division of compliance deputy director in charge of the division of administration, logistics, licenses and permits of the department of code enforcement, or his or her designee, may, at his or her discretion, waive all or any part of an administrative fee assessed under this section when such fee was assessed in error or when mitigating circumstances indicate the appropriateness of waiving all or part of the reinspection fee.~~

**Sec. 536-610. Miscellaneous inspection fee Reserved.**

~~For inspection of premises upon which municipally licensed activities are to be carried out, as specified in section 536-503, the fee for the initial inspection and annual reinspection is eighty-five dollars (\$85.00) for building inspection, and eighty-four dollars (\$84.00) for fire inspection.~~

**Sec. 536-611. Fee for transfer of building permit Reserved.**

~~The fee for transfer of building permit as provided for in section 536-211 is fifty dollars (\$50.00).~~

**Sec. 536-612. Fee for construction not specifically defined above.**

If construction should not be adequately specified by above sections of this article VI, the general permit or inspection fee shall be ~~the greater of the following:~~ provided in section 131-501 or section 131-502 of the code.

- ~~(1) Forty dollars (\$40.00) if for residential or fifty dollars (\$50.00) if for anything other than residential;~~  
~~or~~
- ~~(2) Ten dollars (\$10.00) per one thousand dollars (\$1,000.00) of total value.~~

**Sec. 536-613. Fee exemption relative to construction accomplished by or for a governmental unit.**

Permits, as required by section 536-201, shall be obtained for construction in the city accomplished by or for a governmental unit, and inspections as specified by this chapter relative to such construction shall be allowed. Fees shall be required as specified in this article, except for the following:

- (1) Construction for which a fee cannot be charged by the municipality because of federal or state law; or
- (2) Construction accomplished by a unit of local government, or by its employee or contractor in the course of such employee's or contractor's performance of duties for a unit of local government.

**Sec. 536-614. ~~Fee for building permit obtained by telephone communication or facsimile machine~~  
Reserved.**

~~When a building permit is obtained by telephone communication or facsimile machine (as provided for in section 536-209) an additional fee of fifteen dollars (\$15.00) shall be assessed.~~

**Sec. 536-615. Fee for amendment of permit or plans.**

If an amendment of a building permit that requires submittal of additional plans, but does not cause the building permit fee to increase, the fee is ~~fifty dollars (\$50.00)~~ shall be provided in section 131-501 of the code.

**Sec. 536-616. Fee for renewal after expiration.**

The fee for renewal of a building permit is ~~fifty dollars (\$50.00)~~ shall be provided in section 131-501 of the code.

**Sec. 536-617. Fee for accelerated inspection option.**

The ~~administrator~~ deputy director of the division of ~~compliance~~ inspections may institute an accelerated inspection option for contractors who want to secure, quickly and within a definite time period, an inspection of construction for which they have secured a building permit. The ~~administrator~~ deputy director shall make known the hours during which the accelerated inspection option is available and the time within which an inspection will be made under the option. The fee ~~fees~~ for the accelerated inspection option shall be ~~as follows:~~ provided in section 131-502 of the code.

- (1) ~~For a same day inspection, one hundred fifty dollars (\$150.00);~~
- (2) ~~For a next day inspection, one hundred dollars (\$100.00);~~
- (3) ~~For a next day inspection at a scheduled time, one hundred fifty dollars (\$150.00); and~~
- (4) ~~For a weekday after 5:00 p.m. or weekend inspection, four hundred dollars (\$400.00).~~

The division of ~~compliance~~ inspections may not require that contractors use the accelerated inspection to secure needed inspections.

**Sec. 536-618. Refund of fees.**

A permit fee paid under this chapter shall not be refunded except upon request and in instances where the permit was issued in error, either because it was not required by law, or because a permit for the same activity previously had been issued to the person, partnership or corporation requesting the refund and was in force at the time the second permit was applied for and issued.

**Sec. 536-619. Application fees.**

A non-refundable application fee of ~~twenty-five dollars (\$25.00)~~ provided in section 131-501 of the code shall be paid in association with all demolition, master, sign, structural, and infrastructure related permits, for services rendered regardless of the issuance of a permit.

**Sec. 536-620. Fees for plan review.**

A non-refundable fee is due upon submission of an application for services rendered in the review of

plans, regardless of whether a permit is ultimately issued. The fee shall be determined according to the following: as provided in section 131-501 of the code.

- (1) ~~The fee for a primary or accessory Class 2 structure shall be twenty-five dollars (\$25.00) if the structure is less than two thousand (2,000) square feet, or fifty dollars (\$50.00) if the structure is two thousand (2,000) square feet or more.~~
- (2) The fee for a Class 1 structure is as follows:
  - a. ~~If the structure is less than two thousand five hundred (2,500) square feet, the base fee is one hundred twenty-five dollars (\$125.00), provided that review time in excess of one (1) hour shall be billed at seventy-five dollars (\$75.00) per hour in addition to the base fee;~~
  - b. ~~If the structure is two thousand five hundred (2,500) square feet or more but less than five thousand (5,000) square feet, the base fee is one hundred seventy-five dollars (\$175.00), provided that review time in excess of two (2) hours shall be billed at seventy-five dollars (\$75.00) per hour in addition to the base fee;~~
  - c. ~~If the structure is five thousand (5,000) square feet or more but less than ten thousand (10,000) square feet, the base fee is two hundred twenty-five dollars (\$225.00), provided that review time in excess of three (3) hours shall be billed at seventy-five dollars (\$75.00) per hour in addition to the base fee; and~~
  - d. ~~If the structure is ten thousand (10,000) square feet or more, the base fee is three hundred dollars (\$300.00), provided that review time in excess of four (4) hours shall be billed at seventy-five dollars (\$75.00) per hour in addition to the base fee.~~

SECTION 29. Sections 536-701 and 536-702 of the "Revised Code of the Consolidated City and County," regarding penalty for failure to file a proper certificate of completion and compliance and authority to withhold issuance of building and construction permits, respectively, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 536-701. Failure to file a proper certificate of completion and compliance.**

Any person, partnership or corporation ~~which that~~, being required to do so, fails to file with the division of ~~compliance inspections~~ a certificate of completion and compliance in accordance with section 536-301, 536-302, 536-303, or 536-404(b)(3) of this chapter or ~~who that~~ files a certificate of completion and compliance ~~which that~~ is false in a material respect shall not be eligible to subsequently obtain a building permit until a proper certificate of completion and compliance is filed. This sanction shall in no way limit the operation of penalties provided elsewhere in this chapter.

**Sec. 536-702. Authority to withhold issuance of permits.**

(a) The administrator of the ~~division of compliance~~ bureau of license and permit services may withhold the issuance of a building permit when the person, partnership or corporation that is either the applicant for or obtainer of a building permit:

- (1) Owes fees (including checks returned for insufficient funds, permit fees owed pursuant to section 536-209 or administrative fees owed pursuant to section 536-609) to the ~~division of compliance~~ bureau of license and permit services pursuant to this chapter;
- (2) Has failed to maintain the bond and insurance requirements of Chapter 875;
- (3) Has failed to notify the ~~division of compliance~~ bureau of a change of business address; or
- (4) Has failed to attend a general contractors' orientation as required by section 875-107.

(b) The administrator of the ~~division of compliance~~ bureau may withhold the issuance of a building permit when the partnership or corporation that is either the applicant for or obtainer of a building permit

fails to have at least one general partner (who is a person) or employee of a partnership or at least one (1) officer or employee of a corporation who holds a license of the appropriate type issued pursuant to Articles II, III, or IV of Chapter 875.

SECTION 30. Sections 536-704, 536-705, and 536-706 of the "Revised Code of the Consolidated City and County," regarding revocation of building and construction permits, stop-work orders, and orders forbidding occupancy, respectively, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 536-704. Revocation of permits.**

The administrator of the ~~division of compliance~~ bureau of license and permit services may revoke a building permit when:

- (1) The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact; ~~or~~
- (2) The application, plans or supporting documents reflect a lack of compliance with building standards and procedures; ~~or~~
- (3) There is a failure to comply with the requirements of section 536-202, 536-205, or 536-209; ~~or~~
- (4) The contractor has failed to maintain the surety bond or insurance required as a condition to his or her licensure or listing; ~~or~~
- (5) The contractor has failed to maintain the insurance required by section 536-205 as a prerequisite for obtaining a building permit for the demolition or removal of a structure in excess of seventy-five (75) feet in height; or
- (6) The structure for which a building permit has been issued is not being used or constructed in conformance with provisions of an applicable zoning ordinance or other ordinance relating to land use.

This sanction shall in no way limit the operation of penalties provided elsewhere in this chapter.

**Sec. 536-705. Stop-work order.**

Whenever the administrator of the ~~division of compliance~~ bureau of construction services or the administrator's authorized representative discovers the existence of any of the circumstances listed below, he or she is empowered to issue an order requiring the suspension of the pertinent construction. The stop-work order shall be in writing and shall state to which construction it is applicable and the reason for its issuance. The stop-work order shall be posted on the property in a conspicuous place and, if conveniently possible, shall be given to the person doing the construction and to the owner of the property or his or her agent. The stop-work order shall state the conditions under which construction may be resumed.

- (1) Construction is proceeding in an unsafe manner, including, by way of example and not of limitation, in violation of any standard set forth in this chapter or any state rule pertaining to safety during construction; ~~or~~
- (2) Construction is occurring in violation of building standards and procedures or in such a manner that if construction is allowed to proceed, there is a reasonable probability that it will be substantially difficult to correct the violation; ~~or~~
- (3) Construction has been accomplished in violation of building standards and procedures and a period of time ~~which that~~ is one-half (1/2) the time period in which construction could be completed, but no longer than fifteen (15) calendar days has elapsed since written notice of the violation or noncompliance was either posted on the property in a conspicuous place or given to the person doing the construction, without the violation or noncompliance being corrected; ~~or~~

- (4) Construction for which a building permit is required is proceeding without a building permit being in force; in such an instance, the stop-work order shall indicate that the effect of the order terminates if the required building permit is obtained; or
- (5) Construction for which a building permit was issued more than thirty (30) days earlier is proceeding without there being in force applicable permits and approvals required by governmental units (including, but not limited to, department of public safety, department of public works, Health and Hospital Corporation of Marion County, state department of health, state department of natural resources, state highway department) for compliance with standards for air quality, drainage, flood control, fire safety, vehicular access, and waste treatment and disposal on the real estate on which the structure is located; in such an instance, the stop-work order shall indicate that the order is applicable to all construction allowed by the building permit and that the effect of the order terminates if the required permits and approvals are obtained; or
- (6) Construction is occurring for which a certificate of appropriateness from the Indianapolis Historic Preservation Commission is required pursuant to IC 18-4-22-1 et seq., without a certificate of appropriateness being in force; in such an instance, the stop-work order shall indicate that the effect of the order terminates if the required certificate of appropriateness is obtained.

This sanction shall in no way limit the operation of penalties provided elsewhere in this chapter.

**Sec. 536-706. Order forbidding occupancy.**

(a) The administrator of the ~~division of compliance~~ bureau of construction services or the administrator's authorized representative is empowered to issue an order forbidding the occupancy of any structure or part of any structure if construction on the structure or applicable part of the structure is not yet completed or has occurred in violation of applicable building standards and procedures.

(b) The order forbidding occupancy shall be in writing specifying whether it is applicable to the entire structure or to only a part of the structure, and shall state the reason for its issuance. The order forbidding occupancy shall be posted on the structure in a conspicuous place and, if conveniently possible, shall be given to the owner of the property or his or her agent and to any person doing work on the premises. The order forbidding occupancy shall state the conditions under which the structure or part of the structure may be occupied.

(c) This sanction shall in no way limit the operation of penalties provided elsewhere in the chapter.

SECTION 31. Section 536-801 of the "Revised Code of the Consolidated City and County," regarding minimum standards for structures and building equipment, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 536-801. Minimum standards for structures and building equipment.**

(a) Building rules of the state fire prevention and building safety commission as set out in the following articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this chapter and shall include later amendments to those articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

- (1) Article 13--Building Codes;
  - a. Fire and Building Safety Standards; and
  - b. Indiana Building Code;
- (2) Article 14--Indiana Residential Code (formerly known as the Indiana One and Two-family Dwelling Code);
- (3) Article 16--Indiana Plumbing Codes;

- (4) Article 17--Indiana Electrical Code;
- (5) Article 18--Indiana Mechanical Code;
- (6) Article 19--Indiana Energy Conservation Code;
- (7) Article 20--Indiana Swimming Pool Code Indiana Swimming Pool Code; and
- (8) Article 22--Indiana Fire Code.

(b) Copies of adopted building rules, codes and standards are on file in the office of the ~~Division of compliance of the Department of Metropolitan Development for the Consolidated City of Indianapolis inspections.~~

(c) The appeal of any decision concerning the rules incorporated under subsection (a) of this section shall lie first with the director, department of ~~metropolitan development~~ code enforcement, and to the fire prevention and building safety commission as provided by IC 22-13-2-7.

(d) Any variance of a rule adopted herein may be granted only by the fire prevention and building safety commission under IC 22-13-2-11.

SECTION 32. Sections 536-821, 536-822, and 536-823 of the "Revised Code of the Consolidated City and County," regarding requirements with respect to condition of premises during construction, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 536-821. Public property; walkways; dust control.**

Any person, partnership or corporation carrying out construction shall comply with the following requirements:

- (1) The use of public property shall meet the requirements of the governmental unit having jurisdiction. Building equipment and materials shall not be placed or stored on public property so as to obstruct free and convenient access to and functioning of any fire hydrant, fire or police call box, utility device, manhole, street, alley or gutter. A protective frame shall be provided for any fire hydrant, fire or police call box or utility device ~~which that~~ which that might be damaged by construction. Bridges or covers shall be provided for sidewalks and manholes ~~which that~~ which that might be damaged by construction.
- (2) A walkway shall be constructed and maintained on the sidewalk and alley around the site of construction involving the erection, construction, major alteration or razing of any structure (except signs, grandstands, tents, air-supported structures) ~~(4) which that~~ (4) which that has an initial or ultimate height in excess of fifteen (15) feet and ~~(2) which that~~ (2) which that is located (or any part of an excavation more than eight (8) feet in depth relative to such construction is located) within twenty (20) feet of the lot line, sidewalk or street (whichever is closer to such structure or excavation); provided, however, that the administrator of the ~~division of compliance~~ bureau of construction services has the discretion to waive the requirement of placing the walkway on a showing that omission of the walkway will not significantly increase the possibility of injury to persons or damage to property as a result of construction on the site. The walkway may be placed further from the site on a sidewalk or within a street or alley if the governmental unit having jurisdiction gives appropriate authorization. Such walkway shall be equipped with suitable lighting devices and illumination shall be provided in the walkway at all times. Such walkway shall at all times be maintained in a clean and sanitary condition and shall be kept free from rubbish, litter and advertising display and shall be provided with suitable solid inclined approaches. Such walkway shall be not less than four (4) feet in width and shall have a durable wearing surface capable of supporting a live load of two hundred (200) pounds per square foot, be provided with a fence along the construction side, a railing along the street side and a full roof above, so as to afford maximum protection to pedestrians. The protective fence shall be no less than eight (8) feet high above the grade and

be constructed from three-quarter-inch boards or plywood laid tightly together and securely fastened to four-inch uprights, set not over four (4) feet apart, with two-inch by six-inch bracing and girts. The posts shall be securely set and braced to prevent buckling and overturning. Openings in the fence shall be protected by doors ~~which~~ that are normally kept closed. The protective railings shall be substantially built and when of wood shall be constructed of new material having a nominal size of at least two (2) inches by four (4) inches. Railings shall be at least four (4) feet in height, and when adjacent to the excavation shall be provided with a midrail. The protective roof shall have a clear height of eight (8) feet above the walkway. The roof shall be tightly sheathed. The sheathing shall be two-inch nominal wood planking or equal. Such walkways shall be maintained in place and kept in good condition for the length of time construction continues, after which it shall be removed within thirty (30) days.

- (3) Emission of excessive dust or particulate matter shall not occur in the course of construction. A sufficient supply of water shall be available at the site of construction in case it may be needed to put out a small fire or settle dust.

### **Sec. 536-822. Removing structures.**

Any person, partnership or corporation carrying out the demolishing, dismantling, dismembering, razing or removing a structure shall in addition to the requirements of section 536-821 comply with the following requirements:

- (1) The administrator of the ~~division of compliance~~ bureau of construction services or his or her authorized representative may, if reasonably necessary to insure public safety, require the licensed wrecking contractor to submit plans and a complete schedule for demolition. Where such are required, no work shall be accomplished until such plans and schedule are approved by the administrator, the ~~division of compliance~~ bureau of construction services, or his or her authorized representative.
- (2) Blasting and use of explosives shall be accomplished only by a person who has obtained a blasting permit pursuant to the requirements of this Code and by special permission of and under the supervision of the administrator of the ~~division of compliance~~ bureau of construction services, the fire prevention bureau of the appropriate jurisdiction, and the division of air pollution control.
- (3) No open fires or other sources of flame except necessary cutting torches are permitted on the inside of the structure ~~which~~ that is being wrecked, or in close proximity to flammable materials located outside of the structure, and every reasonable precaution shall be taken to prevent the possibility of fire.
- (4) Suitable provisions shall be made for the disposal of materials ~~which~~ that are accumulated during the wrecking of a structure.
- (5) The buildings, foundations, curbs, sidewalks, concrete or asphalt drives and all appurtenances shall be removed to one (1) foot below the ground line or one (1) foot below subgrade elevation, whichever of the two (2) is lower. Such removal shall also include the removal and disposal of buried or exposed tanks. Concrete slabs, under which a basement, pit, well or cistern exists, shall be broken and removed.
- (6) If a sanitary sewer connection exists, a sewer connection permit required by the Revised Code of the Consolidated City and County, Section 671-22 shall be obtained, and the sewer lateral shall be capped in the manner prescribed by the department of public works.
- (7) All rubbish and debris including any goods, merchandise, commodities, products or materials of any kind ~~which~~ that may have been stored within the structure being wrecked or on such property shall be removed or cleaned away, the ground leveled off, and the premises put in a clean and sanitary condition; provided, however, that if such property is properly fenced and the erection of a new structure is to be commenced within ninety (90) days, the ground need not be leveled until all such work on the premises is completed.

- (8) Material used for fill or grading shall be only material that can be properly compacted in order to avoid future settlement of filled-in earth or the structure erected over such fill. No pieces of stone, lumber, boards or other material ~~which that~~ due to their size or character would prevent proper compaction or would cause later settlement of the surface shall be used in such fill.
- (9) Where a structure is wrecked and an excavation ~~which that~~ at any point is eight (8) or more feet below grade level is left unfilled, the fence portion of the walkway required by section 536-821(2) shall remain at the site; provided, however, that the administrator of the ~~division of compliance~~ bureau of construction services may approve a fence that does not meet the standards of section 536-821(2) so long as it is sufficient to prevent persons, especially children, from falling into the excavation.

**Sec. 536-823. Electrical power for on-site construction.**

(a) No person, partnership or corporation shall accomplish or allow the connection, provision or use of electrical power for on-site construction until after a statement of acceptable condition for temporary on-site electrical power has been attached to the temporary service equipment. Such statement shall be in the following form:

STATEMENT OF ACCEPTABLE CONDITIONS  
FOR TEMPORARY ON-SITE ELECTRICAL POWER

Address of temporary service equipment: \_\_\_\_\_

The undersigned licensee hereby certifies under the penalties for perjury that:

1. I am an electrical contractor licensed in accordance with Chapter 875 of the Revised Code of Indianapolis-Marion County, Indiana; and
2. I have either personally accomplished or personally inspected all the above referenced electrical work accomplished in connection with the installation of the temporary service equipment, or in the alternative, I have caused such electrical work to be inspected by a responsible and competent employee who works under my direction and control, who has fully reported to me the condition of such electrical work; and
3. I am familiar with building standards and procedures applicable to electrical work accomplished in connection with the installation of temporary service equipment; and
4. I know that such electrical work has been done in compliance with all building standards and procedures; and
5. I acknowledge and understand that if such electrical work is done in violation of building standards and procedures, that under the provisions of Chapter 875 my electrical contractor's license may be suspended or revoked.

Date certificate attached to service equipment:

\_\_\_\_\_  
Signature

Electrical contractor license number:

\_\_\_\_\_  
Type or printed name

(b) The provision and use of electrical power for on-site construction shall be subject to reasonable orders made by the administrator of the ~~division of compliance~~ bureau of construction services or his or her authorized representative pertaining to such matters as magnitude, duration and method of furnishing and distributing electrical power.

SECTION 33. Section 537-1 of the "Revised Code of the Consolidated City and County," regarding definitions used in Chapter 537 regarding vacant building standards, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as

follows:

**Sec. 537-1. Definitions.**

~~(a) Generally. When As used in this chapter, the following words and terms phrases shall be defined as follows: have the meanings ascribed to them in this section.~~

~~(1) Accessory structure means a detached building or structure in a secondary or subordinate capacity from the main or principal building or structure on the same premises.~~

~~(2) Appropriate fill material means material that can be properly compacted when used as fill. The fill which that is placed from grade to a depth of twelve (12) inches shall consist of at least eighty (80) percent soil base material and have no stones or rocks larger than four (4) inches in any dimension.~~

~~Bureau of property safety and maintenance services or bureau means the bureau of property safety and maintenance services of the department of code enforcement. The bureau of property safety and maintenance services is the "enforcement authority" as defined in IC 36-7-9-2.~~

~~(3) Chimney means a vertical masonry shaft of reinforced concrete or other approved noncombustible, heat-resisting material enclosing one (1) or more flues for the purpose of removing products of combustion from solid, liquid or gaseous fuel.~~

~~(4) Division of development services means the Division of Development Services in the Department of Metropolitan Development for the Consolidated City. The division of development services is the "enforcement authority" as defined in IC 36-7-9-2.~~

~~(5) Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking, serving and nonconsumption of food.~~

~~(6) Grade means finished ground level.~~

~~(7) Health and hospital corporation means the Health and Hospital Corporation of Marion County, Indiana.~~

~~(8) Junk vehicle means any vehicle which that is no longer licensed or which that does not display a current license, from which any part material to the operation of the vehicle has been removed, or which that is inoperable for any reason.~~

~~(9) Lead-based paint means any paint containing more lead than the level established by the U.S. Consumer Product Safety Commission as being the "safe" level of lead in residential paint and paint products.~~

~~(10) Mosquito harborage means any condition or place which that promotes the breeding or infestation of mosquitos.~~

~~(11) Owner means any one (1) or more of the following:~~

~~a.(1) The holder or holders of a fee simple or life estate interest in a parcel of real property; or~~

~~b.(2) The record owner or owners as reflected by the county recorder's office; or~~

~~c.(3) The purchaser or purchasers of such real estate under any contract for the conditional sale thereof; or~~

~~d.(4) The estate of a decedent, receiver, guardian or custodian, or the corpus of a trust, but not the personal representative or fiduciary of such estate or trust.~~

~~(12) Premises means a platted lot or part thereof or unplatted lot or parcel of land on which is located a structure and includes any such structure, accessory structure, adjoining alley, easement or drainage~~

way.

~~(13)~~ *Refuse* means all putrescible and nonputrescible solids including garbage, rubbish, ashes and dead animals.

~~(14)~~ *Sound condition and good repair* means the structure or portion thereof is suitable for use in the manner intended and maintained free of defects and deterioration.

~~(15)~~ *Structure* means any manmade construction built up or composed of parts formed together in some definite pattern, such as a building, fence, swimming pool or sign.

~~(16)~~ *Rat harborage* means any conditions or place where rats can live, nest or seek shelter.

~~(17)~~ *Rubbish* means nonputrescible solid wastes consisting of either:

~~a.~~(1) Combustible wastes such as paper, cardboard, plastic containers and wood; or

~~b.~~(2) Noncombustible wastes such as tin cans and crockery.

~~(18)~~ *Tree*, when used by itself, means any woody, perennial plant and includes those having a single main stem ~~which~~ that grows to a minimum height of over ten (10) feet.

~~(19)~~ *Vacant* means currently unoccupied or occupied by vagrants, squatters, trespassers or other persons having no legal right to occupy.

~~(20)~~ *Weeds* means vegetation ~~which~~ that has attained a height of twelve (12) inches or more and ~~which~~ that constitutes a potential rat harborage or other health or safety hazard.

~~(b) *Undefined words.* Words not specifically defined in these standards shall have the common definitions set forth in a standard dictionary.~~

SECTION 34. Section 537-5 of the "Revised Code of the Consolidated City and County," regarding the scope of vacant building standards, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 537-5. Scope.**

These standards shall apply to the maintenance, repair and boarding of vacant structures located in the county. These standards shall in no way limit the types of action the ~~division of development services~~ bureau of property safety and maintenance services is authorized to take under IC 36-7-9-1 et seq. relative to the exterior of unsafe buildings, the interior of unsafe buildings, or the premises on which unsafe buildings are located.

SECTION 35. Section 537-7 of the "Revised Code of the Consolidated City and County," regarding remedial actions with respect to vacant buildings, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 537-7. Remedial action.**

Orders or portions of orders issued by the ~~division~~ bureau under IC 36-7-9-6 requiring an owner to bring his or her property into compliance with these standards shall be complied with by the time specified in the order, or as extended by the hearing authority acting under IC 36-7-9-7. However, an order, other than an order requiring immediate boarding, shall provide the owner at least thirty-three (33) days from the mailing of the order to comply or to prepare for an administrative hearing.

SECTION 36. Article III of Chapter 537 of the "Revised Code of the Consolidated City and County," regarding standards for the boarding of buildings, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

### ARTICLE III. BOARDING STANDARDS

#### Sec. 537-41. Boarding standards.

The following standards apply to the boarding of buildings as ordered under IC 36-7-9-5(a)(8):

- (1) If ordered to seal a building, the owner shall comply with the standards set forth in this section.
- (2) The owner shall comply with all exterior maintenance standards contained in Article II of these standards.
- (3) All openings of a building shall be closed. Openings that are more than one (1) square foot in area and located less than twenty (20) feet above the ground or ~~which that~~ are accessible from a part of the building such as a fire escape or other means of access shall be secured by the following means:
  - a. Plywood or oriented strand board, covered with a weatherproofing substance such as exterior paint or varnish, similar in color to the exterior of the building and cut to the inside dimension of the exterior of the opening, shall be placed in all openings in such a way that no portion of the plywood extends outside the existing frame. The plywood shall be placed against any existing exterior window slide trim or a furring strip. If there is no slide trim or furring strip, an equivalent block shall be installed. The slide trim, furring strip or block shall be sufficient to prevent the plywood from being pushed inward. The plywood or oriented strand board shall be affixed to the exterior frame by use of two and three-quarters-inch or longer ring nails spaced a maximum of eight (8) inches apart.
  - b. Where the inside dimension of the opening exceeds twenty-six (26) square feet in area, additional exterior support shall be provided by placing continuous pieces of nominal two-inch by four-inch framing grade lumber on the outside of the plywood in such a manner that every carriage bolt used in the opening passes through and joins such a piece of nominal two-inch by four-inch lumber, the plywood and the interior brace. The round head of the bolt shall be on the outside of such pieces of nominal two-inch by four-inch lumber ~~which that~~ gives exterior support. The pieces of nominal two-inch by four-inch framing grade lumber shall be covered with a weatherproofing substance such as exterior paint or varnish, similar in color to the exterior of the building.
  - c. In case of a ground level door ~~which that~~ is most exposed to view from a public street, the following method of securing shall be used: The door shall be placed in good repair including, but not limited to, closing any openings in the door, repairing hinges on the door and providing for an adequate closure to the opening; and the door shall be locked by the use of not less than two (2) hasp locks and padlocks to be located equidistant from the top and bottom casing and each other. If no door exists, or if it is impractical to repair the existing door, the opening shall be secured in the manner described in this subsection, substituting, however, a piece of plywood for the door.
- (4) Any opening ~~which that~~ is less than one (1) square foot in area or ~~which that~~ is both more than twenty (20) feet above the ground and not accessible from a part of the building shall be covered so as to prevent entry of birds, rats or other animals and shall be made weathertight. The covering shall be painted in a color similar to the exterior of the building.
- (5) The materials used to secure the openings of a building pursuant to these standards shall meet the following specifications:
  - a. Plywood or oriented strand board: ~~N~~no less than one-half-inch exterior grade;
  - b. Braces: ~~N~~no less than nominal two-inch by four-inch framing grade lumber; and
  - c. Bolts: ~~N~~no less than three-eighths-inch carriage bolts.

- (6) The ~~division of development services~~ bureau of property safety and maintenance services may allow the use of other materials and methods of securing openings, including the use of existing doors, if it is shown that, as related to the particular circumstances, the objectives of these standards would be met by the use of such materials and methods.

**Sec. 537-42. Immediate boarding.**

When an immediate hazard exists because a structure is open and accessible for unauthorized entry, the ~~division of development services~~ bureau of property safety and maintenance services, acting pursuant to IC 36-7-9-5(a)(2), may order the immediate boarding of the building. Such boarding shall be done in a manner described by the ~~division of development services~~ bureau and shall be for a short time period. Such boarding shall not prevent the ~~division of development services~~ bureau from taking further action requiring the owner to bring the property in compliance with these standards.

SECTION 37. Section 561-104 of the "Revised Code of the Consolidated City and County," regarding the definition of "director" in Chapter 561, hereby is REPEALED.

SECTION 38. Section 561-105 of the "Revised Code of the Consolidated City and County," regarding the definition of "division of compliance" in Chapter 561, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 561-105. "~~Division of compliance~~ Bureau of license and permit services" defined.**

As used herein, "~~division of compliance~~" shall mean the Division of Compliance "bureau of license and permit services" or "bureau" means the bureau of license and permit services of the Department of Metropolitan Development of the City of Indianapolis code enforcement.

SECTION 39. Section 561-221 of the "Revised Code of the Consolidated City and County," regarding drainage permits, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 561-221. When drainage permits required; enforcement; exceptions.**

(a) Except for activity specified in subsection (b), it shall be unlawful for a person, partnership or corporation to undertake or accomplish any land alteration without having in force a written drainage permit obtained from the ~~division of compliance~~ bureau of license and permit services. A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars (\$100.00), and each day that an offense continues shall constitute a separate violation. The ~~city~~ controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the department of ~~public works~~ code enforcement.

(b) The permit specified in subsection (a) shall not be required for:

- (1) Excavation of cemetery graves;
- (2) Refuse disposal sites where storm drainage is controlled by other regulations;
- (3) Excavation for wells, excavation and backfills for poles, conduits, and wires of utility companies;
- (4) Exploratory excavations or soil testing, under the direction and control of professional engineers, soil engineers, geologists, civil engineers, architects or land surveyors, ~~which that~~ are backfilled;
- (5) Ordinary cultivation of agricultural land including tilling, terracing, construction of minor open ditches and crop irrigation;
- (6) The planting and tilling of gardens, flower beds, shrubs, trees and other common uses and minor landscaping of land appurtenant to residences;

- (7) Fill and grading of a former basement site after the demolition of a structure, to conform to adjacent terrain;
- (8) Fill of small holes caused by erosion, settling of earth or the removal of such materials as dead trees, posts or concrete;
- (9) A fill less than one (1) foot in depth, and placed on natural terrain with a slope flatter than ten (10) percent, not intended to support structures, ~~which~~ that does not exceed fifty (50) cubic yards per acre and does not obstruct drainage;
- (10) Maintenance of drainage facilities;
- (11) Installation of septic systems, when a proper permit has been obtained;
- (12) Construction of a driveway, when a proper permit has been obtained;
- (13) Installation of building sewers, when a proper permit has been obtained;
- (14) An enlargement or exterior change that does not exceed twenty-five (25) square feet in floor area to an existing structure, when no part of the structure, or the enlargement or exterior change to the structure, is located in an impacted drainage area;
- (15) Placement of an accessory structure, not exceeding one hundred twenty (120) square feet in floor area, to a one- or two-family dwelling, when the accessory structure is not located on a permanent foundation;
- (16) Exterior changes to a structure ~~which~~ that do not change the ground floor area of the structure, unless the roof of the building is part of a retention-detention system; or
- (17) Construction of a deck ~~which~~ that extends over open ground at least eight (8) feet above grade or ~~which~~ that is constructed so that water freely and directly flows through the deck to the ground below the deck.

(c) The drainage permit must be obtained before any work is initiated with the exception of testing to determine procedures or materials.

SECTION 40. Sections 561-223 through 561-229, inclusive, of the "Revised Code of the Consolidated City and County," regarding drainage permits, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 561-223. Application; issuance.**

(a) Application for a drainage permit shall be made to the ~~division of compliance~~ bureau of license and permit services. The application shall be in writing on a form prescribed by the division.

(b) A drainage permit shall be issued if:

- (1) The person, partnership or corporation is eligible to apply for and obtain a drainage permit under section 561-222;
- (2) The application required by this section and supporting information required by either section 561-224 or section 561-225 have been properly prepared and submitted;
- (3) The drainage plan, together with supplemental information required by either section 561-224 or section 561-225 reflect compliance with drainage requirements;
- (4) A certificate of sufficiency of plan and a certificate of obligation to observe have been filed by a registered professional engineer, land surveyor or architect, engaged in storm drainage design;

- (5) If required by the administrator of the ~~division of compliance~~ bureau, a bond has been posted pursuant to section 561-231;
- (6) If required by the administrator of the ~~division of compliance~~ bureau, a covenant has been executed pursuant to section 561-232;
- (7) If required by the administrator of the ~~division of compliance~~ bureau, an easement has been dedicated pursuant to section 561-233; and
- (8) The applicable fee, computed in accordance with Division 8 of Article II of this chapter, has been paid.

**Sec. 561-224. Professionally prepared and certified drainage plans.**

(a) A drainage plan fulfilling the requirements of this section shall be submitted to the ~~division of compliance~~ bureau of license and permit services for approval before a drainage permit can be obtained to accomplish a land alteration, unless the land alteration is such that a drainage permit can be obtained in accordance with section 561-225. The drainage plan must be submitted in duplicate and shall indicate in a precise way the work to be accomplished pursuant to the drainage permit. One (1) copy of the drainage plan will remain on file in the division. The following information must be submitted for approval:

- (1) *Construction features.* The drainage plan shall demonstrate and describe surface and subsurface drainage and include the following:
  - a. Scale; arrow; contours and USGS bench marks: The drainage plan shall be drawn to scale, preferably one (1) inch per fifty (50) feet, and an arrow indicating north shall appear on each page. Existing land contours shall be shown, with one-foot contours for land with a slope flatter than ten (10) percent, two-foot contours for slopes equal to or greater than ten (10) percent but flatter than twenty (20) percent, and five-foot contours for slopes equal to or greater than twenty (20) percent. A bench mark, which is easily accessible and relocatable, shall be shown. The bench mark may be assumed at the discretion of the ~~director~~ administrator of the bureau if the area contains less than three (3) acres, but otherwise shall be determined by USGS datum.
  - b. Location and vicinity map: A map ~~which~~ that indicates the location and vicinity of the proposed land alteration shall be included in the drainage plan.
  - c. Existing and proposed drainage facilities: The drainage plan shall show the locations of all existing and proposed drainage facilities. Storm drains and manholes and other structures shall be located in the plans by dimensions from traverse lines, property markers or road centerlines. However, the areas where physical features are not available, coordinates of manholes and bearings of storm drains shall be based either on the state's coordinate system or other acceptable horizontal and vertical datum. If applicable, the drainage plan should show the direction of flow, elevation of inverts, gradient, size and capacity of existing and proposed storm drains. When using existing storm drains, the capacity shall be indicated.
  - d. Plan and profile: The plan shall be shown at the upper portion of the drawing. The plan, generally, shall be drawn on a scale of one (1) inch equals fifty (50) feet. The plan shall show appropriate right-of-way and easement limits. The profile shall be shown under the plan and shall extend a sufficient distance downstream of the outlet to allow any pertinent information concerning the outfall channel to be shown. The storm drain and inlet profile shall generally be drawn on a scale of one (1) inch equals fifty (50) feet horizontal, one (1) inch equals five (5) feet vertical. Where a storm drain is located in an existing or proposed pavement or shoulder, the centerline grade of the road shall be shown. Where a storm drain is located outside pavement or shoulder, the existing ground over the storm drain with proposed grading shall be shown. If the storm drain is to be constructed on fill, the profile of the undisturbed earth, at drain location, shall be shown.
- (2) *Design calculations.* Design calculations are required as part of the drainage plan and shall

specifically include:

- a. Estimation of stormwater runoff:
  - 1. Drainage area map (scale one (1) inch equals two hundred (200) feet) indicating contours at two-foot intervals and limits of one-hundred-year floodplain, where applicable;
  - 2. Weighted runoff coefficient computations; and
  - 3. Time of concentration computation indicating overland flow time and flow time in the swale, gutter, pipe or channel.
- b. Close conduit and open channel design computations:
  - 1. Size of pipe or channel cross section;
  - 2. Pipe or channel inverts slope in percent;
  - 3. Roughness coefficient;
  - 4. Flowing velocities in feet per second; and
  - 5. Design capacity in cubic feet per second.
- c. Head loss computations in manholes and junction chambers;
- d. Hydraulic gradient computations, wherever applicable; and
- e. Erosion control methods.

Such design calculations shall conform ~~with~~ to the standards of Article III, Division 5 of this chapter and all regulations promulgated thereunder.

(3) *Additional information.* The administrator of the ~~division of compliance bureau~~ shall be empowered to require such additional information to be included in a drainage plan that is necessary to evaluate and determine the adequacy of the proposed drainage facility.

(4) *Certification required.* All drainage plans submitted under this section must be certified by a registered professional engineer, land surveyor or architect engaged in storm drainage design under whose supervision the plans were prepared. The certificate shall be in the following form:

CERTIFICATE OF SUFFICIENCY OF PLAN

Permit Number \_\_\_\_\_

Address where land alteration is occurring \_\_\_\_\_

Plan Date \_\_\_\_\_

I hereby certify that to the best of my knowledge and belief:

- (1) The drainage plan for this project is in compliance with drainage requirements (as set forth in Chapter 561 of the Revised Code of the Consolidated City and County) pertaining to this class of work.
- (2) The calculations, designs, reproducible drawings, masters and original ideas reproduced in this drainage plan are under my dominion and control and they were prepared by me and my employees.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Typed or Printed Name \_\_\_\_\_ Phone \_\_\_\_\_

(SEAL)

Business Address \_\_\_\_\_

Surv. \_\_\_\_\_ Eng. \_\_\_\_\_ Arch. \_\_\_\_\_ Indiana Registration No. \_\_\_\_\_

- (5) *Obligation to observe.* All drainage plans submitted under this section must include a certificate of obligation to observe by a registered professional engineer, land surveyor or architect engaged in storm drainage design. The certificate shall be in the following form:

CERTIFICATE OF OBLIGATION TO OBSERVE

Permit Number \_\_\_\_\_

Address where land alteration is occurring \_\_\_\_\_

Plan Date \_\_\_\_\_

I will perform periodic observations of this project during construction to determine that such land alteration is in accordance with both the applicable drainage requirements and the drainage plan for this project submitted for a drainage permit to the ~~division of compliance~~ bureau of license and permit services of the department of ~~metropolitan development~~ code enforcement.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Typed or Printed Name \_\_\_\_\_ Phone \_\_\_\_\_

(SEAL)

Business Address \_\_\_\_\_

Surv. \_\_\_\_\_ Eng. \_\_\_\_\_ Arch. \_\_\_\_\_ Indiana Registration No. \_\_\_\_\_

(b) The approval of a drainage plan by the ~~division of compliance~~ bureau under this section shall be valid for a period of one (1) year from the date such approval was granted, or until the drainage permit for which the plan was submitted is issued, whichever occurs first. However, prior to the issuance of the permit, if there are any material changes to an approved drainage plan or circumstances ~~which that~~ cause the drainage plan to be inaccurate or incomplete, then a new or corrected drainage plan shall be submitted to the division as a precondition for obtaining a drainage permit.

**Sec. 561-225. When professionally prepared and certified drainage plan not required.**

(a) A drainage plan that does not contain as much information as drainage plans prepared to fulfill the requirements of section 561-224 and that is not prepared or certified by a registered professional engineer, land surveyor or architect engaged in storm drainage design may be submitted when:

- (1) No part of the parcel or property for which the drainage permit is required is in an impacted drainage area; and
- (2) The primary basis on which a drainage permit is required is the construction, enlargement or location, on a permanent foundation, of a one-family dwelling, two-family dwelling or accessory structure appurtenant to either a one- or two-family dwelling.

(b) The drainage plan must be submitted in duplicate and shall indicate the nature and location of all work to be accomplished pursuant to a drainage permit. The drainage plan must be neat, accurate and readable. One (1) copy of the drainage plan will remain on file in the ~~division of compliance~~ bureau of license and permit services. The following information must be submitted for approval under this section:

- (1) The legal description and the street address for the property;
- (2) The dimensions and borders of the parcel;
- (3) The name and address of the owner;

- (4) An arrow indicating north;
- (5) Location of all existing and proposed improvements, structures and paved areas on the site;
- (6) Existing and proposed grading showing positive drainage by contouring or sufficient spot elevations; and
- (7) Location of all existing or proposed swales, ditches, culverts, drainage channels, surface and subsurface drainage devices and the direction of the flow.

The drainage plan shall include information necessary to demonstrate conformity with all drainage requirements of Article III of this chapter. The plot map shall illustrate the surface drainage pattern of the site away from structures and the final distribution of surface water off-site, either preventing or planning for surface ponding.

(c) The approval of a drainage plan by the ~~division of compliance~~ bureau under this section shall be valid for a period of one (1) year from the date such approval was granted, or until the drainage permit for which the plan was submitted is issued, whichever occurs first. However, prior to the issuance of the permit, if there are any material changes to an approved drainage plan or circumstances ~~which that~~ cause the drainage plan to be inaccurate or incomplete, then a new or corrected drainage plan shall be submitted to the division as a precondition for obtaining a drainage permit.

(d) Notwithstanding other provisions of this section, submission of a drainage plan shall not be required as a precondition for obtaining a drainage permit in the instance of a one- or two-family dwelling constructed in a subdivision for which a plat has been approved in accordance with Chapter 731, Article III of this Code, and for which a drainage plan meeting the requirements of section 561-224 has been approved and a permit issued under this chapter, so long as the permit applicant certifies that the land alteration shall be accomplished in compliance with the specifications and information found on the approved plat and on such drainage plan. Any deviations from the drainage provisions as approved in the plat and drainage plan for the subject plot must be submitted to the ~~division of compliance~~ bureau for approval by the administrator of the division, and the administrator may require the submission of plans or other information relative to the deviation ~~which that~~ may be required as a precondition to approval.

#### **Sec. 561-226. Expiration of permit by operation of law; extensions.**

(a) If the land alteration for which the permit has been issued has not commenced within one hundred eighty (180) days from the date of its issuance, the permit shall expire by operation of law and no longer be of any force or effect; provided, however, the administrator of the ~~division of compliance~~ bureau of license and permit services may, for good cause, shown in writing, extend the validity of the permit for an additional period ~~which that~~ is reasonable under the circumstances to allow commencement of the land alteration. In no event shall the extension exceed a period of sixty (60) days.

(b) If the land alteration has been commenced but only partially completed, and thereafter no substantial land alteration has occurred on the site for a period of six (6) months, the permit shall expire by operation of law and no longer be of any force or effect; provided, however, the administrator of the ~~division of compliance~~ bureau may, for good cause shown in writing, extend the validity of such permit for an additional period ~~which that~~ is reasonable under the circumstances to allow resumption of the land alteration.

(c) An extension under this section may be granted upon the payment of the applicable fee as computed in accordance with Division 8 of Article II of this chapter, and shall be confirmed in writing.

#### **Sec. 561-227. Notice of change in permit information; amendment of permits and plans.**

(a) After a permit has been issued, the permittee shall give prompt written notice to the administrator of the ~~division of compliance~~ bureau of license and permit services of any addition to or change in the information contained in the permit application.

(b) After a permit has been issued, any material deviation or change in the information contained in

the permit application or in the approved plans shall be considered an amendment subject to approval by the administrator of the ~~division of compliance~~ bureau. Prior to the time land alteration involving the change occurs, the permittee shall file with the administrator a written request for amendment, including a detailed statement of the requested change and the submission of any amended plans.

(c) The administrator of the ~~division of compliance~~ bureau shall give the permittee written notice that the request for amendment has been approved or denied, and if approved, copies of the amended application or plans shall be attached to the original application or plans.

(d) The administrator of the ~~division of compliance~~ bureau may approve an amendment to a permit or approved plans under this section upon the payment of the applicable fee as computed in accordance with Division 8 of Article II of this chapter. Reinspection fees or other fees ~~which that~~ are occasioned by the amendment shall be assessed and paid in the same manner as for original permits or plans.

**Sec. 561-228. Determination of impacted drainage areas.**

(a) The board of public works is authorized, but is not required, to classify certain geographical areas as impacted drainage areas and to enact and promulgate regulations for land alteration in impacted drainage areas, in addition to regulations ~~which that~~ are applicable generally. Such classifications and regulations may be later modified or rescinded by the board of public works.

(b) Action of the board of public works to classify or declassify any area as an impacted drainage area, or to promulgate, repeal or modify any regulation in regard thereto, shall be in compliance with the requirements of Article III, Division 2 of this chapter, regarding promulgation, repeal and modification of regulations generally.

(c) In determining impacted drainage areas, the board of public works shall consider such factors as topography, soil type and distance from adequate drainage facilities. The following areas shall be designated as impacted drainage areas, unless good reason for not including them is presented to the board of public works:

- (1) A floodway or floodplain designated by the metropolitan development commission in the zoning ordinance of Marion County, Indiana;
- (2) Land within seventy-five (75) feet of each bank of any legal drain;
- (3) Land within fifty (50) feet of each bank of a natural drainageway, including a river, stream, gully, ditch or other definite natural watercourse; and
- (4) Land where there is not an adequate outlet, taking into consideration the capacity of depth of the outlet.

(d) A map identifying impacted drainage areas shall be retained in the office of the ~~division of compliance~~ bureau of license and permit services and shall be made conveniently available to members of the public during regular business hours.

**Sec. 561-229. Transfer of permit.**

(a) A drainage permit may be transferred with the approval of the administrator of the ~~division of compliance~~ bureau of license and permit services to a person, partnership or corporation ~~which that~~ would be eligible under section 561-222 to obtain such drainage permit in the first instance (hereinafter called "transferee"), after both the payment of a fee as computed in accordance with Division 8 of this article and the execution and filing of a form furnished by the ~~division of compliance~~ bureau. Such transfer form shall contain, in substance, the following certifications, release and agreement:

- (1) The person who obtained the original drainage permit or a person who is employed by and authorized to act for the obtainer (hereinafter called "transferor") shall:
  - a. Certify under penalties for perjury that such person is familiar with land alteration activity

accomplished pursuant to the drainage permit; such person is familiar with the drainage requirements applicable to the land alteration activity; and to the best of such person's knowledge, information and belief the land alteration activity, to the extent performed, is in conformity with all drainage requirements; and

- b. Sign a statement releasing all rights and privileges secured under the drainage permit to the transferee.

(2) The transferee shall:

- a. Certify that the transferee is familiar with the information contained in the original drainage permit application, the drainage plan, and any other documents filed in support of the application for the original drainage permit;
- b. Certify that the transferee is familiar with the present condition of the premises on which land alteration activity is to be accomplished pursuant to the drainage permit; and
- c. Agree to adopt and be bound by the information contained in the original application for the drainage permit, the drainage plan, and other documents supporting the original drainage permit application; or in the alternative, agree to be bound by such application, plan and documents as modified by an amendment submitted to the administrator of the ~~division of compliance~~ bureau of license and permit services for approval.

(b) The transferee shall assume the responsibilities and obligations of and shall comply with the same procedures required of the transferor (including, but not being limited to, the requirement of section 561-241 that a certificate of completion and compliance be executed and filed) and shall be subject to any written orders issued by the administrator of the ~~division of compliance~~ bureau of license and permit services.

(c) A permit for land alteration activity at a specified location may not be transferred to land alteration activity at another location.

SECTION 41. Sections 561-231, 561-232, and 561-233 of the "Revised Code of the Consolidated City and County," regarding drainage permit posting of bond, execution of covenants, and dedication of easements, respectively, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 561-231. Posting of bond.**

(a) The administrator of the ~~division of compliance~~ bureau of license and permit services may, as a prerequisite to the issuance of a drainage permit, require the posting of a performance bond from a company licensed by the State of Indiana to provide such surety, upon which the principal may be the owner of the affected land, the developer, or any other party or parties the administrator believes necessary or helpful. Such bond shall name the City of Indianapolis and County of Marion as parties who can enforce the obligations thereunder, and shall be in an amount established by the administrator as adequate to provide surety for the satisfactory completion of the improvements required by the drainage permit. In the instance of platting, such bond may be a part of the total bonding required by the plats committee of the metropolitan development commission.

(b) In instances where the administrator of the ~~division of compliance~~ bureau has required a performance bond pursuant to this section, the administrator may, as an alternative to the posting of such bond, accept other appropriate security, such as a properly conditioned irrevocable letter of credit, ~~which~~ that meets the same objectives as the performance bond described in this section, subject to approval of any other department or agency whose interests are protected by the same bonding requirement.

**Sec. 561-232. Execution of covenant.**

Where the administrator of the ~~division of compliance~~ bureau of license and permit services shall determine that such is necessary in order to achieve satisfactory present and future drainage of the

parcel of land for which a drainage permit is sought and the area surrounding that parcel, the administrator may, as a prerequisite to the issuance of a drainage permit, require the execution of covenants and/or easements running in form to the City of Indianapolis and County of Marion by the owner or owners of such parcel. As a minimum in such cases, the administrator shall require that the following covenant be executed by the owner or owners of such land ~~which~~ that will be included in a recorded plat:

"It shall be the responsibility of the owner of any lot or parcel of land within the area of this plat to comply at all times with the provisions of the drainage plan as approved for this plat by the ~~division of compliance~~ bureau of license and permit services of the City of Indianapolis and the requirements of all drainage permits for this plat issued by said division."

**Sec. 561-233. Dedication of easement.**

The administrator of the ~~division of compliance~~ bureau of license and permit services may, as a prerequisite to issuance of a drainage permit, require the dedication of easements to the City of Indianapolis and to owners of other affected lands by the owner of the parcel of land, relative to which application for a drainage permit has been made, where such is necessary to achieve satisfactory present and future drainage of the parcel and the area surrounding the parcel.

SECTION 42. Section 561-241 of the "Revised Code of the Consolidated City and County," regarding drainage permit certificates of completion and compliance, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 561-241. Certificate of completion and compliance.**

Within fourteen (14) days after completion of a land alteration for which a drainage permit was required and relative to which a certified plan was required to be filed pursuant to section 561-224, a registered professional engineer, land surveyor or architect, engaged in storm drainage design, shall execute and file with the ~~division of compliance~~ bureau of license and permit services a certificate of completion and compliance. Such certificate shall be in the following form:

CERTIFICATE OF COMPLETION AND COMPLIANCE

Address of premises on which land alteration was accomplished \_\_\_\_\_

Inspection Date(s): \_\_\_\_\_ Permit No. \_\_\_\_\_

Relative to plans prepared by: \_\_\_\_\_ on \_\_\_\_\_, 19\_\_\_\_.

I hereby certify that:

- (1) I am familiar with drainage requirements applicable to such land alteration (as set forth in Chapter 561 of this Code); and
- (2) I have personally observed the land alteration accomplished pursuant to the above-referenced drainage permit; and
- (3) To the best of my knowledge, information and belief, such land alteration has been performed and completed in conformity with all such drainage requirements, except \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Typed or Printed Name \_\_\_\_\_ Phone \_\_\_\_\_

(SEAL)

Business Address \_\_\_\_\_

Surv. \_\_\_\_\_ Eng. \_\_\_\_\_ Arch. \_\_\_\_\_ Indiana Registration No. \_\_\_\_\_

SECTION 43. Section 561-251 of the "Revised Code of the Consolidated City and County," regarding drainage permits investigations and inspections, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 561-251. General authority for investigations and inspections.**

(a) The power to make investigations and inspections of land alterations shall be vested in the administrator of the division of ~~compliance~~ inspections of the department of code enforcement and his or her authorized representatives.

(b) Investigation and inspection of land alteration may be made at any time by going upon, around or about the premises on which the land alteration has occurred.

(c) Such investigation and inspection may be made either before, during or after the land alteration is completed, and it may be made for the purposes, among others, of determining whether the land alteration meets drainage requirements and ascertaining whether the land alteration has been accomplished in a manner consistent with plans and specifications or a certificate filed pursuant to section 561-241.

(d) Efforts to afford an opportunity for investigation and inspection of the land alteration shall be made by persons working on or having control of the land alteration, including making available a copy of plans and specifications submitted to obtain a drainage permit.

SECTION 44. Sections 561-262 and 561-263 of the "Revised Code of the Consolidated City and County," regarding revocation of drainage permits and stop-work orders, respectively, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 561-262. Revocation of permits.**

(a) The administrator of the ~~division of compliance~~ bureau of license and permit services may revoke a drainage permit where the application, plans or other supporting documents required by section 561-223 reflect either:

- (1) A false statement or misrepresentation as to material fact; ~~or~~
- (2) Lack of compliance with drainage requirements; ~~or~~
- (3) Failure to comply with the requirements of sections 561-221, 561-222, 561-223, 561-224, 561-225 or 561-227 of the Code; or
- (4) Failure to post bond, execute covenants or dedicate easements as required by the administrator of the ~~division of compliance~~ bureau pursuant to sections 561-231, 561-232 or 561-233 of the Code.

(b) This sanction shall in no way limit the operation of penalties provided elsewhere in this division.

**Sec. 561-263. Stop-work order.**

(a) Whenever the administrator of the division of ~~compliance~~ inspections of the department of code enforcement or his or her authorized representative discovers the existence of any of the circumstances listed below, he or she is empowered to issue an order requiring the suspension of the land alteration. The stop-work order shall be in writing and shall state to what land alteration it is applicable and the reason for its issuance. One (1) copy of the stop-work order shall be posted on the property in a conspicuous place and one (1) copy shall be delivered to the permit applicant, and if conveniently possible to the person doing the land alteration and to the owner of the property or his or her agent. The stop-work order shall state the conditions under which land alteration may be resumed. A stop-work order shall be issued if:

- (1) Land alteration is proceeding in an unsafe manner; ~~or~~
- (2) Land alteration is occurring in violation of a drainage requirement and in such manner that if land

alteration is allowed to proceed, there is a probability that it will be substantially difficult to correct the violation; or

- (3) Land alteration has been accomplished in violation of a drainage requirement and a period of time ~~which~~ that is one-half (1/2) the time period in which land alteration could be completed, but no longer than fifteen (15) calendar days has elapsed since written notice of the violation or noncompliance was either posted on the property in a conspicuous place or given to the person doing the land alteration, without the violation or noncompliance being corrected; or
- (4) Land alteration for which a drainage permit is required is proceeding without a drainage permit being in force. In such an instance, the stop-work order shall indicate that the effect of the order terminates when the required drainage permit is obtained.

(b) This sanction shall in no way limit the operation of penalties provided elsewhere in this division.

SECTION 45. Section 561-266 of the "Revised Code of the Consolidated City and County," regarding drainage permits enforcement of covenants, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 561-266. Enforcement of covenants.**

(a) Any person who violates a covenant required under section 561-232, and/or the owner of any parcel of land who permits such a violation upon land owned by him or her, may be notified in writing by the administrator of the ~~division of compliance~~ bureau of license and permit services, that a violation exists, and shall be given a reasonable period of time in which to correct such violation. The notice shall specify the nature of the violation with reasonable clarity.

(b) If the person responsible for a violation of a covenant required under section 561-232, or the owner of the land upon which such violation exists, fails to correct the violation in a reasonable time in accordance with the requirements of the notice described above, the City of Indianapolis shall have the authority, through the ~~division of compliance~~ bureau, to correct the violation at its expense and to place a lien on the land whereupon the violation was so corrected for the recovery of any and all expenses caused to the city for effecting such correction.

SECTION 46. Sections 561-271 and 561-272 of the "Revised Code of the Consolidated City and County," regarding drainage permit variances, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 561-271. Variance procedure.**

(a) The administrator of the ~~division of compliance~~ bureau of license and permit services, after consultation with the engineering division of the department of public works, shall have the power to modify or waive any minimum drainage standard found in Article III of this chapter or any regulations promulgated by the board of public works pursuant to Article III of this chapter. The administrator may, but is not required to, grant such a modification or waiver if an applicant for a drainage permit makes a substantial showing:

- (1) That a minimum drainage standard regulation is infeasible or unreasonably burdensome; and
- (2) That an alternate plan submitted by the applicant will achieve the same objective and purpose as compliance with minimum drainage standards and regulations.

(b) The request for a variance together with supporting information shall be made in writing to the administrator who shall make a decision within twenty (20) days and file a copy of his or her decision with the board of public works.

**Sec. 561-272. Appeals.**

An applicant may appeal to the board of public works the decision of the administrator of the ~~division of compliance~~ bureau of license and permit services denying or partially approving a requested variance. The appeal of the administrator's decision shall be filed with the board within twenty (20) days of the decision. An applicant may cause the variance request to be scheduled before the board of public works in the instance where the administrator has failed to make a decision for a period of twenty (20) days after the written request for a variance. The board shall hear the request for the variance de novo at a regular meeting and in making a decision shall apply the standards set forth in section 561-271.

SECTION 47. Section 561-281 of the "Revised Code of the Consolidated City and County," regarding drainage permit fee amounts, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 561-281. Amount.**

The board of ~~public works~~ code enforcement shall have the power to ~~determine~~ establish the amount of fees ~~which shall be shown in the regulations~~ by regulation.

SECTION 48. Section 561-283 of the "Revised Code of the Consolidated City and County," regarding drainage permit fees, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 561-283. Payment of fees; refunds.**

(a) Fees for drainage permits shall be collected by the ~~division of compliance~~ bureau of license and permit services, acting on behalf of the city controller.

(b) A permit fee paid under this chapter shall not be refunded except upon request and in instances where the permit was issued in error, either because it was not required by law, or because a permit for the same activity previously had been issued and was in force at the time the second permit was applied for and issued.

SECTION 49. Section 561-352 of the "Revised Code of the Consolidated City and County," regarding alternative standard and regulations for land alteration, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 561-352. Alternative standards, regulations and procedures available.**

As an alternative to complying with those standards and regulations referred to in section 561-351, the land alteration may be accomplished in accordance with the standards set forth in Division 3 of Article III and regulations adopted by the board of public works pertinent to such standards. If a land alteration is carried out in accordance with standards found in Article III and regulations pertinent to such standards, then the requirements of section 561-224 shall be followed in submitting a drainage plan to the ~~department of public works~~ bureau of license and permit services for its review.

SECTION 50. Section 575-2 of the "Revised Code of the Consolidated City and County" as amended by G. O. No. 44, 2009, regarding definitions applicable to Chapter 575 regarding environmental public nuisances, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 575-2. Definitions.**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section. The word "shall" is always mandatory and not merely directory.

*Authorized individual* means a designee of the director of the department of ~~public works~~ code enforcement.

*Environmental public nuisance* means:

- (1) Vegetation on private or governmental property ~~which that~~ is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and ~~which that~~ has attained a height of twelve (12) inches or more;
- (2) Vegetation, trees or woody growth on private property ~~which that~~, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or ~~which that~~ has been allowed to become a health or safety hazard;
- (3) A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
- (4) Property ~~which that~~ has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or ~~which that~~ has otherwise been allowed to become a health or safety hazard.

*Equipment* means such equipment as trucks, tractors, bulldozers and similar motor vehicles and hand-operated equipment such as weed trimmers and similar equipment.

*Excluded property* means:

- (1) Cultivated land in commercial, domestic, agricultural or horticultural use;
- (2) An existing natural or developed forest ~~which that~~ does not create a health or safety hazard;
- (3) Vacant, open lands, fields or wooded areas more than one hundred fifty (150) feet from occupied property;
- (4) A nature habitat area more than one hundred fifty (150) feet from an occupied structure on adjacent property and determined by state and/or local governmental health authorities not to be a health or safety hazard; or
- (5) A wetland area designated by the United States Department of Interior Fish and Wildlife Division on a National Wetlands Inventory Map and/or determined to be a wetland area by the Marion County Soil and Conservation Service and/or the Department of Public Works, Drainage Division.

*Governmental property* means real estate ~~which that~~ is owned, leased, controlled or occupied by the United States, the State of Indiana, or any political subdivision thereof.

~~*Equipment* means such equipment as trucks, tractors, bulldozers and similar motor vehicles and hand-operated equipment such as weed trimmers and similar equipment.~~

*Occupant* means the person, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious or charitable organization, or entity who is from time to time in possession or exercising dominion and control over the real estate or any house or other structure located thereon. Occupant shall include any lessee of the property.

*Owner* means the record owner or owners as reflected by the most current records in the county assessor's office.

*Private property* means all real estate within the city except governmental property.

*Recipient* means the owner or occupant to whom notice of violation has been directed.

*Repeat violation* occurs when a property owner or occupant who has previously been issued notice of a similar environmental public nuisance for the same property or who has been found by a hearing or judicial officer to have allowed a similar environmental public nuisance to exist at the same property

allows a subsequent similar environmental public nuisance to exist at that property within eighteen (18) months of the date of the previous notice or finding of violation, whichever is later. A repeat violation does not occur when multiple violations of subsection (4) of the definition of environmental public nuisance are alleged and:

a-(1) The owner or occupant can demonstrate that illegal dumping was the cause of the underlying violations; and

b-(2) The owner or occupant has made a reasonable effort to prevent illegal dumping from recurring.

SECTION 51. Section 575-5 of the "Revised Code of the Consolidated City and County" as amended by G. O. No. 39, 2009, regarding violations of environmental public nuisance, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 575-5. Determination of violation; notice of violation.**

(a) Any department of the city that receives a complaint regarding an environmental public nuisance on any property within the city shall forward that complaint to the department of ~~public works code enforcement~~, which shall make a record of, and assign a case number to, such complaint. An authorized individual shall visually inspect the property in question. If the authorized individual determines that a violation exists, the department shall issue a notice of violation to the owner if the city intends to proceed under the provisions of section 575-7 of this chapter and, in the department's sole discretion, to the occupant. A notice of violation issued for vegetation of a height of twelve (12) inches or more remains in effect for the calendar year in which it is issued if the city abates the environmental public nuisance under the provisions of section 575-7 of this chapter. After such abatement by the city, without issuance of further notice, the city may continue to reinspect the subject property and may abate subsequent violations of vegetation of a height of twelve (12) inches or more and may recover its abatement costs under this chapter.

(b) Notice of violation described in subsection (a) shall be issued either by personal service or by first class United States mail, postage prepaid. Such notice shall state the nature of the alleged environmental public nuisance and the action deemed necessary to correct the condition, and shall fix a date not sooner than five (5) days from the date of the notice for vegetation of a height of twelve (12) inches or more, and ten (10) days from the date of the notice for all other violations under this chapter, when the property will be reinspected. The notice shall inform the recipient that, if the condition is not corrected upon reinspection, the city has the right to enter on the property to abate or correct the condition and bill the recipient for costs incurred in so doing. A notice to the occupant at the real estate or to the owner at the address to which property tax statements are sent as these addresses are shown by the most current records in the ~~township county~~ assessor's office ~~of the township in which the real estate is located~~ shall be sufficient notice under this subsection.

SECTION 52. Sections 575-7 through 575-12, inclusive, of the "Revised Code of the Consolidated City and County" as amended by G. O. No. 39, 2009, regarding enforcement of ordinances against environmental public nuisances, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 575-7. Failure to abate after notice; abatement by city.**

(a) *Abatement by city.* If, upon reinspection, it is determined by the authorized individual that abatement has not occurred, or if vegetation of a height of twelve (12) inches or more is present on a property in the same calendar year in which the city previously abated a violation of a similar nature on that property, then the director of the department of ~~public works code enforcement~~, or his or her designee, may enter upon the premises and abate the environmental public nuisance. The recipient shall be liable for the costs of abatement. After abatement is completed, the department of ~~public works~~ shall, either by personal service or first class United States mail, postage prepaid, send the recipient a bill for the costs of abatement.

(b) *Responsibility of occupant or owner for costs of abatement.*

(1) *Abatement costs.* As reimbursement to the department of ~~public works~~ code enforcement for its costs, the recipient shall, within ten (10) days of the date of the bill, pay to the department of ~~public works of the city~~ the following fees and charges:

a. ~~The following~~ An administrative fees fee, provided in section 131-501 of the code, for such administrative tasks as inspecting the property to determine compliance, determining ownership and preparing and mailing notices;

~~Administrative fees . . . \$226.00~~

b. Any disposal fees actually incurred to dispose of litter and waste products removed;

c. Any other reasonable fees actually incurred in abating an environmental nuisance; and

d. Administrative, labor and equipment fees may be changed or established by regulation of the board of ~~public works~~ code enforcement as necessary to assure that such fees are adequate to reimburse the department.

(2) *Hearing.* A recipient may request in writing an informal hearing before the director of the department of ~~public works~~ code enforcement, or his or her designee, to dispute the existence of a violation and/or the accuracy of all or part of the costs of abatement billed. Upon receipt of a hearing request, the department shall not take abatement action until after the director or his or her designee notifies the recipient of his or her decision. After such hearing, the director of the department of public works, or his or her designee, shall determine the existence of a violation and/or the accuracy of all or part of the abatement costs billed and shall notify the recipient of any amounts due to the department. The decision of the director, or his or her designee, shall be final.

(3) *Unpaid costs become lien upon affected property; perfecting of lien.* Upon the failure of the owner who was sent a bill to pay the appropriate fees and charges within the ten-day time period, the department of ~~public works of the city~~ code enforcement shall have a lien upon the property on which the environmental public nuisance was abated for the amount billed in accordance with the fee schedule listed above. In addition, there will be a ten-dollar (~~\$10.00~~) charge for services necessary in order to perfect such lien. Such liens may be perfected in the following manner:

a. By the adoption by the board of ~~public works~~ code enforcement at any regular or special meeting thereof of an assessment resolution, which shall give the name of the owner or owners, a description of the property on which the environmental public nuisance was abated, and the amount of the charges being assessed; ~~and~~

b. The certification of such assessment resolution to the county auditor of ~~Marion County~~, who by special assessment shall cause the amount thereof to be placed on a tax duplicate for the property on which the environmental public nuisance was abated for collection as in the nature of a real property tax; and

c. Upon receipt of a written verified request from the purchaser, the department shall release liens perfected after the recorded date of conveyance of the property. The request must state that the purchaser was not an owner or occupant of the property at the time of the notice of violation or at the time of the City's abatement without notice of a subsequent violation of a similar nature in a calendar year as provided in this chapter, had no knowledge of the notice of violation and has not been paid by the seller for the costs of abatement billed.

(4) *Civil action to recover costs of abatement.* Upon the failure of the recipient who was sent the notice of violation and bill to pay the appropriate fees and charges within the ten-day period, the department of ~~public works~~ code enforcement may bring a civil action in court against such recipient to recover the amount billed, plus reasonable attorney's fees.

**Sec. 575-8. Existence of violation; court action or administrative adjudication for ordinance violation; court action or administrative adjudication for repeat violation.**

(a) In addition to or in lieu of the foregoing, if, upon inspection, it is determined by the authorized individual that an environmental public nuisance exists, the department of ~~public works code enforcement~~ may initiate a civil court action or administrative adjudication for ordinance violation against the owner or occupant of the property. A court action shall be initiated by submitting a written request to the corporation counsel to file a complaint of ordinance violation and/or to enjoin any environmental public nuisance. Administrative proceedings may be initiated by an authorized individual or by corporation counsel by following the procedures set forth in Chapter 103, Article V.

(b) Regardless of whether later abatement by the recipient has occurred, the department of ~~public works~~ may initiate an administrative adjudication or a civil court action for any violation of this chapter.

**Sec. 575-9. Penalty.**

(a) Any owner or occupant found in violation of this chapter may be fined not more than two thousand five hundred dollars (\$2,500.00) for each violation. Each day such violation is permitted to continue ~~may be deemed to shall~~ constitute a separate violation. A previous violation of this chapter may be considered in determining the penalty assessed. Notwithstanding section 103-3 of this Code, a finding that a violation occurred or an admission that a violation occurred is not required to assess and recover a penalty if the recipient subject to the penalty agrees to pay the penalty pursuant to either an agreed judgment or consent decree in a court action for ordinance violation or a compliance agreement in an administrative adjudication.

(b) Notwithstanding paragraph (a) above, a recipient shall be fined two thousand five hundred dollars (\$2,500.00) for each repeat violation.

(c) The department of ~~public works code enforcement~~ may publish a list of the names of owners and occupants who have been cited for a repeat violation under this chapter and the addresses of the affected properties. The director shall determine the frequency of publication.

**Sec. 575-10. Variance.**

An owner or occupant may submit a written request for a variance to the board of ~~public works code enforcement~~ if compliance with this chapter will cause undue hardship to such owner or occupant without a sufficient corresponding benefit to the health or safety of the public. To receive consideration, such request must be received prior to the time the city abates the environmental nuisance on the property. Upon receipt of a request, the board of ~~public works code enforcement~~ shall schedule a hearing and notify the owner or occupant of the time and place. At least ten (10) days prior to the hearing, the owner or occupant shall notify in writing the owners and occupants of all property within one hundred fifty (150) feet of the property for which the variance is requested. The notice shall state the location of the property for which the variance is requested, the nature of the variance requested, and the time and place of the hearing. At the hearing, the owner or occupant requesting the variance, representatives of the city, representatives of state or local governmental health authorities and any person affected by the proposed variance may present evidence. After the hearing, the board of ~~public works code enforcement~~ may grant or deny the request. The decision of the board of ~~public works~~ shall be final. Within ten (10) days of the decision, written notice of the board of ~~public works' code enforcement's~~ decision shall be given to the owner or occupant who requested the variance.

**Sec. 575-11. Rules and regulations.**

The board of ~~public works code enforcement~~ may, by resolution, promulgate rules and regulations necessary to implement and carry out the provisions of this chapter.

**Sec. 575-12. Release of liens.**

The board of ~~public works~~ code enforcement may release any liens for abatement costs or judgment liens for any other amount due pursuant to this chapter if it finds that the benefit to the city outweighs the detriment caused by such a release. The board may require parties affected by the release to agree to whatever conditions the board deems appropriate; provided, however, all conditions shall be set forth in a conditional release of the lien and shall be recorded in the office of the county recorder of Marion County, Indiana. If the board finds that an affected party has failed to comply substantially with the conditions imposed by the board, the release shall be void and the lien affecting the property may be reinstated by the board.

SECTION 53. Sections 601-1 and 601-2 of the "Revised Code of the Consolidated City and County," regarding definitions applicable to Chapter 601 regarding garbage, trash, and refuse, and the deposit of the same on premises of another, respectively, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 601-1. Definitions.**

The following definitions shall apply. As used in this chapter, the following terms shall have the meanings ascribed to them in this section unless otherwise indicated clearly by text:

Bureau of license and permit services means the bureau of license and permit services of the department of code enforcement.

~~(1)~~ *Containerized collection* means all mechanized collection of solid waste from dumpsters by front-loading, rear-loading and roll-off vehicles.

~~(2)~~ *Dumpster* means a receptacle used to contain solid waste and designed for mechanical pickup and provided by a hauler for use by the customer.

~~(3)~~ *Garbage* means 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, excluding human excreta.

~~(4)~~ *Incinerator* means any apparatus to burn waste substances in which all the factors of combustion-temperature, retention time, turbulence and combustion air--can be controlled.

~~(5)~~ *Landfill* means a sanitary landfill.

~~(6)~~ *Multifamily residence* means a structure containing five (5) or more residential units, and does not include condominiums.

~~(7)~~ *Noncommercial vehicle* means a vehicle used for the purpose of transporting solid waste including, but not limited to, pickup trucks, cars, vans, dump trucks and U-hauls and shall not mean rear-loaders, front-loaders, roll-off trucks, roll-off containers or side-loaders.

~~(8)~~ *Processing* means the method, system or other treatment of solid wastes so as to change their chemical or physical form or affect it for disposal or recovery of material, but excluding vehicles for transportation or landfills.

~~(9)~~ *Recycling station* means a facility for the processing or storage of separated solid wastes prior to transportation to markets.

~~(10)~~ *Refuse* means all putrescible and nonputrescible solid and semi-solid wastes, except human excreta, but including ashes, street cleanings, offal and solid commercial, industrial and institutional wastes.

~~(11)~~ *Residential solid waste* means all refuse, garbage and rubbish generated by persons in noncommercial settings, and may include food wastes, paper, cardboard, bottles, metal cans, plastics,

cloth, wood, tarp, Christmas trees, accumulations of leaves, grass or shrubbery cuttings and other refuse attending the care of lawns, shrubbery, vines, trees, and tree limbs. Residential solid waste shall not include discarded building materials, trees, brush and other vegetation resulting from the activities of building contractors, commercial tree trimmers or commercial lawn services, larger quantities of sod, dirt and trash from land clearing and other materials requiring special handling.

(12) *Resource Recovery* means the buildings and equipment located at 2320 South Harding Street, Indianapolis, Indiana.

(13) *Rubbish* means all nonputrescible solid wastes, such as cardboard, paper, plastic, metal or glass food containers, rags, waste metal, yard clippings, small pieces of wood, excelsior, rubbish, leather, crockery, and other waste materials that ordinarily accumulate around a home, business or industry.

(14) *Salvaging* means the controlled removal of materials from solid wastes for utilization.

(15) *Sanitary landfill* means an engineering method of disposing of refuse on land in a manner that protects the public health and environment by spreading the waste in thin layers, compacting it to the smallest practical volume, and covering it with compacted soil at the end of each working day.

(16) *Single-family residence* means a condominium or a structure containing four (4) or less residential units, unless it is a component of multiple structures that together constitute an apartment complex.

(17) *Solid waste* means all rubbish, garbage and refuse.

#### **Sec. 601-2. Deposit of waste materials on premises of another; enforcement.**

(a) It shall be unlawful for any person to deposit or place upon real estate owned by another any solid waste without the approval of the owner or lessee of such real estate.

(b) Whenever any person shall be charged with a violation of this section, it shall be a sufficient allegation of a prima facie offense to state that such person deposited the solid waste described in subsection (a) upon property of which he or she was not then the owner or lessee. It shall be a matter of affirmative defense for the person to show that he or she had permission of the owner or lessee to so deposit such solid waste, if such was the case.

(c) It shall be unlawful for a generator of solid waste to transfer such solid waste to any other person who subsequently disposes of it in violation of subsection (a). This subsection shall not apply to a generator who either transfers solid waste to a person licensed by the city at the time of transfer to haul solid waste or who sets out residential solid waste on a regularly scheduled collection day according to the rules and regulations for the preparation, set-out and collection of solid waste promulgated by the department of public works.

(1) A person licensed by the city to haul solid waste who collects solid waste in a noncommercial vehicle shall provide a receipt for a transaction wherein he or she agrees to haul the solid waste of another, except as provided in subsection (c)(3). The licensed hauler collecting solid waste in a noncommercial vehicle shall affix to such receipt a sticker bearing his or her license number.

(2) Stickers bearing the license number of a licensed hauler collecting solid waste in a noncommercial vehicle shall be made available through the ~~department of public works~~ bureau of license and permit services.

(3) A licensed hauler collecting solid waste in a noncommercial vehicle shall provide such a receipt for occasional or single transactions. A licensed hauler collecting solid waste in a noncommercial vehicle shall not be required to provide such receipts to customers receiving regularly scheduled services ~~which that~~ are documented in the records of such hauler; provided, however, that a licensed hauler collecting solid waste in a noncommercial vehicle shall provide a receipt to a regular customer for a transaction outside the scope of regularly scheduled services.

(d) Any person who violates this section shall be punishable by a fine of not less than five hundred dollars (\$500.00) and an order for such persons to reimburse each appropriate city department for its reasonable costs incurred in correcting conditions caused by the violation. In addition, the court may order that the vehicle used in the unlawful dumping, owned by the person, be impounded for a period not to exceed ninety (90) days.

(e) Any person who violates this section by unlawfully dumping a hazardous waste as defined by the Indiana Environmental Management Act, IC 13-7-1-1 et seq. and the regulations thereunder or the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq. and the regulations thereunder, shall be punishable by a fine of not less than five hundred dollars (\$500.00) and order for its reasonable costs incurred in correcting conditions caused by the violation, and the court shall order that the vehicle used in the unlawful dumping, owned by the person, be impounded for a period of not less than ten (10) days and not greater than ninety (90) days.

(f) Enforcement of this chapter primarily shall be the responsibility of the bureau of environmental services of the department of code enforcement. All monies recovered by the city from enforcement actions brought under this section, exclusive of court costs, shall be allocated to the department of ~~public works code enforcement~~ and shall be deemed a reimbursement to the department for its expenses in monitoring unlawful dumping and enforcing the provisions of this section.

SECTION 54. Section 601-6 of the "Revised Code of the Consolidated City and County," regarding the unlawful collection and transportation of garbage, trash, and refuse, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 601-6. Unlawful collection and transportation.**

(a) It shall be unlawful for any person not an employee of the city in pursuance of his or her duties as such, unless the person shall be so authorized by contract with or be licensed by the city, to take, collect or transport any solid wastes from any premises or upon the streets or alleys of this city for the purpose of selling or using such solid waste, or for anyone to deliver or deposit any of the materials generated within the city at any disposal site or location other than a disposal site provided or designated by the board of public works. Nothing in this subsection shall be construed as prohibiting the transportation or delivery of materials for salvaging, processing or recycling.

(b) The ~~controller~~ administrator of the bureau of license and permit services may, using the procedures set forth in this Code, temporarily suspend or, upon repeated violations or a failure to correct a violation, revoke any license issued to collect, haul or transport, or dispose of solid wastes within the city for any violation of this chapter, Code, state law, or any rules or regulations promulgated pursuant to subsection (c) of this section. Failure to obey such suspension or revocation shall constitute a violation for which a fine up to two thousand five hundred dollars (\$2,500.00) per violation may be levied.

(c) The board of public works is authorized to promulgate such rules and regulations as may be required to carry out the intent of this section. Such rules and regulations shall be promulgated pursuant to the procedures set forth in Chapter 141 of this Code. A violation of such duly promulgated rules and regulations shall constitute a municipal violation, and any person so violating such rules and regulations shall be subject to the penalties provided in section 103-3 of this Code.

SECTION 55. Section 601-8 of the "Revised Code of the Consolidated City and County," regarding sanitary landfill licenses, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 601-8. Sanitary landfills; license required, fee.**

(a) No open dumps shall be operated by any person or governmental agency inside the city, pursuant to IC 19-2-24-2, on or after January 1, 1968.

(b) Any facility operated by any person or governmental agency for handling solid wastes shall, after January 1, 1968, compost, incinerate or bury by sanitary landfill method approved by the board of public works, or other governmental entity with authority thereof.

(c) Anyone operating a facility for handling solid waste shall obtain a license therefor from the controller bureau of license and permit services, after conforming to subsection (b) and upon payment of a fee of one hundred dollars (~~\$100.00~~) per annum an annual fee provided in section 131-501 of the code.

SECTION 56. Sections 611-201 and 611-202 of the "Revised Code of the Consolidated City and County" as amended by G. O. No. 47, 2009, regarding impoundment and removal of vehicles, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 611-201. Purpose.**

It shall be the purpose of this article to provide for the impoundment of vehicles ~~which~~ that, due to their location and/or condition, constitute a threat to the health, safety or welfare of the members of this community, and vehicles ~~which~~ that have been involved in violations of law warranting temporary police or department of code enforcement custody of such vehicles.

**Sec. 611-202. Definitions.**

As used in this article, the following terms shall have the meanings ascribed to them in this section.

*Accident* means a collision of vehicles or a vehicle and an object on a public street, highway, right-of-way or publicly owned property.

*Franchise* means the authority within a designated zone to tow vehicles on behalf of the city.

*Franchise fee* means that certain sum of money paid by the owner, operator, or authorized representative of same, of a towed vehicle by the franchised wrecker for remittance to the city, as a portion of the towing fee.

*Impoundment* means the act of taking temporary custody of a vehicle and towing it from a public street, highway or right-of-way to an authorized secured area.

*Officer* means and includes any member of the Indianapolis metropolitan police department.

~~*Person* means and includes all natural persons, firms, partnerships and corporations.~~

*Police hold* means an order from the Indianapolis metropolitan police department to impound a vehicle because of its suspected involvement in criminal activity.

*Storage fee* means that certain sum of money charged the owner, operator, or authorized representative of same, for the safekeeping of the impounded vehicle.

*Tow* means the act of lifting, pushing, pulling or removing a vehicle.

*Towing fee* means that certain sum of money charged the owner, operator, or authorized representative of same, of a towed vehicle.

*Vehicle* means a machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery, and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

*Wrecker* means and includes any person engaged in the business of offering the services of a towing vehicle for use in removing, pulling, lifting or pushing another vehicle ~~which~~ that is disabled, and shall include the employees, agents and towing vehicles used in the business of providing towing services.

SECTION 57. Sections 611-204, 611-205, and 611-206 of the "Revised Code of the Consolidated City and County" as amended by G. O. No. 47, 2009, regarding the removal of nuisance vehicles and the procedure for selecting wreckers, respectively, hereby are amended by the deletion of the language that is stricken-

through, and by the addition of the language that is underscored, to read as follows:

**Sec. 611-204. Removal of vehicles constituting a nuisance.**

Any officer, upon discovering a vehicle parked or left standing so as to constitute a public nuisance pursuant to the provisions of this article, shall cause the vehicle to be removed to an authorized storage place where it shall be impounded and detained as provided in this article. Such vehicles shall be released only upon order of the ~~chief of the Indianapolis metropolitan police department~~ director of the department of code enforcement, or upon an order of the judge of any court having jurisdiction over the vehicle.

**Sec. 611-205. Removal of vehicles; release.**

(a) Any officer, upon discovering a vehicle parked or left standing so as to constitute a public nuisance, may cause the vehicle to be impounded. Impounded vehicles shall be released either upon payment by the owner, operator or authorized representative of same of the fees charged for impoundment and storage, or upon order of the ~~chief of the Indianapolis metropolitan police department~~ director of the department of code enforcement, or upon order of any court having jurisdiction over the vehicle.

(b) All vehicles impounded by reason of being wrecked or stolen and all vehicles otherwise coming into the custody or control of such agency, and those impounded for parking violations, may be impounded in lots maintained for such purposes by franchised wreckers or in a lot authorized and chosen by the director of the department of ~~public safety~~ code enforcement, but that lot shall not be operated by any city or county governmental agency. The attendant for any central lot shall collect the towing fees for the franchised wreckers and shall remit same to the wreckers monthly, along with monthly reports to the ~~public safety~~ director of code enforcement in such form as the director shall prescribe.

**Sec. 611-206. Procedure for selecting wreckers.**

(a) *Franchise zones.* The director of the department of ~~public safety~~ code enforcement ~~after consultation with the sheriff~~ shall invite bids from wreckers for providing franchised towing services on the geographic basis of zones or on some other basis of distribution of towing services within the consolidated city established by the ~~public safety~~ director of code enforcement for the efficient organization of the removal of vehicles. The ~~public safety~~ director shall establish specifications ~~which that~~ shall include but not be limited to the wrecker's towing vehicles, equipment, storage lot and insurance, and shall include same in all invitations to bid. Such specifications for bids shall be designed by the ~~public safety~~ director in consultation with the chief of the Indianapolis metropolitan police department. Bids shall be submitted according to such specifications and the requirements of the city purchasing division. The ~~public safety~~ director of code enforcement ~~after consultation with the sheriff~~ shall award each towing contract to the responsible and responsive bidder who offers to pay the highest franchise fee above the minimum franchise fee set by the ~~public safety~~ director, or if the director may reject any and all bids received and call for new bids. A written contract shall be executed between the ~~public safety~~ director ~~department of code enforcement~~ and each successful bidder.

(b) *Franchise fee.* Towing, storage and all other such fees that may be charged by a franchise wrecker as well as a minimum franchise to be paid by the wrecker shall be set by the ~~public safety~~ director of code enforcement and included in the specifications for bids. The amount of the franchise fee shall be established by competitive bidding as provided in subsection (a). Funds realized from the collection of franchise fees shall be deposited in the county general fund.

SECTION 58. Sections 611-302 and 611-303 of the "Revised Code of the Consolidated City and County" as amended by G. O. No. 47, 2009, regarding the removal, storage and disposal of abandoned vehicles, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 611-302. Definitions.**

(a) The terms used in this article shall have the meanings ascribed to them in IC 9-22-1-2.

(b) In addition to the definition of "officer" contained in IC 9-9-1.1-2, "officer" shall also mean members of the department of public works and the division of compliance inspections of the department of metropolitan development code enforcement who are authorized to impound vehicles.

**Sec. 611-303. Responsibilities of the department of public safety and the department of public works code enforcement.**

(a) The department of public safety and/or the department of public works code enforcement shall be charged with the responsibility for the removal, storage and disposal of abandoned vehicles which that have been impounded by the Indianapolis metropolitan police department pursuant to article II of this chapter and/or IC 9-22-1-1 et seq.

(b) The department of public safety or the department of public works code enforcement may enter into contractual arrangements for the disposal of vehicles which that have been impounded pursuant to article II of this chapter and/or IC 9-22-1-1 et seq. and have been declared abandoned pursuant to the provisions of IC 9-22-1-1 et seq.

(c) The department of public works code enforcement shall also be charged with the responsibility for the removal, storage, and disposal of abandoned vehicles other than those designated in subsection (a) of this section.

(d) The department of public works code enforcement may employ personnel, and acquire equipment, property and facilities, to facilitate the removal of abandoned vehicles.

(e) The department of public works code enforcement may enter into contractual arrangements with a towing service to provide for the removal, storage and disposal of abandoned vehicles.

(1) The contract for these services shall be awarded on the basis of specifications prepared by the department of public works code enforcement.

(2) As a prerequisite for submitting a bid or quote, a towing service must maintain processing equipment capable of disposing of vehicles by crushing or similar means.

SECTION 59. Section 611-305 of the "Revised Code of the Consolidated City and County," regarding the appraisal of abandoned vehicles, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 611-305. Appraisals of vehicles.**

(a) If a tagged vehicle or parts are not removed within seventy-two (72) hours of tagging, and the officer suspects the market value of the vehicle is five hundred dollars (\$500.00) or less, the vehicle shall be towed to a storage area, and an appraisal shall be performed by an individual designated by the ~~Marion County Sheriff~~ or the director of the department of code enforcement. If the appraisal confirms the market value of the vehicle is five hundred dollars (\$500.00) or less, the authorized towing service shall be instructed to provide for the immediate disposal of the vehicle to an automobile scrapyards. The department ~~involved~~ of code enforcement shall retain a copy of the appraisal and any photographs for two (2) years after the disposal of the vehicle or parts.

(b) If the appraisal indicates the market value of the vehicle is greater than five hundred dollars (\$500.00), the notification and disposal procedures in IC 9-22-1 shall be followed.

SECTION 60. Section 611-307 of the "Revised Code of the Consolidated City and County" as amended by G. O. No. 40, 2009, and as further amended by G. O. No. 47, 2009, regarding towing and storage charges on abandoned vehicles, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 611-307. Towing and storage charges.**

(a) An owner or lienholder who claims a vehicle impounded and declared abandoned by the Indianapolis metropolitan police department under the provisions of this chapter shall be charged a towing fee and a per-day storage fee consistent with the provisions of as provided in the contract entered into between the department city and franchised wreckers as provided in article II of this chapter.

(b) Except as specified in subsection (a) above, an owner or lien holder who claims a vehicle removed and stored by the department of public works code enforcement shall be charged a towing fee, and a per day storage fee, consistent with the towing fee set out in the contract entered into between the metropolitan law enforcement agency city and the franchised wreckers. The storage fee shall be consistent with the storage fee set out in the contract entered into between the metropolitan law enforcement agency and the franchised wreckers. The storage fee shall be allowed to accumulate for a maximum period of sixty (60) days.

SECTION 61. Section 611-702 of the "Revised Code of the Consolidated City and County," regarding transportation of hazardous materials, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 611-702. Restriction of transportation of hazardous materials.**

(a) Those portions of Interstate I-70 and Interstate I-65 which that lie inside Interstate I-465 are conclusively presumed to be routes which that go through or near heavily populated areas; therefore, the use of said routes for the transportation of materials required to be placarded by 49 CFR, Subpart F--Placarding, is prohibited where there is neither a point of origin nor destination within Marion County.

(b) Where there is neither a point of origin nor destination within Marion County, the materials specified in subsection (a) shall not be transported in the downtown area as defined in subsection (d), and shall be transported around the most heavily populated areas of Marion County by using Interstate I-465; however, Interstate I-70 and Interstate 1-65 within Interstate I-465 may be used for local terminal visits.

(c) For cargoes with either a point of origin or destination within Marion County, the use of highways or streets in the downtown area, as defined in subsection (d) for the transportation of the materials specified in subsection (a) is prohibited during the hours between 7:00 a.m. to 9:00 a.m. and 3:30 to 5:30 p.m. daily except Saturdays, Sundays, and holidays.

(d) The downtown area is defined as the area within the boundaries of Thirtieth Street, East Street/Central Avenue, McCarty Street, and the White River Parkway.

(e) Exceptions to the above restrictions will be made only upon application to the director of ~~public works~~ the department of code enforcement in accordance with section 611-704.

SECTION 62. Section 611-704 of the "Revised Code of the Consolidated City and County," regarding transportation of hazardous materials, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 611-704. Exceptions granted by director of ~~public works~~ code enforcement.**

(a) Transporters, shippers, and receivers of hazardous materials may apply to the director of ~~public works~~ the department of code enforcement for an exception to the requirements of section 611-702. An exception will be granted only where the following criteria are met:

- (1) Compelling need is shown -- ~~the~~ applicant must show that delivery or pickup of the hazardous material can be made only by entering the downtown area during the hours prohibited by section 611-702(c); and
- (2) Transportation of the hazardous materials is in the public interest.

(b) An application for an exception under this section shall be filed with the permit section of the department of ~~public works~~ code enforcement.

(c) The board of code enforcement shall assist the director in granting the exceptions authorized under this section.

SECTION 63. Sections 611-705 of the "Revised Code of the Consolidated City and County," regarding the hazardous materials routing advisory committee, hereby is REPEALED.

SECTION 64. Section 616-401 of the "Revised Code of the Consolidated City and County," regarding definitions used in ordinances on privately owned buses, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 616-401. Enforcement.**

(a) This chapter shall be enforced by:

~~(1) The Director of the Department of Metropolitan Development defined in section 231-211, or the director's designee,~~

~~(2) The administrator of the division of compliance defined in section 231-306,~~ deputy director of the department of code enforcement, division of inspections; and

~~(3) The administrator of the environmental services defined in section 511-302,~~

~~(4) Fire department personnel authorized to conduct fire inspections in accordance with section 591-221, and~~

~~(5) The administrator and building inspectors defined in section 730-501.~~

(b) Any citizen who desires to register a complaint under this chapter may initiate enforcement with the corporation counsel defined in section 202-101, or with the city prosecutor referred to in section 103-5.

(c) An owner, manager, operator, or employee of an establishment regulated by this chapter shall inform persons violating this chapter of the appropriate provisions thereof and shall ask those persons to refrain from smoking.

(d) For a bar or tavern that elects to be exempted under the provisions of section 616-205(a)(8), it shall be the duty of the owner, manager, or operator to ensure that no persons under the age of eighteen (18) are allowed to enter, except as provided in that section.

SECTION 65. Section 645-112 of the "Revised Code of the Consolidated City and County," regarding definitions used in Chapter 645, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-112. Definitions.**

(a) The following terms and phrases when used throughout this Article I of Chapter 645 shall have the meanings ascribed to them in this section:

*Article* means this article of this Code.

*Director of the department of public works* means such director and any person to whom such director specifically delegates the powers under this Chapter 645.

~~*Division of compliance* means the division of compliance of the department of metropolitan development.~~

*Effective date* means the date upon which this article is considered adopted pursuant to IC 36-3-4-14.

*Entity* means a corporation, partnership, limited liability company, association, firm, other entity, and any governmental agency, authority, board, agency and department.

*Facilities* mean, including, without limitation, any pipes, conduits, wires, cables, amplifiers, transformers, fiber optic lines, antennae, poles, ducts, conductors, lines, mains, vaults, appliances, attachments, equipment, structures, manholes, and other like equipment, fixtures and appurtenances used in connection with transmitting, receiving, distributing, offering, and providing utility services, cable television, communications, signaling, electricity, water, steam and other services or functions.

*General management costs* means the management costs for:

- a. Registration and permit administration;
- b. Management of the public rights-of-way, including costs associated with the implementation and administration of the ordinances and policies of the consolidated city;
- c. Project management, including personnel costs and consulting expenses associated with coordinating utility and public right-of-way projects, design, inspection, testing, construction management, planning, and engineering, as well as restoration or remedial work required for inadequate work of an occupant to the extent that such inadequate work cannot be identified to a specific occupant or the occupant to which such inadequate work can be identified is insolvent;
- d. Public right-of-way engineering;
- e. Land acquisition for public right-of-way, including but not limited to appraising, title work, negotiating, costs of litigation, mediation and settlement, consultants, witnesses and attorneys fees;
- f. Mapping the public rights-of-way and coordinating mapping of all occupants of the public rights-of-way, including the costs of layout, materials and supplies, in order to verify occupation of the public rights-of-way;
- g. Geographic information system costs incurred after the effective date with respect to facilities installed in the public right-of-way, including the costs of automated mapping, computer and technical services, input of data, coordination and maintenance of the base map, personnel, software and equipment;
- h. Administrative overhead, including allocation of administration, personnel, fiscal and information systems costs;
- i. Application development and data conversion and maintenance, including necessary software development to provide for the integration of utility data into the geographic information system for viewing, querying and report generation;
- j. Legal services to develop, interpret, implement, enforce and defend the ordinances, policies and procedures of the consolidated city regarding the public rights-of-way; and
- k. Maintenance of a roadway inventory system, including maintenance of a pavement management system and inventory of roadway surface condition ratings to determine maintenance needs and schedules.

*Management costs* means "general management costs" and "specific management costs" that are direct, actual and reasonably incurred costs of the consolidated city in managing the public rights-of-way.

*Municipally owned utility facilities* means any facilities owned by the consolidated city, or any division, department, bureau or agency thereof, including the utilities department and the department of public works, and for which a user fee or charge is made or collected by or on behalf of such owner.

*Occupant* means any person or entity who owns any facilities occupying the public rights-of-way. If the owner of any facilities leases or licenses such facilities exclusively to another person or entity and if the lease or license so provides and a copy of such lease or license is filed with the department of public works, then the lessee or licensee thereof shall be deemed the "occupant" of such facilities for purposes of this article.

*Occupy* (and the various forms of such word, such as *occupying*, *occupied*, etc.) means to install, construct, maintain, operate or own any facilities in the public rights-of-way.

*Person* means an individual or natural person.

*Public easement* means any easement owned or controlled by the consolidated city and established, acquired, dedicated or devoted to public utility purposes, including the area above and below such easements.

*Public right-of-way* means any travelled way and/or any public easement.

*Public utility* shall have the meaning ascribed thereto in IC 8-1-2-1(a).

*Registrant* means any entity or person who is required by this chapter to file with the board of public works a registration statement.

*Regulation* is defined in section 102-14 and, as used in this article, includes any regulation adopted by the board of public works pursuant to this article in accordance with section 645-151, promulgated in accordance with Chapter 141 of the Code, and approved by the city-county council of the consolidated city.

*Specific management costs* means the management costs for:

- a. Construction, maintenance, repair and restoration of the public rights-of-way to the extent not included as a general management cost above, including, without limitation, the inspection of job sites and restoration projects as well as restoring work inadequately performed after providing notice and an opportunity to correct the work; and
- b. Implementation and administration of this Chapter 645 and any ordinance that ensures that an occupant adequately restores the public right-of-way to the public right-of-way's original condition and remaining life.

*Thoroughfare* means that portion of any public right-of-way that is included in the Marion County Thoroughfare Plan.

*Travelled way* means any highway, street, alley, sidewalk or other public right-of-way for motor vehicle or pedestrian travel under the jurisdiction or control of the consolidated city, including any areas within any public right-of-way ~~which~~ that may be unpaved and the unoccupied area above and below such rights-of-way.

*Utilities department* means the department of public utilities of the consolidated city created under IC 8-1-11.1-1.

(b) The terms public easement, public rights-of-way, travelled way and thoroughfare do not include:

- (1) Any land or interest in land designated as a "green way" by Indy Parks; or
- (2) The airwaves above same as those airwaves are used for cellular or other nonwire telecommunications or broadcast services.

~~(c) Definitions of the following terms used in this chapter are defined in other provisions of the Code and apply to this article:~~

- (1) ~~Code is defined in section 102-7.; and~~
- (2) ~~Regulation is defined in section 102-14 102-15.~~

SECTION 66. Section 645-322 of the "Revised Code of the Consolidated City and County," regarding powers and duties of the division of compliance with respect to activities in the rights-of-way, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-322. Duties and responsibilities of the ~~division of compliance~~ department of code enforcement.**

(a) ~~The division of compliance~~ department of code enforcement, by and through its bureau of license and permit services and its division of inspections, shall be responsible for controlling all activities and work performed by any person, partnership, corporation or other entity, including departments, divisions, agencies or boards of the city, in, on, under and over public rights-of-way under the jurisdiction of the city ("public rights-of-way") and for enforcing compliance with the provisions of regulations adopted by the ~~public works board of code enforcement~~ ("board") pursuant to this article.

(b) The division of ~~compliance~~ inspections, after consultation with the engineering division of the department of public works, shall recommend to the board proposed regulations to be adopted by the board.

SECTION 67. Section 645-324 of the "Revised Code of the Consolidated City and County," regarding right-of-way work permits, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-324. Permit required for work in right-of-way; enforcement.**

(a) Except as otherwise provided in subsections (b) and (c) of this section, it shall be unlawful for any person, partnership, corporation, or other entity, including departments, divisions, agencies or boards of the city to perform any work, including, but not limited to, cutting, drilling, digging or excavating in, on, over or under a public right-of-way without first having obtained a permit from the ~~division of compliance bureau of license and permit services of the department of code enforcement.~~ A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars (\$100.00), and each day that an offense continues shall constitute a separate violation. The ~~city~~ controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the ~~division of compliance~~ bureau of license and permit services.

(b) In the event an emergency arises that affects the health and safety of the public or requires the restoration of a utility service and such an event occurs at a time other than normal business hours for the ~~division of compliance~~ bureau of license and permit services, work may be performed in, on, over or under the public right-of-way without first obtaining a permit. If such event were to occur, the person, partnership, corporation or other entity performing such work must file for a permit from the ~~division of compliance~~ bureau on the first business day following the commencement or performance of the work.

(c) Notwithstanding the requirements of subsection (a), no permit shall be required for work in, on, over or under a street, (i) which is located within a subdivision platted after January 1, 1992, and (ii) which has not been accepted by the board in accordance with section 691-129 of this Code.

SECTION 68. Sections 645-421 and 645-422 of the "Revised Code of the Consolidated City and County," regarding permits for right-of-way curb cuts and driveways, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-421. Permit required; enforcement.**

- (a) It shall be unlawful for any abutting owner to alter, remove or cut any grassplot, sidewalk, the

pavement of the street or the curb adjacent thereto, or to excavate in a street, for the purpose of locating or constructing any private or commercial driveway or roadway for vehicles to cross over such grassplot or sidewalk and to afford access to his or her premises, without first obtaining a permit therefor from the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement.

(b) A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars (\$100.00), and each day that an offense continues shall constitute a separate violation. The ~~city~~ controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the ~~division of compliance~~ bureau of license and permit services.

**Sec. 645-422. Temporary driveways.**

A temporary driveway for use in connection with the removal or construction of buildings and excavations, or other work thereon, shall be permitted at any place in such manner and for such length of time as may be authorized by the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement.

SECTION 69. Sections 645-427 and 645-428 of the "Revised Code of the Consolidated City and County," regarding permits for right-of-way curb cuts and driveways, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-427. Voidance of permit upon change of use or application for building permit for adjacent premises.**

(a) A permit granted pursuant to this division for the cutting of a curb, grassplot or sidewalk adjacent to any street for the purpose of locating or constructing any private or commercial driveway or roadway for vehicles to cross over any grassplot or sidewalk or to afford access to adjacent premises shall automatically terminate upon a change in the business usage of the premises, regardless of how slight or minor the change may be. Also, upon the application of any person for a building permit upon any portion of adjacent premises to which access is allowed by virtue of the permit issued pursuant to this division for a curb cut, such permit shall automatically terminate at the time of application for the building permit.

(b) The change of business usage or upon the application for a building permit, and the subsequent termination of a curb cut permit, as provided in subsection (a) shall subject the person owning or using the adjacent premises to the penalties for violation of this division just as though no permit had been issued for the curb, grassplot or sidewalk cut.

(c) In the event the person owning or using such premises at the time of the change in business usage or at the time of the application for a building permit, or the new owner or lessee, if any, shall immediately petition the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement for approval to retain the permit issued pursuant to this division, and the person complies with the decision or orders of the ~~division of compliance~~ bureau of license and permit services regarding modification, change, alteration or elimination of the existing curb, grassplot or sidewalk cut, such person shall not be in violation of this division.

**Sec. 645-428. Restoration upon abandonment.**

(a) When any private or commercial driveway or roadway has been abandoned or is no longer used for a driveway or roadway, the ~~division of compliance~~ inspections of the department of code enforcement may order any owner or owners of real estate abutting such driveway or such roadway to restore, construct or reconstruct any grassplot or sidewalk, or the pavement of the street or the curb adjacent thereto, which has been altered, removed or cut for the purpose of locating or constructing the private or commercial driveway or the roadway to at least as good condition as the grassplots, sidewalks, street pavements and curbs adjoining such driveway or the roadway. The ~~division of compliance~~ inspections shall mail a written notice of the order to the owner or owners at their last and usual places of residence ~~which that~~ are known to the board or, if no such places of residence are known, to the address of the real estate abutting the driveway or the roadway. Within sixty (60) days after the mailing of such notice or within such longer time as may be stated in the notice, the owner shall complete all work required by the

order in accordance with the provisions of this section, and failure to do so shall constitute a violation of this division.

(b) Should the restoration, construction or reconstruction ordered pursuant to subsection (a) not be completed within the time required, the division of ~~compliance~~ inspections may request such restoration, construction or reconstruction to be done by the department of public works or by contract, and the entire cost thereof, together with such additional charge as may be made by the division of ~~compliance~~ inspections, in an amount ~~not to exceed one hundred dollars (\$100.00)~~ provided in section 131-501 of the code, may be collected by action therefor against the owner or owners; or the board, in lieu of and in addition thereto, may file and certify the cost and charges to the controller, who shall file a statement thereof with the county treasurer, who shall place such charges upon the tax duplicate, whereupon it shall constitute a lien upon the real estate and be charged and statements rendered therefor and be collected the same as taxes. No notice of any such charge so assessed shall be required, but each such person so liable shall be chargeable with notice thereof, as shown by the public tax and other records.

SECTION 70. Sections 645-431 through 645-435 of the "Revised Code of the Consolidated City and County," regarding right-of-way excavation permits, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-431. Permit required; enforcement.**

(a) Before any person, pursuant to a private contract therefor and for the benefit and use of his or her abutting real estate, shall make any cuts into the pavement or in any other portion of any improved street, sidewalk, curb or public place to excavate therein or to excavate in and beneath the surface of any unimproved street for the construction, reconstruction, alteration or repair of any driveway, sewer or sidewalk, or for the installation or repair of connections of private sewers, drains or public utility service lines located upon and serving his or her abutting real estate with any public sewer or public utility service lines located in the public way or place pursuant to any provisions of this Code, he or she shall first obtain a permit therefor as provided in this division.

(b) A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars (\$100.00), and each day that an offense continues shall constitute a separate violation. The ~~city~~ controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement.

**Sec. 645-432. Permit application.**

Any person desiring a permit required by this division shall cause an application therefor to be filed with the ~~division of compliance~~ bureau of license and permit services. The application shall be filed by the owner of such premises, or by his or her legal representative or agent, or by the contractor or other person concerned, or as may be otherwise required by this Code or by any statute.

**Sec. 645-433. Payment of fees.**

(a) No permit required by this division shall be issued until the applicant therefor shall first pay to the ~~controller~~ bureau of license and permit services the regular permit fee, plus all fees for the various types of work proposed to be done.

(b) The general fee for a permit required by this division shall be as established by this Code for the type of excavation for which the permit is sought. If such permit fees are not prescribed and fixed as to any type of work to reimburse the city in whole or in part for its expenses, including its inspections of any kind of work requiring cuts in pavements and excavations in streets, or public places, or in any portions thereof, or in effecting connections of abutting property with any public sewer, drain or public utility service lines, or for any other work, the board of ~~public works~~ code compliance is hereby authorized to adopt at any time a reasonable general schedule covering the various kinds of such work, based upon the prevailing engineering standards entering into work of similar character and the customary amount of such fees and charges in the city. Such charges shall not be less than five dollars (\$5.00) for the

issuance of each permit, to which may be added for all permits a flat minimum charge of not over ten dollars (\$10.00). In addition to such two (2) initial charges or fees totaling fifteen dollars (\$15.00) to compensate the city for its general expenses involved, chargeable for all permits for any kind of work to be done thereunder, the board shall determine by the standards in general use and shall adopt a reasonable schedule of charges for constructing or replacing pavements or surfaces of streets or sidewalks, using concrete, asphalt, bituminous treated gravel, dirt or plain gravel, or any other type of surface materials, and based upon the estimated and usual cost thereof per square yard for similar work in the city, in an amount sufficient to cover the cost of all such work ~~which that~~ will be required in any instance under each permit. The schedule may be revised from time to time, as conditions and costs may vary and require. At this time, to be so determined and adopted by the board, there may be a minimum charge per square yard for all such work on the roadways or streets of ten dollars (\$10.00) for concrete or asphalt; seven dollars and fifty cents (\$7.50) for bituminous treated gravel; five dollars (\$5.00) for dirt or plain gravel; and fifty cents (\$0.50) for concrete sidewalks; but the board may alter or vary such scale of charges as it finds to be fair and reasonable.

**Sec. 645-434. Scope of permit.**

A permit required by this division may be for the work to be done under one (1) specific contract, or may be issued to a person generally engaged in such work, to whom has been or may be issued a general permit for not exceeding two (2) years, without charge therefor, which shall be covered by one (1) performance and maintenance bond, to be kept effective for all such work done by him or her during such entire period, subject to the right of the ~~division of compliance~~ bureau of license and permit services to revoke the general and any special permit at any time, and subject also to the requirements of obtaining separate special permits for each instance of any such work being done by him or her under any private contract and the payment by him or her of the separate permit fees required therefor by this division.

**Sec. 645-435. Indemnification agreement; liability insurance.**

A person doing work under any special permit issued pursuant to this division shall also agree to indemnify the city and any party in interest under the contract against all claims, demands, actions, judgments, losses and expenses arising from any injuries to any person or damage to any property resulting from the work or from any conditions created thereby in the street or public place. The permittee shall present a certificate to the ~~division of compliance~~ bureau of license and permit services that there is in effect a standard public liability insurance policy by a company authorized to engage in such business in the state, with such limits of payment as the board may require, but not less than fifty thousand dollars (\$50,000.00) for injury to one (1) person and not less than one hundred thousand dollars (\$100,000.00) for injuries to more than one (1) person and not less than ten thousand dollars (\$10,000.00) for damages to property. The insurance policy, an extension thereof or a new policy shall be kept in effect during the entire specific period for which a performance and maintenance bond is in effect and for which a general permit has been granted to any such person; or for the time any work is done and maintained under a single contract and any specific permit and bond therefor.

SECTION 71. Sections 645-438 through 645-443, inclusive, of the "Revised Code of the Consolidated City and County," regarding right-of-way excavation permits, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-438. Surety bond.**

(a) Any person doing any kind of work subject to this division under private contract and permit, unless then so qualified and having a general permit and performance bond in effect, shall execute and file with the ~~division of compliance~~ bureau of license and permit services, before beginning any such work, a bond for the proper performance and maintenance of such work, with a surety approved by the board, in the penal amount of not less than two thousand five hundred dollars (\$2,500.00) for a single street cut or twenty-five thousand dollars (\$25,000.00) for unlimited multiple street cuts in any year, for the use and benefit of the city or of any party in interest under such contract.

(b) The bond required by subsection (a) shall continue to be effective for and applicable to each and all special permits and to any continuing general permit issued therewith to the principal for any such work, under private contract, for a period of two (2) years from the date of the bond, and for such further

periods as the bond and any general continuing permit may thereafter be extended by endorsements thereon of the parties thereto and as so approved by the ~~division of compliance~~ bureau of license and permit services, which ~~division~~ bureau may require increases in the penalty of the bond and a new or additional surety at any time, or may cancel any permit issued pursuant to this division. The bond shall be subject to all relevant provisions of this Code and of any other ordinances of the city and of all relevant statutes. Such bonds shall be conditioned upon such person obtaining and renewing an annual license from the city to engage in such business, where so required for each year during the two (2) calendar years, or for such other period of years for which the bond and general permit may be extended; it shall further be conditioned upon the permittee's discharge of his or her duties and compliance with all provisions of this Code and of any other city ordinances, rules and regulations at any time in force in relation to the mode, manner or form in which the work shall be done and maintained by him; and it shall further be conditioned that he or she will indemnify and save harmless and free from all loss, damage, expenses, claims, demands and judgments, the city and any party in interest under such contract, arising from any negligence of the person or of those employed by him or her in doing and maintaining the work, or in furnishing and using any materials therefor, or in failing to comply with all requirements of the director of ~~metropolitan development~~ the department of code enforcement, the ~~division of compliance~~ bureau of license and permit services, and with all statutes, provisions of this Code or of any later ordinance, relating to or controlling such work.

(c) The bond provisions and conditions established in subsection (b) shall be a part of every bond required by subsection (a) and shall be binding upon such obligor and all other persons, whether so expressed in or omitted from any such bond.

(d) The ~~division of compliance~~ bureau of license and permit services, in its discretion, may change or add to any bond conditions, or change the form of the bond to make it include and comply with such requirements. The ~~division of compliance~~ bureau may authorize or require renewals thereof and a sufficient surety as often as necessary to insure the completion of the work, as approved by the administrator of the ~~division of compliance~~ bureau, and its proper maintenance for one (1) year, or other period prescribed by the ~~division of compliance~~ bureau, after such acceptance. The ~~board [division]~~ bureau may at any time adopt any general rules and regulations or issue any special orders ~~which that~~ it deems necessary to control all or any phases of such work and all other matters relating to the proper restoration and maintenance of any street or public place so involved. Any bond previously executed shall be controlled by any such changes in its conditions and form, when the principal and surety are notified thereof by the ~~division of compliance~~ bureau and do not object thereto. If an objection in writing is filed with the ~~division of compliance~~ bureau, such changes shall not apply to any such bond while it remains in effect.

(e) As an alternative to the execution of any performance and maintenance bond required by subsection (a), the ~~division of compliance~~ bureau of license and permit services may require, in any instance, the deposit with the ~~division~~ bureau of cash or a certified check in such amount as it deems necessary for the estimated cost of doing and maintaining the work properly, to insure the full compliance of such person with all the requirements of the ~~division of compliance~~ bureau and of all the conditions similar to those applicable to the bond.

#### **Sec. 645-439. Plans and specifications.**

Unless otherwise required or permitted by the ~~division of compliance~~ bureau of license and permit services, all plans and specifications for the work relating to any commercial driveway constructed under private contract, but not relating to any private driveway, shall be prepared and certified by a professional engineer registered by the state; and the general plans and specifications of the board for acceptance of street improvements by the city as prescribed in this article, so far as applicable to any such work, shall also control the work done under any private contract and permit therefor.

#### **Sec. 645-440. Excavations affecting drainage or grade.**

No person shall dig any hole or make any excavation in any street or public place ~~which that~~ interferes with drainage when the work has been completed or thereby changes the grade, contour and level of any street or public place in the city below the existing surface or below the level of the grade as it has been lawfully established by the city before or at such time, unless the work and changes have been

authorized by the ~~division of compliance~~ bureau of license and permit services after consultation with the engineering division of the department of public works.

**Sec. 645-441. Protection of excavations.**

(a) Any person cutting a pavement, curb, sidewalk or driveway, or digging any hole in or excavating in any street, sidewalk or public place, for any purpose authorized by the city, or acting in an emergency repair or under a public or private contract, shall erect and maintain at all times around any such place, hole or excavation suitable and sufficient barricades for the protection of the public. When such cuts, holes or excavations are made in or across sidewalks or driveways, or at other places used by pedestrians, bridges, platforms or covers shall be erected over them sufficient to serve for the safe passage of the public, in addition to placing and maintaining, where needed, such barricades.

(b) All places for which protection is required by subsection (a) shall be properly lighted at night, as required by the city for any other work in the streets, under either public or private contract, and by the city safety regulations, which lights shall be maintained from one-half (1/2) hour after sunset until one-half (1/2) hour before sunrise during each night, until all such work is fully completed and the conditions of danger are fully removed.

(c) The guarding and protection of excavations, cuts or holes by any person causing such conditions shall be a continuing duty and shall be subject to the supervision, directions and orders of the division of ~~compliance~~ inspections, the police and the firemen.

(d) The requirements of subsections (a) and (b) shall apply to all other provisions of this Code relating to any similar hazards created by any kind of work being done by or for any department or official of the city or by any person in any street, public place or ground, which is at any time either owned by or under the control of the city, or is situated anywhere within its jurisdiction.

**Sec. 645-442. Restoration of pavement.**

(a) Whenever any portion of a public way is excavated by any person authorized to do so, the person so doing any such work shall also restore such place to its former condition, whenever so required by the city, acting under the directions and orders of ~~the administrator of the division of compliance~~ inspections of the department of code enforcement.

(b) When so ordered, a permittee under this division shall remove any portion of the pavement or other surface to the extent necessary, and the ground or materials used for relaying the base of the torn-up pavement or surface of the street shall be thoroughly wet rolled and tamped, and otherwise prepared so that the new pavement or surface may be laid and maintained thereon uniformly and in as good condition as it was before being torn up. All such work shall be done according to the city's standard specifications therefor, or according to such added specifications as ~~the administrator of the division of compliance~~ inspections may require.

(c) When any pavement or surface of any street is cut, torn up, disturbed or excavated in any manner, the person doing so shall restore such pavement or surface as soon as possible, if ordered to do the work, to at least its former condition and in accordance with the provisions of this article and the city's general specifications therefor, and subject to the orders and approval of ~~the administrator of the division of compliance~~ inspections.

(d) In all cases subject to this section, the city may elect to do all or any part of such work by its own forces or by other persons, and charge the cost therefor to the person to whom an excavation permit was issued pursuant to this division, who shall pay such costs upon demand by the city. The city, by the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement, shall notify each such person of its election in respect to the work it proposes to do, or the city may so elect by a general order of the board of public works, applicable to all such instances until its further order thereon.

**Sec. 645-443. Penalty for hiring unqualified contractor.**

It shall be unlawful for a person to execute a contract to have work subject to this division done by a

person who is not so qualified and authorized to engage in such work under all the requirements of this Code, and to fail to ascertain such fact by inquiry at the office of the ~~division of compliance~~ bureau of license and permit services. The fine imposed for a violation of this section shall not be less than one thousand dollars (\$1,000.00).

SECTION 72. Section 645-514 of the "Revised Code of the Consolidated City and County," regarding private use of plots between the sidewalk and curb, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-514. Use of plots between sidewalk and curb.**

(a) The owner, agent, occupant or lessee of any premises, if first applying for and obtaining the approval of the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement and the board of parks and recreation, may use the plot between the curb and sidewalk for grass or a tree row in front of such premises, lying anywhere between the curbline and the property line and not used by the city for the paved part of any sidewalk or street, and may beautify and improve all or any part of such plot of ground by sodding it, sowing grass seed therein, or by setting out or growing therein plants or flowers, as may be authorized and so long as no obstruction of the roadway or sidewalk results.

(b) Any person desiring so to use and beautify the ground between the sidewalk and the curb shall make written application for a permit therefor to both the ~~division of compliance~~ bureau and the board of parks and recreation, showing the character and extent of the use or enclosure and the manner of the proposed improvement; and if satisfied with the propriety thereof, such ~~division~~ bureau and board may grant and issue such permit, but the approval of both the ~~division~~ bureau and the board shall be required.

(c) Whenever the plot subject to this section has been used, sown, sodded or beautified in accordance with the permit required by subsection (b), such person shall maintain it in good order, and no person, without authority from such boards, shall walk upon or across the plot, or pluck, cut or injure in any way any flower or plant thereon, or purposely remove, damage, cut, mark or injure in any way such plot or anything so planted or growing therein.

(d) Such use of the ground and any permit therefor shall remain subject to the control of the ~~division of compliance~~ bureau and the board of parks and recreation, as their respective jurisdiction authorizes, and such permit may be revoked at any time, after notice to the permittee fixing a time to vacate such space, and any continued use of the plot thereafter shall be unlawful.

(e) When any plot of ground subject to this section is not used by obtaining a permit therefor, the person owning or controlling the premises, unless the city elects to do so, shall keep such plot free of a tall growth of weeds or rank vegetation and any grass growing or sown thereon shall be mowed at reasonable intervals by such person so as to maintain the plot in an orderly and sightly appearance and condition.

(f) It shall be unlawful for any person to place rubbish, trash or wastes upon any plot subject to this section, or on any other part of the street, except as permitted and necessary to be so placed for collection thereof by the city; or for any person to operate any vehicle or ride or drive any animal upon or across such plot, or permit any animal, such as a horse, cow or similar large animal, to graze or walk upon any such plot or otherwise to damage or destroy it.

SECTION 73. Sections 645-518 through 645-521, inclusive, of the "Revised Code of the Consolidated City and County," regarding various uses and occupations of public rights-of-way, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-518. Stringing wires across public ways.**

It shall be unlawful for any person who is not a licensed electrician under this Code and who is not duly authorized to do so by the city to string any wires for use as radio or television aerial wires, or for any other private purpose or use, across any street, alley or other public place in the city. No person shall

place any such wires for any purpose without having a permit therefor from the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement, except while acting as an employee of and for any public utility ~~which~~ that has a permit as required by this Code.

**Sec. 645-519. Permit for placing banners, signs or structures on streets.**

No person shall place or use any banner, sign or structure for any purpose whatever on any street in the city where such sign or structure obstructs or tends to obstruct the use of the street or sidewalk, nor shall any banner, sign, structure or other thing be placed upon or strung over or across any street without first obtaining a special permit for such limited and temporary use from the ~~division of compliance~~ bureau of license and permit services, subject to its further orders thereon.

**Sec. 645-520. Earthen materials.**

It shall be the duty of each person owning or occupying any premises adjoining a street or improved sidewalk, and doing any kind of work causing earth, dirt, materials or debris to be accumulated by or for him or her upon any portion of the street or sidewalk abutting such premises, to remove or cause the removal thereof within twenty-four (24) hours from the time of such accumulation, unless he or she obtains an extension of time therefor from the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement. While such materials are allowed to remain at any such place, the person causing the obstruction shall provide proper barricades and lights therefor, as required for other such obstructions placed upon the public streets.

**Sec. 645-521. Permit for bicycle or motorcycle racks on sidewalks.**

No person shall erect, place or maintain any bicycle or motorcycle rack on any sidewalk or in the space between the property line and the roadway of any street, without first obtaining a permit therefor from the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement. The permit may be issued, without charge therefor, under such terms and conditions as the ~~division~~ bureau deems advisable for the protection of the public and the interests of the city, and it shall be revocable by the ~~division~~ bureau at any time.

SECTION 74. Section 645-531 of the "Revised Code of the Consolidated City and County," regarding permits for activity after district cooling system franchise agreements, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-531. Permit for activity after district cooling system franchise agreement.**

Notwithstanding the provisions of section 645-512 or section 645-546, after a franchise agreement has been granted by the city-county council for a district cooling system and subject to Article II of this chapter, the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement, after consultation with the engineering division of the department of public works, may issue permits to the franchise holder for activity within the public rights-of-way located in the franchise district.

SECTION 75. Sections 645-542 through 645-548, inclusive, of the "Revised Code of the Consolidated City and County," regarding overhead and subsurface uses of public rights-of-way, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-542. Permit required.**

No person shall hereafter use or change, for private purposes, any space on, over or underneath the surface of any public street, sidewalk or other public place in the city; or construct or maintain any structure thereon, bridge thereover, or tunnel thereunder; or disturb the sidewalk, curb or roadway on a public way; or use the space beneath any public way for the purpose of constructing, reconstructing, extending or maintaining any vault, cellar, areaway, structure, coalhole, trapdoor, stairway, elevator or other opening; or install or use any appurtenances thereto; without first obtaining a permit therefor from the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement.

**Sec. 645-543. Permit not to be issued for permanent obstructions.**

(a) No person shall build or place, or cause or permit to be built or placed, any stand, window, stairway, porch or other structure or obstruction of that type, designed for private use or business purposes, which extends into, over or on the street and sidewalk adjoining such premises, and which is owned or controlled and used by him, when such structure is permanent in character and occupies or uses any portion of the surface of the street.

(b) Any existing structure or obstruction prohibited by subsection (a) shall be removed when so ordered by the city, or the city may remove it at the expense of the owner.

(c) All applications for permits required by this division to build any structure of the type prohibited by subsection (a) shall be refused and rejected by the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement. Temporary structures on the streets may be so located for special occasions and uses when permitted by the ~~division~~ bureau, subject to removal at any time on its order.

**Sec. 645-544. Application for permit; approval.**

An application for a permit required by this division shall be accompanied by any plans and specifications required by the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement and by a sketch or diagram showing the gross measurements of the vault, bridge, tunnel or other structure to be constructed or changed, together with all openings in and uses of the surface over the proposed use and any other proposed changes in the existing use of the street to public place. The sketch or diagram and any plans and specifications shall be approved by the ~~division of compliance~~ bureau before a permit is issued or any such work is commenced.

**Sec. 645-545. Bond.**

(a) Each applicant for a permit required by this division shall file with his or her application a public liability bond in the minimum sum of five thousand dollars (\$5,000.00) for injury to one (1) person, fifty thousand dollars (\$50,000.00) for injuries to more than one (1) person, and two thousand dollars (\$2,000.00) for damage to property, with surety to be approved by the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement.

(b) The surety on the bond required by subsection (a), if a natural person, shall own property in the aggregate value, over and above all encumbrances thereon, of twice the sum fixed in the bond.

(c) The bond shall be duly executed and shall be conditioned upon the agreement that the person to whom the permit is issued and his or her heirs, personal representatives, successors or assigns will save and keep the city free and harmless from any and all loss, damage, claims, demands, judgments and expenses arising from or out of the granting or use of such permit, or the construction or use of the space, structure, bridge, tunnel, vault, coalhole, trapdoor, stairway, elevator or other opening therein, or of any other structure or use maintained in connection therewith, and that the permittee will at all times maintain the public way or place, including the sidewalk over any such space or opening, as the case may be, and all structures built by him, in such condition that the public way or place and such structures at all times during the construction or repairs, or after any of the things aforesaid are completed, or such space is so used, will be maintained by him or her in good condition and repair and safe for public traffic and use; conditioned further for the prompt vacation and removal of any of the things so constructed and used, as authorized by the permit, and the restoration of such sidewalk and street, upon thirty (30) days' notice from the ~~division of compliance~~ bureau of license and permit services, whenever in the opinion of the ~~division~~ bureau and unless otherwise inhibited by statute, it shall be necessary or advisable to have the use or any portion thereof vacated or removed in order to conserve the public safety or welfare, or to provide for the use of the space or any portion thereof for any public purpose, or for the use of any public utilities, or because of the construction of railway lines, wires or tracks, or of a subway or elevated structure for transportation purposes either on, under, over or adjacent to the public way or public place in which any privately used space or structure is located, or for the purpose of constructing, reconstructing, moving, erecting or maintaining any sewer, drain, conduit, pipe, tube, pole, wire, structure or other similar

use because of the construction of such a subway, or elevated structure, or for any public use or any other public utility purposes; and conditioned further that the bond will be renewed and kept in full effect, with an approved surety, and a certificate of such fact kept on file with the ~~division of compliance~~ bureau of license and permit services, so long as any private uses and structures are continued, and for the faithful performance and observance of all the terms and conditions of the permit and bond and of the various sections of this division and all other provisions of this Code and state law relating thereto.

(d) The bond required by subsection (a), if and when placed of record in the office of the county recorder, or respecting any person with actual notice thereof, shall constitute a covenant running with the land, and it shall be deemed and construed to include all the aforesaid conditions, regardless of their inclusion in or omission from the text of any such bond.

(e) Whenever the ~~division of compliance~~ bureau of license and permit services determines that the sureties on any bond given pursuant to this section have become insufficient and so notifies the holder of the permit or his or her successor, a new bond for the permit shall be filed, or new sureties substituted, to be approved by the ~~division~~ bureau. Unless so filed within the time fixed by the ~~division~~ bureau, the permit shall be revoked and all uses and rights thereunder shall be terminated.

**Sec. 645-546. Restrictions on permits for subsurface uses.**

No permit required by this division shall be issued for the private use by any person of any space under the surface of the roadway and between the curblines of any improved public way or public place; such spaces shall be reserved exclusively for any necessary use of any such space by public utilities or public authorities. Any such existing uses under any roadways in the city may be vacated and removed by order of the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement, whenever in its discretion the public safety and welfare so require.

**Sec. 645-547. Exception to restriction.**

Notwithstanding the provisions of sections 645-512 or 645-546, the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement may permit Ogden Martin Systems of Indianapolis, Inc., to establish a steam line within the public right-of-way on Harding Street from one thousand (1,000) feet south of Raymond Street to Kentucky Avenue.

**Sec. 645-548. Permit fees.**

Fees for a permit required by this division shall be based upon the character of the use and the number of cubic feet occupied by the vault, space or other structure located on, under or above the surface of the public way or public place for which a permit is to be issued, and shall be determined as uniformly as practicable by the director of public works code enforcement, varying from a minimum fee of five dollars (\$5.00) for the issuance of each permit, plus additional fees varying from a minimum of ten dollars (\$10.00) to a maximum of two hundred dollars (\$200.00). The board of ~~public~~ public works ~~[division of compliance]~~ code enforcement may fix such fees in each instance, or may adopt a general schedule for the various classes of fees, based upon engineering and construction costs in the city for similar kinds of work. No additional permit fees shall be charged, except where a new permit is required for the use of additional space, for minor alterations in the construction of or changes in any structure, coalhole, elevator or other opening, or variations in the plans, but not affecting the surface of the way, which were not enumerated in the original permit, if the board of ~~public works~~ public works ~~[division of compliance]~~ code enforcement approves such changes and waives further fees, or where the party to whom the original permit was issued has transferred his or her interest to another party as provided in this division. In case of such a transfer, however, the purchaser of the interest shall pay to the ~~controller~~ bureau of license and permit services an additional five dollars (\$5.00) for the issuance of a transfer of the permit.

SECTION 76. Section 645-553 of the "Revised Code of the Consolidated City and County," regarding revocation of permits for overhead and subsurface uses of public rights-of-way, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-553. Revocation of permits.**

(a) All permits issued pursuant to this division shall be at all times subject to revocation, in whole or in part, by the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement, whenever the ~~division bureau~~, on its own motion or upon the recommendation of other city or state officials, shall consider it necessary or advisable to have any vault, space, opening or other use of any street authorized by any such permit, or any other use, to be removed and vacated in order to secure the public safety or so that it may be used for any public purpose, including uses by any public utilities, or because of the construction or maintenance of a subway or elevated structure for transportation purposes in, under or near the public way or public place in which the vault, space, opening, bridge or tunnel is located, or other use made of any street, or for the purpose of moving, constructing or maintaining rails, sewers, mains, conduits, pipes, tubes, wires, poles or other structures of any kind, because of the construction or maintenance of the subway or elevation for transportation purposes, or for any other public utility uses.

(b) No permit shall be issued under this division, except under the condition and the agreement of the party to whom the permit is issued that the vault or space, wherever so located, or any portion thereof, and all or any appurtenances thereto, or any other uses so required to be used for such public purposes, shall be vacated and removed within thirty (30) days after the ~~division of compliance~~ bureau shall have given notice of revocation of the permit to continue such prior and existing uses, and that in case such party fails to vacate the space, vault or other use, or such portions thereof as are specified in the notice, the ~~division of compliance~~ bureau may revoke the further use and maintenance thereof and may cause the use to be vacated and removed and made secure, as ordered, at the expense of the party to whom the permit was issued, or it may enjoin and abate the use by appropriate action, and all expenses incurred or damages or judgments incurred or paid by the city, on account thereof shall be borne by such party and shall be paid to the city upon demand, or be recovered by action thereon.

(c) If any person who has secured a permit pursuant to this division shall fail or neglect to comply with any of the terms of this division or this Code at any time, the permit may be revoked by the ~~division of compliance~~ bureau or by the mayor, and it shall be revoked by the ~~division of compliance~~ bureau in all cases, unless otherwise provided by law, where the ~~division bureau~~, in the exercise of its discretion, has determined that such revocation is proper or necessary for the public safety or welfare.

SECTION 77. Sections 645-555 through 645-560, inclusive, of the "Revised Code of the Consolidated City and County," regarding overhead and subsurface uses of public rights-of-way, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-555. Protection of underground utilities; restoration bond or deposit.**

(a) No person shall use or alter the space under any sidewalk, street or public place in such a manner as to damage or interfere with any sewer, water pipe, conduit, wire or any other work or structure lawfully installed in the public way by any public authority or public utility, unless by the express consent of the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement after consultation with the engineering division of the department of public works, and of any such utility, under the conditions prescribed by them.

(b) No permit required by this division shall be granted until any utility affected has been notified and the applicant therefor has executed an approved indemnity bond or has paid to the ~~division of compliance~~ bureau a sum of money ~~which~~ that it deems sufficient to defray the cost and expense to the city and to any utilities affected by renewing, rebuilding, relocating or relaying all or any of such facilities so disturbed, and making the necessary connections therewith, if the holder of the permit fails to do so as approved by them.

(c) Every person damaging, altering or disturbing any underground utilities shall restore them at his or her expense and within the time fixed by the ~~division of compliance~~ bureau to such condition as they were in prior thereto and as will meet the approval of the ~~division of compliance~~ bureau and of any such public utilities; and if and when so restored, the sum so paid to the ~~division of compliance~~ bureau or any balance unused shall be refunded. If the permittee fails to restore such underground facilities, the ~~division of compliance~~ bureau shall cause them to be restored in a manner meeting its approval and that

of such utility and the cost thereof shall be paid out of the deposit. If such cost exceeds the deposit, the person shall pay forthwith to the city any such excess.

**Sec. 645-556. Procedure upon conveyance of premises.**

(a) Any person to whom a permit has been issued pursuant to this division or who has given a bond for the occupation and use of space under, on or above any public way, place or sidewalk pursuant to a permit or a resolution of the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement, and who has conveyed his or her interest in the premises for which the permit is issued, shall notify in writing the ~~division of compliance~~ bureau of such conveyance, together with the name and address of the purchaser thereof.

(b) Upon giving the notice required by subsection (a), the person or his or her successor may secure from the ~~division of compliance~~ bureau of license and permit services, on the recommendation of the administrator of such ~~division~~ bureau, a permit to remove or close up any coalhole, stairway, elevator, structure, bridge, tunnel, opening or any other use maintained on, below or above the sidewalk or public way, and to restore the place and public way to a condition similar to the balance of the sidewalk, street or public place in front of the premises. Upon completion of the work, subject to the approval of the ~~division of compliance~~ bureau, all liability under the bond theretofore given by such person shall cease and determine, except as to any acts happening or causes of action accruing prior to or during the removal or closing of all such openings or structures. If, however, the purchaser shall pay the permit transfer fee provided for by this division and also shall execute a new bond conditioned as aforesaid, a permit may be issued to the purchaser covering the continued use of and changes in the permitted use specified in the original permit, and it shall not be necessary in such event for the person to whom the original permit was issued to close up the opening or to terminate the use, but the filing of the new bond and the securing of a new permit by the purchaser shall act as a release of the original permittee for any future liability under the bond originally given by him, in like manner as if the opening had been closed or other things had been done by him or her according to the approval of the ~~and the division of compliance~~ bureau, except as to any causes of action accruing prior to the filing of such new bond.

(c) A bond may not be required to be filed, in the discretion of the ~~division of compliance~~ bureau of license and permit services, in cases where there are to be no further uses of any such structures and no openings of any kind are to be left and to remain in the sidewalk over the subsidewalk space, or where the vault used in connection with any opening does not exceed fifteen (15) feet in depth and the sidewalk over it is supported at all times as approved by the administrator of the ~~division of compliance~~ bureau.

**Sec. 645-557. Substitution of permit and bond.**

Whenever any person holding a contract and permit issued pursuant to this division, which permit has been issued under the terms of any resolution of the board of public works previously in force, the conditions of which have been and are now being fully complied with, shall apply for a new permit under this division and shall desire to have the permit or contract previously entered into canceled, the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement, upon issuing a new permit and approving a new bond, may cancel the old permit and bond as to any liability thereunder arising after the date of the issuance of the new permit and bond, but the prior contract and permit, and the bond given therewith, shall all remain in full force and effect as to all rights, obligations and liabilities accruing thereunder, including all amounts due the city for fees or anything else under the permit and bond up to the time of such cancellation.

**Sec. 645-558. Protection of openings.**

(a) Every opening for access to and use of any vault, coalhole, chute or other aperture ~~which that~~ is made in the sidewalk over such subarea for the use of the premises, other than fixed gratings used only for light and air, shall be covered with a substantial, heavy iron lid or cover, having a rough surface and so placed, seated and maintained as to cover such opening and remain securely therein at all times when not removed for use of the area beneath. The entire construction of such coalholes, vaults and covers therefor shall be subject to the continued inspection, supervision and orders of the ~~division of compliance~~ division of inspections and the bureau of license and permit services of the department of code enforcement so as to secure the safety of the public when passing over such covers and places.

(b) No person shall remove or place and leave insecurely, or cause, procure or permit to be removed or to be insecurely placed or left, so that it can be moved in its flange or seat or so as to tilt when stepped upon, any cover of any coalhole, vault, chute or other opening in or under any public way or public place. However, nothing in this subsection shall prevent the owner or occupant of the building with which such coalhole, vault, chute or opening is connected from removing the cover at any time for the proper purpose and use of such opening, either for repairs thereto or for removing or delivering anything therein, in case he or she then encloses and guards the opening or aperture and keeps it enclosed and guarded with a strong box or barrier at least twenty-four (24) inches high, firmly and securely made, and also places and maintains lights, when dark, as required for work on streets. During deliveries of anything through such opening, or during repairs thereto, some person shall remain stationed thereat to safeguard the same at all times while the cover is removed, and unless there at all such times, the cover shall be replaced.

(c) It shall be unlawful for any person owning or using any coalhole or vault, or any sidewalk lift, outside stairway, chute or other opening in any public sidewalk, to allow it to remain uncovered or opened, except while being repaired or while it is actually being used for the purpose of entrance or exit, or for the purpose of introducing or removing any article through such opening, and except while protected or guarded.

**Sec. 645-559. Remedial action for structural safety.**

Whenever any coalhole, vault, chute or elevator in or under any sidewalk, or any aperture constructed in any sidewalk for such use or any other purpose, is not covered or secured as required by this division or, in the opinion of the ~~administrator~~ deputy director of the department of code enforcement's ~~division of compliance inspections~~, is unsafe or inconvenient for public travel; or when any other type of such structures referred to in this division, located on, beneath or over any public way or place, becomes unsafe, the division of ~~compliance inspections~~ may order the opening to be placed in a safe condition as approved by it. If the repairs are not done within the time prescribed by such order, the division of ~~compliance inspections~~ may refer the matter to the department of public works to make the repairs and changes or, if necessary, to remove the opening, and the expense thereof shall be charged against and collected from such owner or person in possession of the premises and of such appurtenances and accessories thereto.

**Sec. 645-560. Care of sidewalks.**

Every person using any portion of the space under any sidewalk shall at all times keep the sidewalk securely supported and in good condition and repair in any portions connected with the subsurface uses, and clear and free from all dirt, filth or other obstructions or encumbrances arising from such uses. All repairing and cleaning shall be done in accordance with the regulations of the board of public works or other city authorities, and the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement may revoke the permit for failure to comply with any provision of this section.

SECTION 78. Sections 645-571 through 645-583, inclusive, of the "Revised Code of the Consolidated City and County," regarding licensing of encroachments on public rights-of-way, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-571. Definitions.**

For the purpose of this division, the following words shall have the definitions ascribed to them in this section.

Bureau of license and permit services or bureau means the bureau of license and permit services of the department of code enforcement.

Department means the department of public works.

Division of ~~compliance~~ inspections means the division of ~~compliance~~ inspections of the department of

metropolitan development code enforcement.

*Encroachment* means an intrusion by an inanimate object on, under, over, or upon the public right-of-way. However, the following intrusions shall not be deemed to be an encroachment:

- (1) Motor vehicles, bicycles, and similar devices that are regularly moved from place to place;
- (2) Landscaping for which a permit has been secured pursuant to Chapter 701 of this Code;
- (3) Temporary signs advertising the sale of real estate that comply with zoning restrictions;
- (4) Pipes, conduits, wires, fiber optic lines, antennae, poles, ducts, and other like fixtures and appurtenances that are owned and used by a public utility and that are used in connection with transmitting, receiving, distributing, offering, and providing utility services and ~~which~~ that are registered in accordance with Chapter 645 of this Code; and
- (5) Pipes, conduits, wires, fiber optic lines and other like fixtures and appurtenances that are owned by the landowner and are used to receive utility services from a public utility or from the City of Indianapolis.

If one (1) or more encroaching objects are attached to and from a part of the same structure or thing, taken collectively, they shall be considered as only one (1) encroachment.

**Sec. 645-572. Jurisdiction; all encroachments regulated.**

(a) The ~~division of compliance~~ bureau of license and permit services has the authority to license any encroachment.

(b) All encroachments are regulated by this division, including types of encroachments that are exempted by a regulation adopted under section 645-581 from the requirement that a written license document be secured.

(c) Notwithstanding the preceding portions of this section, an encroachment of more than one (1) year may not be licensed if said encroachment is subject to the grant of a franchise as authorized elsewhere in this Code or is the subject matter of a lease or operating agreement between the city and a third party.

**Sec. 645-573. When license required.**

No person shall maintain any encroachment without first:

- (1) Having received a written license document therefor from the ~~division of compliance~~ bureau of license and permit services in accordance with the provisions of this division; or
- (2) Complying with the provisions of section 645-581 for a license allowed without documentation.

**Sec. 645-574. Petition for license.**

Any person who desires to maintain an encroachment shall file a petition with the ~~division of compliance~~ bureau of license and permit services on such forms as the ~~division of compliance~~ bureau may prescribe, requesting that the ~~division~~ bureau approve a license permitting the encroachment, specifically identifying the property or properties affected, and outlining the circumstances giving rise to the need for the license.

**Sec. 645-575. Investigation of petition; recommendation as to license.**

(a) Upon the filing of a petition for a license required by this division, the ~~division of compliance~~ bureau of license and permit services shall cause an investigation of the request and of the circumstances enumerated in such petition to be made. Upon completion of the investigation, such

~~division~~ bureau shall either grant or deny the license and if granted, specify the term and conditions of the license.

(b) No person (even a person who holds property rights in the right-of-way or in property abutting the right-of-way) has any property right to an encroachment license.

**Sec. 645-576. Conditions of license.**

(a) In granting any license under this division, the ~~division of compliance~~ bureau of license and permit services may attach such reasonable conditions to the license as it determines to be in the interest of the public health, safety and welfare.

(b) No property right vests in the holder of an encroachment license through the granting of the encroachment license, irrespective of the length of the term of the license. The holder of the encroachment license has no property right to the continued existence of the encroachment license or the renewal of the license.

**Sec. 645-577. Term.**

All license documents issued by the ~~division of compliance~~ bureau of license and permit services, unless granted for a lesser determinate period, may be for a term of up to twenty (20) years dating from the date of their issuance.

**Sec. 645-578. Appeal from action of department.**

Within thirty (30) days after any action of the ~~department of public works~~ bureau of license and permit services in granting, refusing to grant or revoking any license required by this division, any person, including the corporation counsel acting for and on behalf of the city, may appeal such action to the board of ~~public works~~ code enforcement, where the petition shall be heard de novo. Any such appeal shall be perfected by written notice delivered to the secretary of the board of ~~public works~~ code enforcement within such thirty-day period.

**Sec. 645-579. Application and license fees.**

(a) Each petition to maintain an encroachment shall be accompanied by an application fee of ~~one hundred dollars (\$100.00)~~ provided in section 131-501 of the code.

(b) In case of a petition for a license required by this division ~~which~~ that requests the placing of more than one (1) movable encroachment of the same kind at various locations within the city, one (1) petition may be made to cover more than one (1) similar encroachment.

(c) If the ~~division of compliance~~ bureau of license and permit services determines that a valuable consideration will be received by the city as a result of the encroachment, the administrator of the ~~division of compliance~~ bureau may waive the license fee provided in this section. Except for the waiver of license fees for individual newsracks under Article VIII of this chapter, the waiver shall be supported by a written finding identifying the consideration and indicating its value to the city.

**Sec. 645-580. Enforcement.**

In addition to and not by way of limitation of any other provision of this division, the ~~division of compliance~~ bureau of license and permit services is authorized and empowered in behalf of the city to enforce this article by any appropriate remedy at law or in equity, or both, in order to effectively and affirmatively preclude any violations hereof.

**Sec. 645-581. Content of regulations.**

The board of public works may, at its discretion, in accordance with the procedures specified in Chapter 141 of the Code, adopt regulations deemed necessary and appropriate to carry out the provisions of this division, including, but not limited to, regulations establishing:

- (1) A procedure for filing a license petition;
- (2) Types of encroachments for which a license is allowed without documentation; such encroachments shall be limited to those that have only a minor effect on the use of the right-of-way and can be installed without blocking any portion of the street; regulations establishing these types of encroachments shall, without limitation, provide:
  - a. That such encroachments are automatically licensed as they exist on the effective date of the regulation if they are created in compliance with the requirements and standards specified by the regulation; ~~and~~
  - b. With automatic licensure it is not necessary for the encroachment owner to file a petition for an encroachment license or receive a license document to be licensed under this regulation; and
  - c. The length of the term or terms of such encroachments;
- (3) A procedure for amending or renewing a license;
- (4) Standards and requirements for construction or use of encroachments; and
- (5) A procedure for securing a variance from license standards and requirements. If the regulation authorizes the variance to be granted by the administrator of the ~~division of compliance~~ bureau of license and permit services, it shall provide for an appeal of the decision to the director of the department of ~~metropolitan development~~ code enforcement.

**Sec. 645-582. Fees.**

The board of ~~public works~~ code enforcement may, in accordance with the procedures specified in Chapter 141 of the Code, amend, alter, or revise the fees specified in section 645-579 or establish new fees or categories of fees.

**Sec. 645-583. Termination of encroachment license; removal of an encroachment.**

(a) The ~~division of compliance~~ bureau of license and permit services may at any time terminate an encroachment license, whether the encroachment is based on a written document issued by such ~~division~~ bureau or allowed without documentation. The owner shall be responsible for removing such an encroachment. The city shall not be responsible for any costs related to the termination of the encroachment privilege; for example, the city shall not be responsible for the cost of removal of the encroachment or any diminution of value of the owner's property associated with the removal. Such department shall allow the owner sixty (60) days to remove the encroachment. However, if the terms of the encroachment license document specify a shorter or longer period removal time, the specified time shall be allowed for removal.

(b) If the owner does not remove an encroachment within the time allowed under section 645-583(a), the division of ~~compliance~~ inspections may, without further notice, remove forthwith said encroachment and shall be entitled to recover its costs and expenses, including without limitation, reasonable attorney fees.

SECTION 79. Sections 645-601, 645-602, and 645-603 of the "Revised Code of the Consolidated City and County," regarding construction and repair in public rights-of-way, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-601. Applicability of state statutes.**

Whenever any of the matters relating to improvements, under private contract, of sidewalks, driveways or curbs, or the connection of private premises with public sewers and public utility service lines, and the control thereof by the ~~division of compliance~~ department of code enforcement or by any

other board are covered and controlled in all respects by any state statute, all such work so controlled shall conform to and all proceedings shall be governed thereby, but may also be supplemented by this Code. However, if and whenever any such statutes are repealed or amended so as not to cover all such matters or part thereof, then the provisions applicable to the matters set out in this chapter or other city ordinance shall be thereupon revived and again become effective in all or any of such matters, whether or not such statutory provisions, as herein incorporated by reference thereto, continue in effect for that purpose.

**Sec. 645-602. Permit required; standards generally.**

No person, including governmental bodies other than the city, shall cause any public way in the city to be altered, paved, widened, reconstructed or resurfaced without first obtaining a permit therefor from the ~~division of compliance~~ bureau of license and permit services of the department of code enforcement, which permit may be issued by the ~~division of compliance~~ bureau upon payment of the required fees. Such improvement shall conform to the established highway grades and to the standard plans and specifications for that kind of work, as adopted by the board of public works.

**Sec. 645-603. Duty of abutting owners to connect with subsurface utilities.**

It shall be the duty of owners of property abutting on a street or public place, which is to be permanently improved, repaired or altered, to provide for, install and make private connections for the use of their premises with an existing or for a later sewer or drain laid in the street, with all water, gas and other like types of public utility services, and make all necessary repairs, extensions, relocations, changes or replacements thereof, and of any accessories thereto. Such owners shall bring the utilities from the places of connection in the street or public place to points within the curb or roadway line and up to the property line of the street or public place, in such manner and time as the ~~division of compliance~~ bureau of license and permit services shall designate, order and require, as in instances of such improvements by the city itself.

SECTION 80. Sections 645-605, 645-606, and 645-607 of the "Revised Code of the Consolidated City and County," regarding construction and repair in public rights-of-way, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-605. Duty to inspect, report and repair defects in public ways.**

(a) The division of ~~compliance~~ inspections of the department of code enforcement shall inspect the streets, sidewalks and public places of the city, and the department of public works shall repair and maintain the streets, sidewalks and public places of the city in a reasonably safe condition so far as the extent thereof and the facilities available therefor render practicable, to promote the security of those who travel over them by foot and vehicles, in the usual and accustomed modes and while themselves exercising reasonable care. It shall also be the duty of all city police officers and firemen to observe all streets, sidewalks, bridges and other public places over which they pass in the course of their duties and to make a record of and report promptly to the city traffic captain all defects and dangerous conditions they observe, and the traffic captain shall promptly report such findings in writing to the division of ~~compliance~~ inspections.

(b) The division of ~~compliance~~ inspections and the department of public works shall keep suitable persons employed, as the appropriations therefor permit, who respectively shall inspect, and cause to be repaired, dangerous or material defects and places on the streets, sidewalks, bridges and all other public places discovered by or reported to them. Any defective public ways of any kind reported to the department of public works or coming to its knowledge shall be repaired in a reasonable time; however, there shall be no duty, except when so ordered or when the need is evident, on the part of the department of public works and the city employees to repair every slight and trivial defect, uneven place and crack in the pavements, sidewalks, or portions of any street, or public place, which appear unlikely to cause injuries, but they shall use due diligence to remove all such defects and repair all such portions of the public ways and places known by them or reported to them ~~which that~~ are reasonably sufficient in kind and extent to be dangerous for the general public in traveling over the same in the usual and accustomed modes while using their own faculties with due care.

**Sec. 645-606. Barricading streets under construction or repair.**

(a) It shall be lawful for any person employed by the city or for any contractor who is engaged in the construction, repair, paving, repaving or any other authorized work on any street or public place in the city to place proper barricades across the street and to close all or any portions thereof for the purpose of protecting the public and preserving the surface of the pavement, which is being or is about to be constructed or repaired, until the work is completed and safe and suitable for the public use thereof.

(b) Barricades permitted by subsection (a), and, when dark, lights, shall be placed thereat; all to be maintained by the person doing the work, as provided in this Code for other work upon the public streets or places.

(c) All barricades authorized by subsection (a), when the work is fully completed, shall be removed by the person who placed them on the street, or by employees of the city or the contractor, as soon as practicable and without notice; or shall be removed immediately upon order of the ~~division of compliance~~ bureau of license and permit services.

(d) No person, without the written consent of the administrator of the ~~division of compliance~~ bureau of license and permit services, who is supervising street construction, repair or other work shall throw down, displace, damage, tamper with or remove any barricade or light placed in position during the process of such work.

(e) No person, without being so authorized by a person supervising work subject to this article, while barricades are in place during the progress of the work, shall drive through, around or against such barricades, nor shall any pedestrian walk over or around them; nor shall any person do any act to damage the freshly laid pavement or mar the surface thereof in any way, or interfere with such work, materials or equipment.

**Sec. 645-607. Sidewalks.**

(a) No person shall remove, construct, reconstruct, establish, alter or repair any sidewalk within the city under a private contract, without first obtaining a permit therefor from the ~~division of compliance~~ bureau of license and permit services and paying the required fees, as authorized by this Code. Any person desiring a permit required by this subsection shall first submit plans and specifications therefor to the ~~division of compliance~~ bureau of license and permit services, who may either approve the plans and specifications or require them to be altered, after which the owner or contractor shall apply to the ~~division of compliance~~ bureau of license and permit services for the permit for such work.

(b) A performance and maintenance bond, as required for excavations in streets, shall be required of any person doing such work, and he or she shall agree to indemnify the city and all other persons, as required for street improvements. In all instances, the ~~division of compliance~~ bureau of license and permit services may require such permittee to carry a sufficient public liability insurance policy in such amount as it determines to be necessary to protect the public, as a condition to issuing any permit under subsection (a).

(c) No sidewalk shall be constructed, reconstructed, altered or repaired so as to prevent free and unobstructed passage thereon for any longer than necessary, or in such manner as to interfere with the proper drainage and grading of the street.

(d) All such work shall be subject to the approval of the ~~division of compliance~~ bureau of license and permit services after consultation with the engineering division of the department of public works, and to further orders thereon. All matters of procedure pertaining thereto, as now or at any time provided for by statute, shall be followed so far as applicable, and are hereby adopted by this reference thereto as a part of this subsection, to continue, in the event any such statutes should be amended or repealed without continuing such or similar provisions.

(e) Any person causing a sidewalk to be built, constructed, reconstructed, altered, repaired or used contrary to such plans and specifications, as approved, or in violation of any provision of this chapter, or of state law, upon conviction therefor, may be fined as provided generally for violations of this Code; also,

such work may be ordered to be suspended and to be constructed or reconstructed at such person's expense.

SECTION 81. Section 645-802 of the "Revised Code of the Consolidated City and County," regarding definitions used in Article VIII concerning newsracks and newsstands, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-802. Definitions.**

As used in this article, the following terms shall have the meanings ascribed to them in this section.

*Abandoned* means any individual newsrack, or compartment of a modular newsrack, that does not contain the newspaper or other publication specified therefor for more than four (4) consecutive days for a daily publication, eight (8) consecutive days for a weekly publication, sixteen (16) consecutive days for a biweekly publication, thirty-two (32) days for a monthly publication, or sixty-four (64) days for a bimonthly publication. A newsstand shall be deemed abandoned if it is not open for business for a period of more than seven (7) consecutive days.

*Bureau of license and permit services or bureau* means the bureau of license and permit services of the department of code enforcement.

~~*City controller and controller* mean the controller of the city appointed under section 202-201 of this Code.~~

*Compartment* means the individual space within a modular newsrack that dispenses one (1) newspaper or other publication, including the door, coin return mechanism and associated hardware.

*Director* means the director of the department of ~~public works~~ code enforcement.

*Individual newsrack* means and includes a newsrack designed with a single enclosed compartment to accommodate at any one (1) time the display, sale, or distribution of like copies of a single newspaper or other publication, or ~~which that~~ has more than one (1) compartment but does not exceed the dimensions of an individual newsrack as provided in sections 645-813 or 645-814 of this Code.

*Modular newsrack* means a newsrack ~~which that~~ is designed with multiple separate enclosed compartments to accommodate at any one (1) time the display, sale, or distribution of multiple distinct and separate newspapers or other publications, and ~~which that~~ exceeds the dimensions of an individual newsrack as provided in sections 645-813 or 645-814 of this Code.

*Modular newsrack district* means and includes all public rights-of-way located within the area bounded on the north by the north right-of-way line of New York Street, on the east by the east right-of-way line of Alabama Street, on the south by the north right-of-way line of the Consolidated Rail Corporation (Conrail) ~~which that~~ runs through Union Station, and on the west by the west right-of-way line of West Street.

*Modular newsrack provider* means the person or other legal entity who is authorized under section 645-811 of this Code to place and maintain modular newsracks upon the public rights-of-way.

*Newspapers and other publications* means and includes newspapers, periodicals, advertising circulars, and all other printed materials ~~which that~~ may be distributed through the use of newsracks.

*Newsrack* means any unmanned, self-service or coin-operated box, container, storage unit or other dispenser located in or upon, or projecting onto, into, or over, any part of the public rights-of-way, and which is installed, used or maintained for the display, sale, or distribution of newspapers and other publications. Unless the context clearly indicates otherwise, newsrack includes both individual newsracks and modular newsracks.

*Newsstand* means any manned building, stand, booth or other structure located in or upon the public

rights-of-way, and from which an attendant displays, sells or distributes newspapers or other publications.

*Owner* means the person or other legal entity ~~which~~ that either owns a newsrack, or is responsible for its operation and maintenance.

*Public rights-of-way* means and includes all highways, streets, alleys, sidewalks, and other real property or easements, ~~which~~ that are owned or controlled by the city or county, including the areas above and below such easements, and ~~which~~ that are reserved or used for pedestrian or vehicular traffic.

*Publisher* means the person or other legal entity selling, displaying or distributing newspapers or other publications in a newsrack.

*Regional Center* means and includes all public rights-of-way located in the Regional Center, as established in section 735-600 of the Code.

SECTION 82. Section 645-811 of the "Revised Code of the Consolidated City and County," regarding the provision of modular newsracks, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-811. Provision of modular newsracks.**

(a) In furtherance of the purposes of this chapter, the city by and through the ~~office of city controller~~ bureau of license and permit services shall enter into a contract with one (1) modular newsrack provider, or otherwise provide, for the placement and maintenance of modular newsracks in the modular newsrack district; and the city may enter into contracts with one (1) or more modular newsrack providers, or otherwise provide, for the placement and maintenance of modular newsracks in other areas of the city.

~~In the modular newsrack district, the contract shall provide that for a period of two (2) years following the effective date of this article, the total number of compartments in modular newsracks shall be substantially equivalent to the highest total number of individual newsracks known to have been maintained on the public rights-of-way in the modular newsrack district at any one (1) time during the year preceding the introduction of this article. After that period the year 2002, the total number of compartments in modular newsracks in the modular newsrack district may be increased or decreased only on the basis of market supply or demand, or consistent with the purposes stated in section 645-801 of this Code. The contract shall also ensure that modular newsracks shall be placed in locations throughout the district which that afford easy, convenient service to pedestrians, but which that do not obstruct or interfere with access to abutting properties, and which that do not impede or endanger pedestrian, bicycle or vehicle traffic.~~

(b) A contract under this section would include, but not be limited to, the following terms and conditions:

- (1) In consideration of the placement and maintenance of modular newsracks, the city shall grant to the modular newsrack provider a license with respect to the real property where the modular newsracks will be placed;
- (2) A detailed description and photograph or scale drawing of the modular newsrack, including its dimensions, number of separate compartments, and method of attachment to the public rights-of-way;
- (3) A scale drawing or site plan for each modular newsrack, showing its placement relative to existing buildings, curbs and other fixtures and appurtenances in the surrounding public rights-of-way for a minimum of twenty-five (25) feet in any direction; and
- (4) The terms of any contract between the modular newsrack provider and the publishers of such newspapers and other publications, including the method by which the modular newsrack provider determines the newspaper's or other publication's position within the modular newsrack.

(c) Prior to entering a contract under this section, the city may conduct such investigations, surveys,

or test programs it deems reasonable or necessary to determine any of the following: whether modular newsracks would promote the stated purposes and requirements of this chapter; what different services, and modular newsrack styles and features, are offered by prospective modular newsrack providers; the degree of public acceptance and use of modular newsracks; and the areas and exact locations where modular newsracks may be placed.

(d) After the ~~controller~~ bureau and a prospective modular newsrack provider have agreed upon the terms and conditions of a contract under this section, but prior to entering the contract, the ~~controller~~ bureau shall publish notice in accordance with IC 5-3-1 of a public hearing to be held by the ~~controller~~ bureau. The notice shall appear at least ten (10) days before the hearing is held, and state the date, place, and hour of the hearing, and a summary of the principal terms of the contract. The proposed contract shall be available for public inspection from the date of publication of notice through the end of the public hearing. The sole purpose of the public hearing is to receive public comment on the proposed contract, and all persons are entitled to be heard as to whether the city should enter into the contract. Based upon the public comments received at the hearing, and such other matters as the ~~controller~~ bureau may consider, the proposed contract may be modified prior to its execution.

(e) It shall be unlawful to place or maintain a modular newsrack upon the public rights-of-way, except as provided in this section.

SECTION 83. Section 645-815 of the "Revised Code of the Consolidated City and County," regarding attachment of individual newsracks to public rights-of-way, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-815. Attachment of individual newsracks to the public rights-of-way; encroachment license required.**

(a) Each individual newsrack ~~which that~~ is located in the Regional Center on January 1, 2001, or thereafter shall be bolted or attached permanently to the public rights-of-way in such a manner as to meet American Society of Civil Engineers (ASCE) wind load calculations, as evidenced by a certified engineer's report, including calculations and a certified engineer's drawing defining and/or illustrating the method of attachment to be used to meet or exceed a maximum of one hundred ten (110) mile per hour wind velocity.

(b) Each individual newsrack ~~which that~~ is bolted or attached permanently to the public rights-of-way shall be licensed as an encroachment under the provisions of Article V, Division 3 of this chapter; however, because the city receives a valuable consideration from all such newsracks, the administrator of the ~~division of compliance~~ bureau of license and permit services shall waive the encroachment license fees for such newsracks, as provided in section 645-579 of this Code.

(c) Within ten (10) days after the owner of an individual newsrack files a petition for an encroachment license under Article V, Division 3 of this chapter, the ~~division of compliance~~ bureau of license and permit services shall complete its investigation and issue to the owner either the license, or a written notice of denial. A petition for an individual newsrack encroachment license may be denied only for the reason that:

- (1) The petition for the license contains incorrect information; or
- (2) The placement of an individual newsrack on the public rights-of-way, as requested in the petition, does not comply with this division.

If such ~~division of compliance~~ bureau denies an encroachment license petition for an individual newsrack, the written notice shall state the specific reasons for the denial, and what specific actions, if any, would be necessary for the license to be issued.

(d) An appeal under section 645-578 of this Code with regard to an individual newsrack encroachment license or petition therefor shall be heard within twenty (20) days following receipt of the appeal, unless the parties mutually agree to an extension of this time period. The parties shall be given at least ten (10) days advance written notice of the time and place of the hearing, and a reasonable

opportunity to participate in the hearing. The board of ~~public-works~~ code enforcement shall render its decision in writing within five (5) days after the hearing; a copy of the decision shall be delivered to the parties, and a certified copy shall be kept on file by the secretary of the board of ~~public-works~~ code enforcement. The decision of such board may be appealed to a court of competent jurisdiction within thirty (30) days following the date the decision was issued, and such court, pursuant to its rules of procedure, shall provide the opportunity for a prompt hearing and prompt decision by a judicial officer. Failure to file an appeal within the time period provided by this subsection shall constitute a waiver of the right to appeal.

(e) Within five (5) days following the expiration of an encroachment license for an individual newsrack, the owner shall remove the newsrack and cause any necessary restoration or repair of the public rights-of-way to be made.

SECTION 84. Sections 645-832, 645-833, and 645-834 of the "Revised Code of the Consolidated City and County," regarding newsstand permits, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 645-832. Permit required.**

It shall be unlawful for any person to erect, locate, construct, maintain or operate a newsstand on any public rights-of-way without first obtaining a newsstand permit therefor from the ~~director~~ bureau of license and permit services. No charge shall be made for the permit, unless otherwise required by this Code. A permittee under this section shall not be required to obtain a transient merchant activity license under Chapter 987 of this Code, or an encroachment license under Article V, Division 3 of this chapter, for a newsstand.

**Sec. 645-833. Application; issuance or denial.**

(a) Application for a permit required by this division shall be made to the ~~director~~ bureau of license and permit services on such form as required and provided by the ~~director~~ bureau of license and permit services, and shall be signed by the applicant. The application shall contain the following information:

- (1) The name and address of the applicant;
- (2) A scale drawing or site plan showing the proposed location of the newsstand relative to existing buildings, curbs and other fixtures and appurtenances in the surrounding public rights-of-way for a minimum of twenty-five (25) feet in any direction;
- (3) A detailed description of the size, construction materials, and appearance of the proposed newsstand, including a scale drawing or color photograph, and the method by which the newsstand would be attached to the public rights-of-way;
- (4) A statement that the permit shall be subject to the conditions and provisions contained therein and to all ordinances and regulations of the city; and
- (5) Such other information as the ~~director~~ administrator of the bureau deems appropriate and necessary.

(b) Within twenty (20) days after the director receives an application under this section, the ~~director~~ bureau shall issue to the applicant either the permit, or a written notice of denial of the application. An application for a newsstand permit may be denied only for the reason that:

- (1) The application for the permit contains incorrect information; or
- (2) The placement of a newsstand on the public rights-of-way, as requested in the application, does not comply with this division, or is prohibited by law.

If the ~~director~~ bureau denies a newsstand permit application, the written notice shall state the reasons for the denial, and specify what actions, if any, would be necessary for the permit to be issued.

(c) The denial of an application for a newsstand permit may be appealed to a court of competent jurisdiction within thirty (30) days following the date the denial was issued, and such court, pursuant to its rules of procedure, shall provide the opportunity for a prompt hearing and prompt decision by a judicial officer. Failure to file an appeal within the time period provided by this subsection shall constitute a waiver of the right to appeal.

**Sec. 645-834. Term and renewal; conditions.**

(a) A newsstand permit shall have a term of one (1) year, expiring on the last day of December of each year, and may be renewed upon the same terms and conditions. Such permit shall state the name and address of the permittee and the location of the newsstand, and be posted in a prominent location on the exterior of the newsstand.

(b) A newsstand permit shall be issued upon the condition that the permittee shall:

- (1) Conduct and maintain the newsstand in such a manner that it will not create a nuisance or become inimical to the public welfare, or detract from the aesthetic character of the surrounding area;
- (2) Indemnify and save the city harmless against all liability ~~which that~~ may result to the city in consequence of the granting of the permit and maintenance and use of the newsstand;
- (3) Provide to the ~~director~~ bureau of license and permit services a current certificate of public liability insurance in coverage amounts established by the corporation counsel, insuring the permittee and naming the city as an additional insured party throughout the term of the permit; and
- (4) Comply with all laws statutes, ordinances, and regulations promulgated thereunder, as well as any pertinent orders and decisions of public officials.

In addition, the ~~director~~ bureau may make the permit subject to any reasonable conditions permitted by law, and which promote the stated purposes of this article.

(c) Within ten (10) days following the expiration or revocation of a newsstand permit, the owner shall remove the newsstand, and cause any necessary restoration or repair of the public right-of-way to be made; provided, however, that if the revocation of a permit has been appealed to a court of competent jurisdiction, then the removal of the newsstand shall be stayed pending final disposition of the judicial proceedings.

SECTION 85. Section 671-2 of the "Revised Code of the Consolidated City and County," regarding definitions used in Chapter 671, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 671-2. Definitions.**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section unless the context specifically indicates otherwise:

~~ASTM shall mean~~ means the American Society for Testing and Materials.

~~Accidental discharge shall mean~~ means an unintentional release of a material that could potentially violate the requirements of subsection 671-4(c), (d) or (e).

~~Act shall mean~~ means the Federal Water Pollution Control Act, as amended as of January 1, 1995, 33 USC 1251 et seq., also known as the Clean Water Act or CWA.

~~Administrative fee shall mean~~ means a fee assessed to all parcels that require a new or modified sewer service agreement with the city.

*Administrator shall mean means* the Regional Administrator of Region V, U.S. Environmental Protection Agency or Commissioner of the Indiana Department of Environmental Management or its successor, provided such state agency has a pretreatment program approved by the EPA.

*Applicable pretreatment standard shall mean means*, for any specified pollutant, the city's prohibitive discharge standards, the city's specific limitations on discharges, the State of Indiana pretreatment standards, or the federal general or categorical pretreatment standards (when effective), whichever standard is most stringent.

*Approval authority shall mean means* the administrator.

*Authorized representative of industrial user shall be means:*

- (1) A responsible corporate officer if the industrial user is a corporation. A responsible corporate officer ~~shall mean~~ means:
  - a. A president, vice-president, treasurer or secretary of the corporation in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation; or
  - b. A manager of one (1) or more manufacturing, production or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000.00) (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to such manager in accordance with corporate procedures.
- (2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship, respectively.
- (3) For a municipality, state, federal or other public agency, by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
- (4) An individual duly authorized by the person designated in subsection (1), (2) or (3) above, provided:
  - a. The authorization is made in writing by the individual described in subsection (1), (2) or (3) above;
  - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as the position of plant manager, plant engineer, superintendent, or a position of equivalent responsibility or having overall responsibility for environmental matters for the company; and
  - c. The written authorization is submitted to the city.

*Board shall mean means* the board of public works.

*BOD (denoting biochemical oxygen demand) shall mean means* the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees centigrade, expressed in milligrams per liter.

*Building drain shall mean means* that part of the lowest horizontal piping of a drainage system ~~which~~ that receives the discharge from solid waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (one and one-half (1.5) meters) outside the inner face of the building wall.

*Building sewer* ~~shall mean~~ means the extension from the building drain to the public sewer or other place of disposal and shall include that portion of the drain within the public right-of-way.

*Bureau of license and permit services or bureau* ~~means~~ means the bureau of license and permit services of the department of code enforcement.

*Categorical pretreatment standard* ~~shall mean~~ means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act ~~which that~~ apply to a specific category of industrial user.

*City sewer* ~~shall mean~~ means a sewer owned and operated by the city.

*Combined sewer* ~~shall mean~~ means a sewer ~~which that~~ has been designed or intended to receive both surface runoff and sewage.

*Composite sample* ~~shall mean~~ means a twenty-four-hour composite sample. Samples may be done either manually or automatically, and continuously or discretely, with not less than twelve (12) samples to be composited.

*Connection fee* ~~shall mean~~ means an assessment to compensate the city for all the costs of capacity for the city's sewer including the entire combined sewer system and its treatment facilities.

*Cooling water* ~~shall mean~~ means the water discharged from any use such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.

*Council* ~~shall mean the City-County Council of Indianapolis, Marion County, Indiana.~~

*Department* ~~shall mean~~ means the ~~D~~epartment of ~~P~~ublic ~~W~~orks, City of Indianapolis.

*Direct discharge* ~~shall mean~~ means the discharge of treated or untreated wastewater directly to the surface waters of the State ~~of Indiana.~~

*Director* ~~shall mean~~ means the director of the department of public works or ~~his/her~~ his or her authorized deputy, agent or representative.

*Division of ~~compliance~~* ~~shall mean~~ inspections means the division of ~~compliance~~ inspections of the department of ~~metropolitan development~~ code enforcement.

*Discharge report* ~~shall mean~~ means any report required of an industrial user by section B.2. of the industrial discharge permit.

*Domestic wastewater* ~~shall mean~~ means wastewater of the type commonly introduced into a POTW by residential users.

*EDU's* ~~shall mean~~ means equivalent dwelling unit, and shall be determined in accordance with industry standards and shall reflecting the greater of the actual daily flow requirements (per 327 IAC 3), the area ratio of the water meter size serving a particular user, or such means of determination deemed appropriate by the director. One (1) EDU shall be estimated as equal to equal three hundred ten (310) gallons per day.

*EPA* ~~shall mean~~ means the U.S. Environmental Protection Agency, or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of such agency.

*Foundation drains* ~~shall mean~~ means any network of pipes, pumps or drainage mechanism located at, near or under a footing, foundation or floor slab of any building or structure that intentionally or unintentionally conveys groundwater away from a building or structure.

*Garbage* ~~shall mean~~ means solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

*General pretreatment regulations* ~~shall mean~~ means "General Pretreatment Regulations for Existing and New Sources of Pollution," 40 CFR Part 403.

*Grab sample* ~~shall mean~~ means a sample ~~which that~~ is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

*Heat pump discharge* ~~shall mean~~ means water discharged from a heat pump or other device that uses water as a heat source or heat sink.

*Indirect discharge* ~~shall mean~~ means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act (33 USC § 1317) into the POTW (including holding tank waste discharged into the system).

*Industrial surveillance section* ~~shall mean~~ means the industrial surveillance section of the department of public works.

*Industrial user* ~~shall mean~~ means any user of the POTW who discharges, causes or permits the discharge of nondomestic wastewater into the POTW.

*Industrial wastewater* ~~shall mean~~ means a combination of liquid and water-carried waste discharged from any industrial user's establishment and resulting from any trade or process carried on in that establishment, including the wastewater from pretreatment facilities and polluted cooling water.

*Infiltration* ~~shall mean~~ means the groundwater entering the sewer system from the ground through such means as, but not limited to, defective or poorly constructed pipes, pipe joints, connections and manholes or from drainage pipes constructed to remove groundwater from areas such as building foundations and farm fields.

*Inflow* ~~shall mean~~ means the stormwater and surface water entering directly into sewers from such sources as, but not limited to, manhole covers, roof drains, basement drains, land drains, foundation drains, cooling/heating water discharges, catch basins or stormwater inlets.

*Interference* ~~shall mean~~ means any discharge ~~which that~~, alone or in conjunction with a discharge or discharges from other sources, both: (1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and (2) therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

*Lift station* ~~shall mean~~ means any arrangement of pumps, valves and controls that lifts wastewater to a higher elevation.

*NH<sub>3</sub>-N (denoting ammonia nitrogen)* ~~shall mean~~ means all of the nitrogen in water, sewage or other liquid waste present in the form of ammonia, ammonia ion or in the equilibrium  $\text{NH}_4^+ \rightleftharpoons \text{NH}_3 + \text{H}^+$ .

*Natural outlet* ~~shall mean~~ means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

*New source* ~~shall mean~~ means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- (1) The building, structure, facility or installation is constructed at a site at which no other source is located; ~~or~~
- (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- (3) The production or wastewater-generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site.

Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.

Construction of a new source has commenced if the owner or operator has:

- (1) Begun or caused to begin as part of a continuous on-site construction program:
  - a. Any placement, assembly or installation of facilities or equipment; or
  - b. Significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities ~~which that~~ is necessary for the placement, assembly or installation of new source facilities or equipment;

or

- (2) Entered into a binding contractual obligation for the purchase of facilities or equipment ~~which that~~ are intended to be used in its operation within a reasonable time. Options to purchase or contracts ~~which that~~ can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

~~Nonindustrial user shall mean~~ means all users of the POTW not included in the definition of "industrial user."

~~Pass-through shall mean~~ means a discharge ~~which that~~ exits the POTW into waters of the state in quantities or concentrations ~~which that~~, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation.)

~~Person shall mean~~ means any individual, partnership, trust, firm, company, association, society, corporation, group, governmental agency including, but not limited to, the United States of America, the State of Indiana and all political subdivisions, authorities, districts, departments, agencies, bureaus and instrumentalities thereof, or any other legal entity or any combination of such.

~~pH shall mean~~ means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

~~Pollutant shall mean~~ means, but is not limited to, any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical materials, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water.

~~Pollution shall mean~~ means the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

~~POTW shall mean~~ means all publicly owned facilities for collecting, pumping, treating and disposing of wastewater, including sewers, lift stations, manhole stations and the wastewater treatment plants.

*Pretreatment or treatment shall mean means* the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes or other means, except as prohibited by 40 CFR section 403.6(d).

*Pretreatment standard or regulation shall mean means* any substantive or procedural requirement related to pretreatment contained in this chapter.

*Process wastewater* means any water ~~which that~~, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

*Properly shredded garbage shall mean means* the wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (one and twenty-seven one-hundredths (1.27) centimeters) in any dimension.

*Public sewer shall mean means* any combined or sanitary sewer or lift station located within the public right-of-way or a dedicated easement and ~~which that~~ is controlled by public authority.

*Radioactive material* means any material (solid, liquid or gas) ~~which that~~ spontaneously emits ionizing radiation and ~~which that~~ is regulated by the Nuclear Regulatory Commission (NRC) or the Indiana State Board of Health. This may include naturally occurring radioactive material, by-product material, accelerator produced material, source material or special nuclear material.

*Sanitary district shall mean means* that area incorporated into the Marion County Liquid Waste Sanitary District.

*Sanitary sewer shall mean means* a sewer ~~which that~~ carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

*Sewage normally discharged by a residence shall mean means* the liquid waste contributed by a residential living unit and shall not exceed a volume of ten thousand five hundred (10,500) gallons per month, thirty (30) pounds of BOD per month, and thirty-five (35) pounds of suspended solids per month.

*Sewer shall mean means* a pipe or conduit for carrying sewage.

*Sewer work shall mean means* the connecting of any building sewer to a city sewer, the making of a significant alteration to or significant repair of a building sewer, the connecting of a building sewer to a building drain or the altering or repairing of a city sewer.

*Shall* is mandatory; ~~may~~ *may* is permissive.

*Significant industrial user (SIU) shall mean means* any industrial user ~~which that~~ is:

- (1) A facility regulated by a national categorical pretreatment standard and generates a process discharge;
- (2) A noncategorical facility with a process wastewater discharge greater than an average of twenty-five thousand (25,000) gallons per day;
- (3) Any industrial user with a reasonable potential to adversely affect the POTW, its treatment processes or operations, or its sludge use or disposal or for violating any pretreatment standard or requirement; ~~or~~
- (4) Any other industrial user deemed to be significant by the director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement; or

- (5) Any other industrial user ~~which that~~ contributes process wastewater ~~which that~~ makes up five (5) percent or more of the dry weather average hydraulic or organic capacity of the POTW treatment plant.

Upon a finding that an industrial user meeting the criteria of paragraphs (2), (3), (4) and (5) of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the director may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR § 403.8(f)(6), determine that such industrial user is not a significant industrial user.

~~Slug shall mean~~ means any discharge of wastewater ~~which that~~, in concentrations of any given constituent, as measured by a grab sample, exceeds more than five (5) times the allowable discharge limits as specified in this chapter and/or in quantity of flow exceeds more than five (5) times the user's average flow rate as authorized in the user's industrial discharge permit, for a period of duration longer than fifteen (15) minutes.

~~Storm drain or storm sewer shall mean~~ means a sewer ~~which that~~ carries stormwaters and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

~~Stormwater shall mean~~ means any flow occurring during or following any form of natural precipitation and resulting therefrom.

~~Suspended solids (SS) shall mean~~ means solids that either float on the surface of or are in suspension in water, sewage or other liquids and ~~which that~~ are removable by laboratory filtering.

~~Toxic pollutant shall mean~~ means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of CWA §§ 307(a) or 405(d) or other Acts.

~~Upset shall mean~~ means an exceptional incident in an industrial user's facility, in which there is unintentional and temporary noncompliance with applicable pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.

~~User shall mean~~ means any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

~~Wastewater shall mean~~ means a combination of the liquid and water-carried pollutants from residences, commercial businesses, institutions and industrial establishments, together with such groundwaters, surface waters and stormwaters as may be present.

~~Wastewater treatment plant shall mean~~ means any arrangement of devices and structures used for treating wastewater.

~~Wastewater works shall mean~~ means all facilities for collecting, pumping, treating and disposing of wastewater.

~~Watercourse shall mean~~ means a channel in which a flow of water occurs, either continuously or intermittently.

*Abbreviations.* The following abbreviations shall have the designated meanings:

TABLE INSET:

<i>BOD or BOD5:</i>	Biochemical oxygen demand
<i>CFR:</i>	Code of Federal Regulations (July 1, 1994 edition)

<i>COD:</i>	Chemical oxygen demand
<i>CWA:</i>	Clean Water Act
<i>G.O.:</i>	General Ordinance
<i>IC:</i>	Indiana Code
<i>IAC:</i>	Indiana Administrative Code (as amended as of December 1, 1994)
<i>IDEM:</i>	Indiana Department of Environmental Management
<i>ISBH:</i>	Indiana State Board of Health
<i>l:</i>	Liter
<i>mg:</i>	Milligrams
<i>mg/l:</i>	Milligrams per liter
<i>NPDES:</i>	National Pollutant Discharge Elimination System
<i>SIC:</i>	Standard industrial classification
<i>SS:</i>	Suspended solids
<i>SWDA:</i>	Solid Waste Disposal Act, 42 USC § 6901 et seq.
<i>TSS:</i>	Total suspended solids
<i>40 CFR 136:</i>	"Guidelines Establishing Test Procedures for the Analyses of Pollutants"

SECTION 86. Section 671-15 of the "Revised Code of the Consolidated City and County," regarding sewer and sewage disposal rules and regulations, hereby is amended by the addition of the language that is underscored, to read as follows:

**Sec. 671-15. Rules and regulations.**

After the passage of this chapter, and from time to time thereafter as may be needed, both the board of public works and the board of code enforcement may, by resolution, promulgate rules and regulations necessary to implement and carry out the provisions of this chapter and not inconsistent therewith. Before any such rules and regulations shall become effective, the board of public works and the board of code enforcement shall follow the procedures provided in Chapter 141 of this Code.

SECTION 87. Section 671-22 of the "Revised Code of the Consolidated City and County" as amended by G. O. No. 32, 2009, regarding sewer connection permits, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 671-22. Connection permits.**

(a) *Permit required.* It shall be unlawful to cause or allow the repair, modification or connection of a building sewer to a public sewer or another building within the sanitary district without a valid sanitary sewer connection permit issued by the ~~division of compliance~~ bureau of license and permit services, and the fine imposed for a violation of this provision shall not be less than one hundred dollars (\$100.00) for each day the violation continues; the ~~city~~ controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the ~~division of compliance~~ bureau. Permits will not be granted for connections to sewers not dedicated and accepted in accordance with section 671-161 of this chapter. This shall in no way limit the issuance of a building permit subject to the approval of a sanitary sewer connection permit application.

(b) *Minimum elevations for gravity connection.* A sanitary sewer connection permit will not be granted to homes or buildings where the lowest elevation to have gravity sanitary service is less than one (1) foot above the top of manhole casting elevation of either the first upstream or downstream manhole on the public sewer to which the connection is to be made. If the first upstream or downstream manhole is at

a higher elevation due to the natural topography of the area, an alternate manhole will be selected for the purpose of determining this measurement.

(c) *Grease interceptors.* A grease interceptor meeting the requirements of the Indiana Fire Prevention and Building Safety Commission shall be installed in waste lines (building sewers) from establishments delineated in section 671-4(g). The design and location of the grease interceptor shall be submitted to the ~~division of compliance~~ bureau of license and permit services for approval.

(d) *Permit fees; refunds.* The following permits and payment of the associated fees are required to make a connection to the city's sanitary or combined sewer system.

(1) The board of ~~public works~~ code enforcement shall establish the amount of the following fees by regulation and may revise the amount of such fees but not more often than once each calendar year:

(1) ~~a.~~ a. The building sewer permit inspection fee shall cover the costs of mandatory inspection by the ~~division of compliance~~ inspections of the building sewer and its connection, and any reinspection that may be necessary because of remedial construction;

(2) ~~b.~~ b. The plan review fees shall cover the costs for the amount of time that is required for the ~~division of compliance~~ bureau of license and permit services to administer and review plans submitted under this article for conformance with the department's standards and specifications; and

(3) ~~c.~~ c. The administrative fee shall cover the department's costs related to administration, planning, and review for the sewer service agreement; ~~and.~~

(4) ~~2~~ The baseline connection fee of two thousand five hundred dollars (\$2,500.00) per EDU, will be assessed for all new connections to the sanitary or combined sewer system at the time of acquiring a building permit. A new connection would include new sewer service or modification of an existing sewer service agreement; however, replacement or repair of an existing individual building sewer that does not increase EDU's would not constitute a new connection.

The permit fee paid under this article shall not be refunded except upon request and in instances where the permit was issued in error, either because it was not required by law, or because a permit for the same activity previously had been issued and was in force at the time the second permit was applied for and issued.

(e) *Modification of connection fee.* The board of public works may modify the connection fee by regulation as provided in subsection (d) of this section. The connection fee per EDU shall change annually subject to the automatic rate adjustment procedures outlined herein. To the extent that the Consumer Price Index increases from year to year, indexing of connection fees shall occur automatically. Increases shall be based upon annual average percent changes for the twelve (12) month period ending in October of each year for "The All Items Consumer Price Index for All Urban Consumers (CPI-U) for the U. S. City Average. 1982-84=100\*" as published on an unadjusted basis by the U. S. Bureau of Labor Statistics in November of each year, and shall become effective on January 1 of the ensuing calendar year. In no event shall the increase be less than zero (i.e., a negative value for the adjustment). The first increase in the connection fee, based on indexing, shall occur in 2010.

*Example Increase Calculation:* October Previous Year (PY)CPI 208.936  
October Current Year (CY)CPI  
216.573

Annual Increase % =  $\frac{\text{October CY CPI} - \text{October PY CPI}}{\text{October PY CPI}}$

3.66% =  $\frac{216.573 - 208.936}{208.936}$

Next Year Connection Fee = \$2500 \* 1.0366 = \$2,591.50 = \$2,590.00\*

*\*The connection fee will be rounded to the nearest \$10 increment.*

(f) *Applications.* An application for such connection permit shall be made on a form prescribed by the ~~division of compliance~~ bureau of license and permit services, and may require the following information:

- (1) Name and address of the owner;
- (2) The name, address and telephone number of the contractor;
- (3) Address and, if necessary, the legal description of the premises where the work is to be done;
- (4) Plans for the building sewer and connections, which at a minimum must consist of drawing(s) of the building, the parcel boundaries, the connection detail, including grease interceptor connection detail where applicable, materials of construction and installation method; and
- (5) Any other information as may be deemed reasonable and necessary by the administrator of the ~~division of compliance~~ bureau of license and permit services to carry out the provisions of this chapter.

(g) *Who may apply.*

- (1) Application for a sewer connection permit shall only be made by the following:
  - a. A plumbing contractor licensed by the state and registered in accordance with Chapter 875 of this Code; or
  - b. A contractor (other than a plumbing contractor) who has met the surety bond and insurance requirements of the department of ~~metropolitan development code enforcement~~. Surety bond requirements are met if the building sewer contractor has filed and maintains with the city a surety bond, as set forth in Chapter 875 of this Code. Insurance requirements are met if the contractor has secured and maintains a public liability and property damage insurance policy as set forth in Chapter 875 of this Code.
- (2) The ~~division of compliance~~ bureau of license and permit services may deny permits to any applicant who is currently in violation of this chapter or any other applicable regulations.

(h) *Conformance with Indiana Fire Prevention and Building Safety Regulations.* All sewer work and other construction actually performed on or associated with the building drain, building sewer and the connection of the building sewer to the public sewer shall be in accordance with the rules and regulations of the Indiana Fire Prevention and Building Safety Commission and standard specifications of the department of public works.

(i) *Expiration of permit by operation of law; extensions.* The connection permit shall expire by operation of law and shall no longer be of any force or effect if work is not initiated within one hundred eighty (180) days from the date of issuance of the permit. The administrator of the ~~division of compliance~~ bureau of license and permit services may, however, for good cause shown in writing, extend the duration of the permit for an additional period ~~which that~~ which that is reasonable under the circumstances to allow commencement of the construction activity. In no event shall the extension exceed a period of sixty (60) days. If the construction activity has been commenced but only partially completed, and thereafter substantially no construction activity occurs on the construction site over a period of one hundred eighty (180) days, the permit shall expire by operation of law and no longer be of any force or effect; provided, however, the administrator may, for good cause shown in writing, extend the validity of any such permit for an additional period ~~which that~~ which that is reasonable under the circumstances to allow resumption of construction activity. The fee for an extension under this subsection shall be ~~thirty dollars (\$30.00)~~ provided in section 131-501 of the Code, and the extension shall be confirmed in writing.

(j) *Provisions of chapter supplemental to other construction ordinances.* This chapter shall not be construed as contravening any ordinances of the city relating to construction within public streets, roads or rights-of-way but rather shall be supplemental thereto.

(k) *Enforcement of bond.* Any action may be initiated in a court of competent jurisdiction relative to the bond provided for in subsection (g)(1)b. as follows:

(1) The corporation counsel of the city may initiate proceedings to forfeit a bond:

- a. As a penalty for repeated Code violations by a contractor, his or her agents or employees; or
- b. To indemnify the city against any loss, damage or expense sustained by the city by reason of the conduct of the contractor, his or her agents or employees.

(2) A person, partnership or corporation ~~which~~ that holds a property interest in the real estate on which sewer work has occurred may bring an action against the bond for expenses necessary to correct code deficiencies therein after written notice of the code deficiency has been given to the contractor and after the contractor has been given a reasonable opportunity to correct performance. If such a person, partnership or corporation prevails in any action brought under this section, he or she may also be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of costs and expenses, including attorney's fees based on actual time expended as determined by the court to have been reasonably incurred by the plaintiff for or in connection with the commencement and prosecution of such action.

(l) *Variance procedure.* The administrator of the ~~division of compliance~~ bureau of license and permit services, after consultation with the engineering division of the department of public works, shall have the power to modify or waive any minimum sanitary sewer design standard found in this article or in any regulations promulgated by the board pursuant to section 671-15 of this Code, which pertain to permits issued under this article. The administrator may grant such a variance if an applicant for a construction permit submits the request in writing and makes a substantial showing that:

- (1) A minimum sanitary sewer design standard or regulation is unfeasible or unreasonably burdensome; and
- (2) An alternate plan submitted by the applicant will achieve the same objective and purpose as compliance with minimum sewer design standards and regulations of the department.

If the administrator fails to respond within twenty (20) days from receipt of a written request for modification or waiver, such request shall be deemed to be denied. An applicant may appeal to the board of code enforcement a decision of the ~~division of compliance~~ which bureau that denies or partially denies a requested variance. The appeal of such a decision shall be filed with the board of code enforcement within twenty (20) days following the date of the decision. The board shall hear the request for the variance de novo, and in making a decision shall apply the standards set forth above.

(m) *Exemption relative to work accomplished by or for certain governmental units.* Permits as required by this section shall be obtained for sewer connection activity in the city accomplished by or for a governmental unit, and inspections relative to such sewer connection activity shall be allowed. Fees shall be required as specified by the board of public works and board of code enforcement as provided in subsection (d), except for the following:

- (1) Sewer connection activity for which a fee cannot be charged by the municipality because of federal or state law; or
- (2) Sewer connection activity accomplished by a unit of local government, or by its employee or contractor in the course of such employee's or contractor's performance of duties for a unit of local government.

(n) *Notice of change in permit information.* After a permit has been issued, the permittee shall give prompt written notice to the ~~division of compliance~~ bureau of license and permit services of any addition to or change in the information contained in the permit application.

(o) *Amendment of permits and plans.* After a permit has been issued, any material deviation or change in the information contained in the permit application or the plans shall be considered an amendment subject to approval by the administrator of the ~~division of compliance~~ bureau of license and permit services. Prior to the time construction activity involving the change occurs, the permittee shall file with the ~~division of compliance~~ bureau a written request for amendment, including a detailed statement of the requested change and the submission of any amended plans. The ~~division of compliance~~ bureau shall give the permittee written notice that the request for amendment has been approved or denied, and if approved, copies of the amended application or plans shall be attached to the original application or plans. The fee for the amendment of a permit shall be ~~thirty dollars (\$30.00)~~ provided in section 131-501 of the Code. Reinspection fees and other fees ~~which that~~ are occasioned by the amendment shall be assessed and paid in the same manner as for original permits or plans.

(p) *Transfer of permit.* A sanitary sewer connection permit may be transferred with the approval of the administrator of the ~~division of compliance~~ bureau of license and permit services to a person, partnership or corporation ~~which that~~ would be eligible to obtain such construction permit in the first instance (hereinafter called "transferee"), after both the payment of a fee of ~~thirty dollars (\$30.00)~~ provided in section 131-501 of the Code and the execution and filing of a form furnished by the ~~division of compliance~~ bureau. Such transfer form shall contain, in substance, the following certifications, release and agreement:

(1) The person who obtained the original construction permit or a person who is employed by and authorized to act for the obtainer (hereinafter called "transferor") shall:

- a. Certify under penalties for perjury that such person is familiar with the sanitary sewer construction activity accomplished pursuant to the construction permit; such person is familiar with the construction standards and procedures provided in this article; and to the best of such person's knowledge, information and belief the construction activity, to the extent performed, is in conformity with all standards and procedures provided in this article; and
- b. Sign a statement releasing all rights and privileges secured under the construction permit to the transferee.

(2) The transferee shall:

- a. Certify that the transferee is familiar with the information contained in the original construction permit application, the design plans and specifications, and any other documents filed in support of the application for the original construction permit;
- b. Certify that the transferee is familiar with the present condition of the premises on which the construction activity is to be accomplished pursuant to the construction permit; and
- c. Agree to adopt and be bound by the information contained in the original application for the construction permit, the design plans and specifications, and other documents supporting the original construction permit application; or in the alternative, agree to be bound by such application plans and documents modified by plan amendments submitted to the ~~director~~ administrator of the bureau of license and permit services for approval.

The transferee shall assume the responsibilities and obligations of and shall comply with the same procedures required of the transferor, and shall be subject to any written orders issued by the administrator of the ~~division of compliance~~ bureau. A permit for construction activity at a specified location may not be transferred to construction activity at another location.

(q) *Revocation of permits.* The ~~division of compliance~~ bureau of license and permit services may revoke a permit when:

- (1) The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact; or
- (2) The application, plans or supporting documents reflect a lack of compliance with the requirements of this article.

The sanction provided in this subsection shall in no way limit the operation of penalties provided elsewhere in this chapter.

(r) *Stop-work order.* The administrator of the ~~division of compliance~~ bureau of license and permit services is empowered to issue an order requiring the suspension of the pertinent construction activity ("stop-work order") whenever the administrator determines that:

- (1) Construction activity is proceeding in an unsafe manner;
- (2) Construction activity is proceeding in violation of a requirement of this article;
- (3) Construction activity is proceeding in a manner ~~which~~ that is materially different from the application, plans, or supporting documents; or
- (4) Construction activity for which a sanitary sewer connection permit is required is proceeding without such a permit being in force. In such an instance, the stop-work order shall indicate that the effect of the order terminates when the required permit is issued.

The stop-work order shall be in writing and shall state to which construction activity it is applicable and the reason for its issuance. The stop-work order shall be posted on the property in a conspicuous place and, if conveniently possible, shall be given to the person doing the construction and to the owner of the property or his or her agent. The stop-work order shall state the conditions under which construction may be resumed. The sanction provided in this subsection shall in no way limit the operation of penalties provided elsewhere in this chapter.

SECTION 88. Sections 671-24 and 671-25 of the "Revised Code of the Consolidated City and County," regarding sewer connection permits, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 671-24. Dewatering discharge to a combined sewer.**

(a) It shall be unlawful to discharge the water resulting from dewatering activity to a combined sewer, whether such activity is temporary or permanent, without a valid sanitary sewer connection permit issued by the ~~division of compliance~~ bureau of license and permit services. As a condition to the issuance of a permit, the applicant shall install, maintain and operate at the user's expense a metering device to measure the flow associated with such discharge.

(b) Based upon the volumes determined by the measurements, the user will be charged appropriate user fees in accordance with Article IV of this chapter.

(c) The user shall be required to submit monthly reports, subject to verification if authorized by the ~~division of compliance~~ bureau, to serve as the basis for billing, with any necessary adjustments in the amount made after verification.

**Sec. 671-25. Mandatory inspection.**

(a) *Notification.* It shall be the duty of the holder of a connection permit to notify the division of ~~compliance inspections~~ in the manner described on the sanitary sewer connection permit that the sewer work is available for inspection. The division of ~~compliance inspections~~ will conduct inspections on building sewer connections from 8:00 a.m. to 5:00 p.m., local time, Monday through Friday, except for observed city holidays. The building sewer, in its entirety from the foundation to the connection with the public sewer or existing lateral, must be exposed for inspection and be properly bedded in accordance with the department's standard specifications to one-half (1/2) the diameter of the building sewer. It is

further the duty of the permit holder to install safety barricades, fences or other safety measures while waiting for an inspection. The permit holder may backfill the building sewer trench if the division of ~~compliance inspections~~ inspections has not made an inspection within a four-hour period after notice has been given to the division of ~~compliance inspections~~ inspections. In the event the building sewer is not completed and ready for inspection upon the inspector's arrival or if the notification is made after 1:00 p.m., local time, Monday through Friday, the permit holder shall make the building sewer and connection available for a four-hour period on the following department work day. An inspection may be waived with or without conditions with the approval of the ~~division of compliance~~ bureau of license and permit services.

(b) *Right of entry.* The division of ~~compliance inspections~~ inspections and the department shall each have the right of entry to, upon or through any premises for purposes of inspection of sewer work and any other construction activity performed on or associated with the connection of the building sewer to the city sewer including inspection for clear water discharges into the sewer.

SECTION 89. Sections 671-27 through 671-31, inclusive, of the "Revised Code of the Consolidated City and County," regarding sewer connection permits, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 671-27. Maximum number of connections.**

No more than one (1) building will be permitted to connect to a building sewer. Sewers with more than one (1) connection must be constructed as a public sewer in a dedicated easement in accordance with Article VII, unless the administrator of the ~~division of permits~~ bureau of license and permit services determines that an exception is justified.

**Sec. 671-28. Building sewer responsibility.**

It shall be the responsibility of the property owner(s) whose property is benefitted to provide for, install and make private connections for the use of their premises to an existing public or building sewer. Further, it shall be the responsibility of the owner to make all necessary repairs, extensions, relocations, changes or replacements thereof, and of any accessories thereto. These requirements may be altered, modified or waived at the discretion of the administrator of the ~~division of permits~~ bureau of license and permit services when it is shown that compliance is not possible due to extenuating circumstances.

**Sec. 671-29. Existing foundation drains, roof drains, defective building sewers and sump pumps.**

In the event the ~~division of compliance~~ bureau of license and permit services determines that a violation of section 671-4(a) exists, the ~~division of compliance~~ bureau shall notify the violator, by certified mail, that such violation exists. The notice shall describe the nature of the violation and the corrective action(s) that must be taken. Such corrective action shall be taken within thirty (30) days of receipt of such notice.

**Sec. 671-30. Penalties.**

Any person violating any provision of this article shall be subject to the penalties of this chapter in accordance with sections 671-16 and 671-22 and further, at the discretion of the administrator of the ~~division of compliance~~ bureau of license and permit services, may be required to correct such violation at his or her expense.

**Sec. 671-31. Appeal.**

Any person affected by the exercise of any discretionary authority delegated by this article to any official of the ~~division of compliance~~ bureau of license and permit services, and who objects to the decision made or action taken by such official, shall be entitled to a hearing upon such objection before:

- (1) ~~†The board of public works upon such objection, if the decision made or action taken involves the application of a standard established by the department of public works; or~~
- (2) The board of code enforcement, for all other matters.

The person desiring such hearing ~~before the board~~ shall file a written request for a hearing, including a statement of his or her objections, with the director of the appropriate department, who shall call the same to the attention of ~~the~~ his or her department board. Such requests must be filed with the director within ten (10) days from the date of the action being appealed. The appeal shall be scheduled before the board within thirty (30) days after such request is filed. Notice shall be given to the appellant identifying the time, place and date of the appeal at least ten (10) days prior to the scheduled date. The board may hear any evidence it deems relevant. After the hearing, the board may confirm, reverse or modify the decision or action. The order of the board shall be final. Such order shall be made within ten (10) days after the hearing and shall be in writing and sent to the appellant.

SECTION 90. Sections 671-151 and 671-152 of the "Revised Code of the Consolidated City and County," regarding sanitary sewer construction permits, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 671-151. Requirements for construction permits; enforcement.**

(a) It shall be unlawful to cause or allow the construction or modification of any sanitary sewer or sanitary sewer lift station without first obtaining a valid construction permit issued by the ~~division of compliance~~ bureau of license and permit services and the Indiana Department of Environmental Management, if necessary; provided, however, a sanitary sewer construction permit shall not be required for maintenance work performed by or on behalf of the department.

(b) The ~~division of compliance~~ bureau may deny permits to any applicant who is currently in violation of this chapter or any applicable regulations.

(c) A violation of this section is subject to the enforcement procedures and penalties provided in section 103-3 of this Code; provided, however, the fine imposed for such violation shall not be less than one hundred dollars (\$100.00), and each day that an offense continues shall constitute a separate violation. The ~~city~~ controller shall cause any fines collected under this section to be deposited into an account for the use and benefit of the ~~division of compliance~~ bureau.

(d) Construction of new combined sewers is prohibited. "Construction of new combined sewers" does not include the following:

- (1) Rehabilitation or repair of existing combined sewers;
- (2) Rehabilitation or repair of sewers that connect to existing combined sewers;
- (3) Connection of sanitary and/or storm sewers to existing combined sewers;
- (4) Construction of any new combined sewer designed to reduce overflows from existing combined sewers; or
- (5) Construction of any new combined sewer associated with redevelopment within an area serviced by pre-existing combined sewers.

**Sec. 671-152. Application procedures; design plans and specifications.**

(a) Applications shall be submitted in accordance with procedures established by the ~~division of compliance~~ bureau of license and permit services and revised from time to time. Design plans and specifications for the construction of sanitary sewers shall be developed by or under the direction of a professional engineer registered in accordance with IC 25-31-1 and shall have a title sheet ~~which that~~ includes the professional engineer's seal and signature. The approval of design plans and specifications by the ~~division of compliance~~ bureau under this article shall be valid for a period of one (1) year from the date such approval was granted, or until the construction permit for which the design plans and specifications were submitted is issued, whichever occurs first. However, prior to the issuance of the construction permit, if there are any material changes to approved design plans and specifications, or circumstances ~~which that~~ cause the design plans and specifications to be inaccurate or incomplete, then

new or corrected design plans and specifications shall be submitted to the ~~division of compliance~~ bureau as a precondition for obtaining a construction permit.

(b) The following permits and payment of the associated fees are required when building a sanitary sewer. The board of public works shall establish the amount of such fee by regulation and may revise the amount of such fee but not more often than once each calendar year.

- (1) The plan review fees shall cover the costs for the amount of time that is required for the ~~division of compliance~~ bureau to administer and review plans submitted under this article for conformance with the department's standards and specifications.
- (2) The administrative fee shall cover the department's costs related to administration, planning, and review for the sewer service agreement.

The fees paid under this article shall not be refunded except upon request and in instances where the permit was issued in error, either because it was not required by law, or because a permit for the same activity previously had been issued and was in force at the time the second permit was applied for and issued.

(c) Applications for construction permits shall be submitted at least sixty (60) days in advance of the proposed start of construction, provided, however, that a shorter time period may be approved by the ~~division of compliance~~ bureau.

(d) Applications shall include a certificate of sufficiency of plan filed by a professional engineer registered in accordance with IC 25-31-1.

(e) The administrator of the ~~division of compliance~~ bureau may, as a prerequisite to the issuance of a construction permit, require developers, wherever applicable, to send written notification to property owners whose properties abut the route of the proposed sewer.

(f) Applications shall include any additional information deemed necessary by the ~~division of compliance~~ bureau to carry out the provisions of this chapter.

SECTION 91. Sections 671-155, 671-156, and 671-157 of the "Revised Code of the Consolidated City and County," regarding sanitary sewer construction permits, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 671-155. Right to limit sewer capacity.**

Except to the extent that it may be preempted by state or federal laws, rules or regulations, the ~~division of compliance~~ bureau of license and permit services may deny the issuance of a construction permit if it is demonstrated that there is insufficient dry or wet weather capacity in any or all downstream sewers, lift stations, force mains and treatment plants, including capacity for pollutants, to accommodate the waste load expected to be generated as a result of the proposed development.

**Sec. 671-156. Posting of bond.**

(a) The administrator of the ~~division of compliance~~ bureau of license and permit services may, as a prerequisite to the issuance of a construction permit, require the posting of a performance bond from a company licensed by the State of Indiana to provide such surety. Such bond shall be equal to one hundred (100) percent of the contract amount or an amount established by the administrator to provide surety for the satisfactory completion of the improvements required by the construction permit and shall name the City of Indianapolis and County of Marion as parties who can enforce the obligations thereunder. Such bond may be a part of the total bonding required by the plat committee of the metropolitan development commission.

(b) The administrator of the ~~division of compliance~~ bureau may as a prerequisite to acceptance of a sanitary sewer or lift station require the posting of a maintenance bond in an amount not to exceed twenty (20) percent of the contract amount or, subject to the approval by ~~the~~ such administrator, provision for

maintenance for a period of three (3) years from the date of acceptance by the ~~division of compliance bureau~~. Such bond shall name the City of Indianapolis and County of Marion as parties who can enforce the obligations thereunder.

(c) In instances where the administrator of the bureau has required a bond pursuant to this section, the administrator may as an alternative to the posting of such bond accept other appropriate security, such as a properly conditioned irrevocable letter of credit, which meets the same objectives as the bonds described in this section, subject to approval of any other department or agency whose interests are protected by the same bonding requirement.

(d) If the surety on any bond furnished to the ~~division of compliance bureau~~ becomes a party to a supervision, liquidation, rehabilitation action pursuant to IC 27-9 et seq., or its right to do business in the state is terminated, it shall be required that, within thirty (30) days thereafter, a substitute bond and surety be provided, both of which must be acceptable to the city. Failure to obtain a substitute bond within the stated time frame shall be cause for revocation or suspension of the construction permit until such time that the bond is furnished to the ~~division of compliance bureau~~.

**Sec. 671-157. Execution of covenant.**

(a) The administrator of the ~~division of compliance bureau~~ bureau of license and permit services may, as a prerequisite to the issuance of a construction permit, require the execution of covenants and/or easements running in form to the City of Indianapolis and County of Marion by the owner or owners of such parcel. As a minimum in such cases, ~~the~~ such administrator shall require that the following covenant be executed by the owner or owners of such parcel ~~which that~~ shall be included in a recorded plat:

(b) It shall be the responsibility of the owner of any lot or parcel of land within the area of this plat to comply at all times with the provisions of the sanitary sewer construction plan approved by the ~~division of compliance of the department of metropolitan development bureau~~, and the requirements of all sanitary sewer construction permits for this plan issued by such division.

(c) Owner further covenants that no building, structure, tree or other obstruction shall be erected, maintained, or allowed to continue on the portion of the owner's real estate in which the easement and right-of-way are granted without express written permission from the ~~division of compliance of the department of metropolitan development bureau~~. Such permission, when duly recorded, shall run with the real estate. The department of public works and the ~~division of compliance bureau~~ and their agents shall have the right to ingress and egress, for temporary periods only, over the owner's real estate adjoining said easement and right-of-way, when necessary to construct, repair or maintain sanitary sewer facilities.

(~~b~~) Any person who violates a covenant required under this section, and/or the owner of any parcel of land who permits such a violation, who is notified in writing by the department of ~~public works code enforcement~~ or ~~division of compliance bureau~~ that a violation exists, shall be given a reasonable period of time, not to exceed thirty (30) days, in which to correct such violation. The notice shall specify the nature of the violation and shall stipulate a required correction date.

SECTION 92. Sections 671-159 through 671-164, inclusive, of the "Revised Code of the Consolidated City and County," regarding sanitary sewer construction permits, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 671-159. Expiration of construction permit by operation of law; extensions; certificate of completion and compliance.**

(a) If construction activity has not been commenced within one hundred eighty (180) days from the date of issuance of the sanitary sewer construction permit, the permit shall expire by operation of law and shall no longer be of any force or effect; provided, however, the administrator of the ~~division of compliance bureau~~ bureau of license and permit services may, for good cause shown in writing, extend the validity of any such permit for an additional period ~~which that~~ is reasonable under the circumstances to allow commencement of the construction activity. In no event shall the extension exceed a period of sixty

(60) days.

(b) If the construction activity has been commenced but only partially completed, and thereafter substantially no construction activity occurs on the construction site over a period of six (6) months, the permit shall expire by operation of law and no longer be of any force or effect; provided, however, the administrator of the ~~division of compliance~~ bureau may, for good cause shown in writing, extend the validity of any such permit for an additional period ~~which~~ that is reasonable under the circumstances to allow resumption of construction activity.

(c) The fee for an extension granted under this section shall be ~~thirty dollars (\$30.00)~~ provided in section 131-501 of the Code, and the extension shall be confirmed in writing.

(d) Within fourteen (14) days after satisfactory completion of tests on the sanitary sewer or lift station for which a construction permit was obtained, the professional engineer contracted in accordance with section 671-160 shall execute and file with the ~~division of compliance~~ bureau a certificate of completion and compliance, in a form prescribed by the division.

### **Sec. 671-160. Inspection of construction of sanitary sewers.**

(a) *Execution of inspection agreement.* Prior to the commencement of construction, the applicant shall execute an agreement with the ~~division of compliance~~ bureau of license and permit services ~~which~~ that will provide that:

- (1) The division of ~~compliance~~ inspections and bureau of license and permit services will contract for construction inspection services to ensure that such construction meets the requirements of the approved construction plans; ~~;~~
- (2) The contracted engineer will be responsible for submitting and certifying air pressure or infiltration test results for all pipe and deflection test results for all flexible pipe; ~~;~~
- (3) The applicant will reimburse the ~~division of compliance~~ bureau of license and permit services for the cost of such inspection services, which shall be determined at the time of execution of the agreement and verified by the applicant or his or her representative throughout construction; ~~;~~
- (4) Upon completion of construction, the contracted engineer shall execute and file with the ~~division of compliance~~ bureau of license and permit services a certificate of completion and compliance certifying to the ~~division of compliance~~ bureau and the applicant as to the compliance of such construction with the requirements of the approved construction plans and/or approved change orders; and
- (5) No action with regard to the acceptance of the construction and release of the improvement bond pursuant to this article shall be taken until the applicant has reimbursed the ~~division of compliance~~ bureau of license and permit services in full for the inspection services.

(b) *Inspection of construction:*

- (1) All construction of sanitary sewers intended for dedication to the city shall be inspected and certified pursuant to the agreement executed under subsection (a); ~~;~~
- (2) The applicant shall furnish the ~~division of compliance~~ bureau of license and permit services necessary copies of the approved construction plans; and
- (3) If construction has already commenced on the effective date of General Ordinance No. 63, 1987, adopted July 20, 1987, the applicant must then furnish, along with a written request for acceptance, a certification by a professional engineer registered in the State of Indiana that the construction has met the requirements of the approved construction plans; further, the construction will be inspected by the division of ~~compliance~~ inspections, and all deficiencies shall be corrected prior to acceptance by the ~~division of compliance~~ bureau of license and permit services.

**Sec. 671-161. Requirements for project acceptance and dedication to the city.**

Sanitary sewers and lift stations will not be accepted and building sewer connection permits shall not be issued until all documents, as required by the department's standard specifications, are submitted to the ~~division of compliance~~ bureau of license and permit services, including the following:

- (1) Maintenance bond as required in section 671-156(b);
- (2) Recorded covenant and easement documents as required in sections 671-157 and 671-158;
- (3) Certificate of completion and compliance as required in section 671-159(d);
- (4) The completion of a final inspection as required in section 671-160 ~~which that~~ that confirms that the sewer has been constructed and tested in accordance with the department's standard specifications; and
- (5) Sanitary sewer record ("as built") drawings in accordance with the department's standards ~~which that~~ that shall be stamped and signed by a land surveyor registered in accordance with IC 25-31-1.

**Sec. 671-162. Dedication and rehabilitation of existing sewers.**

(a) The owner of a sanitary sewer may apply to the division of ~~compliance~~ inspections for dedication of the sewer, providing that the application is made in writing.

(b) Dedication of such sewer may be subject to the requirements outlined in sections 671-160(b) and 671-161 of this article and further, at the discretion of the administrator of the division of ~~compliance~~ inspections, may require the following:

- (1) Proof of legal ownership;
- (2) Flow monitoring results;
- (3) Television results; and
- (4) Any other requirements as may be deemed reasonable and necessary by the administrator of the division of ~~compliance~~ inspections.

(c) In addition, the owner may, at his or her expense, be required to correct any deficiencies or remove any sources of clear water found as a result of any inspection, flow monitoring, television and/or other related testing.

**Sec. 671-163. General authority for investigations and inspections.**

(a) The power to make investigations and inspection of sanitary sewer and/or lift station construction shall be vested in the division of ~~compliance~~ inspections.

(b) Investigation and inspection of sanitary sewer and/or lift station construction may be made at any time by going upon, around or about the affected property.

(c) Such investigation and inspection may be made either before, during or after the construction is completed and shall be made for the purpose of determining whether the construction has been accomplished in a manner consistent with the approved plans and specifications and the minimum requirements of the department.

(d) Persons working on or having control of the construction shall cooperate fully with the inspectors and shall have available a copy of the approved plans and specifications used to obtain the construction permit.

**Sec. 671-164. Variance procedure.**

(a) The administrator of the ~~division of compliance~~ bureau of license and permit services shall have the power to modify or waive any minimum sanitary sewer design standard found in Article VII of this chapter or any regulations promulgated by the board of public works pursuant to Article VII of this chapter. ~~The~~ Such administrator, after consultation with the engineering division of the department of public works, may grant such a modification or waiver if an applicant for a construction permit submits the request in writing and makes a substantial showing:

- (1) That a minimum sanitary sewer design standard or regulation is unfeasible or unreasonably burdensome; and
- (2) That an alternate plan submitted by the applicant will achieve the same objective and purpose as compliance with minimum sewer design standards and regulations of the department.

(b) If the administrator shall fail to respond to such request for variance within twenty (20) days from such written request, it shall be deemed to be denied.

(c) An applicant may appeal to the board of public works the decision of the administrator denying or partially approving a requested variance. The appeal of such a decision shall be filed with the board within twenty (20) days of the decision. The board shall hear the request for the variance de novo and in making a decision shall apply the standards set forth above.

SECTION 93. Sections 671-167 through 671-170, inclusive, of the "Revised Code of the Consolidated City and County," regarding sanitary sewer construction permits, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 671-167. Notice of change in permit information; amendment of permits and plans.**

(a) After a permit has been issued, the permittee shall give prompt written notice to the ~~division of compliance~~ bureau of license and permit services of any addition to or change in the information contained in the permit application.

(b) After a permit has been issued, any material deviation or change in the information contained in the permit application or the design plans and specifications shall be considered an amendment subject to approval by the administrator of the ~~division of compliance~~ bureau. Prior to the time construction activity involving the change occurs, the permittee shall file with the ~~division of compliance~~ bureau a written request for amendment, including a detailed statement of the requested change and the submission of any amended plans.

(c) The ~~division of compliance~~ bureau shall give the permittee written notice that the request for amendment has been approved or denied, and if approved, copies of the amended application or plans shall be attached to the original application or plans. A fee for the amendment of a permit shall be ~~thirty dollars (\$30.00)~~ provided in section 131-501 of the Code. Reinspection fees, and other fees ~~which that~~ are occasioned by the amendment shall be assessed and paid in the same manner as for original permits or plans.

**Sec. 671-168. Stop-work order; revocation of permits.**

(a) The administrator of the ~~division of compliance~~ bureau of license and permit services is empowered to issue an order requiring suspension of work ("stop-work order") whenever ~~the~~ such administrator determines that:

- (1) Construction is proceeding in an unsafe manner; ~~or~~
- (2) Construction is occurring in violation of the department's standard specifications and requirements and in such a manner that, if construction is allowed to proceed, there is a probability that it will be substantially difficult to correct the violation; ~~or~~

- (3) Construction activity is proceeding in a manner ~~which~~ that is materially different from the application, design plans or specifications; or
- (4) Sewer construction for which a construction permit is required is proceeding without a construction permit being in force. In such an instance, the stop-work order shall indicate that the effect of the order terminates when the required permit is obtained.

The stop-work order shall be in writing and shall state to what construction it is applicable and the reason for its issuance. One (1) copy of the stop-work order shall be posted on the property in a conspicuous place, and one (1) copy shall be delivered to the permit applicant, to the person doing the construction and to the owner of the property or his or her agent. The stop-work order shall state the conditions under which construction may be resumed.

(b) The administrator of the bureau may revoke a sanitary sewer construction permit when:

- (1) The application, design plans or specifications contain a false statement or misrepresentation as to a material fact; or
- (2) The application, design plans or specifications reflect a lack of compliance with the requirements of this article.

(c) The sanctions provided in this section shall in no way limit the operation of penalties provided elsewhere in this chapter.

#### **Sec. 671-169. Appeals.**

(a) Any person affected by authority delegated by this article to any official of the ~~division of compliance~~ bureau of license and permit services and who objects to the decision made or the action taken by such official shall be entitled to a hearing before the board of ~~public works~~ code enforcement upon such objection. The person desiring such a hearing shall file a written statement of his or her objections with the director of code enforcement, who shall call the same to the attention of the board of code enforcement. The appeal shall be scheduled before ~~the such~~ board within thirty (30) days after such objections are filed with the director. Notice shall be given to the objector identifying the time, place and date of the appeal at least ten (10) days prior to the scheduled date.

(b) After hearing testimony of the objector and the official who made the decision or took the action objected to, the board of code enforcement may confirm, reverse or modify such decision or action. The order of ~~the such~~ board shall be final. Within ten (10) days of ~~the such~~ board's decision a written notice shall be given to the objector confirming such decision.

#### **Sec. 671-170. Transfer of permit.**

(a) A sanitary sewer construction permit may be transferred with the approval of the administrator of the ~~division of compliance~~ bureau of license and permit services to a person, partnership or corporation ~~which that~~ would be eligible to obtain such construction permit in the first instance (hereinafter called "transferee"), after both the payment of a fee ~~of thirty dollars (\$30.00) provided in section 131-501 of the Code~~ and the execution and filing of a form furnished by the ~~division of compliance~~ bureau. Such transfer form shall contain, in substance, the following certifications, release and agreement:

- (1) The person who obtained the original construction permit or a person who is employed by and authorized to act for the obtainer (hereinafter called "transferor") shall:
  - a. Certify under penalties for perjury that such person is familiar with the sanitary sewer construction activity accomplished pursuant to the construction permit; such person is familiar with the construction standards and procedures provided in this article; and to the best of such person's knowledge, information and belief the construction activity, to the extent performed, is in conformity with all standards and procedures provided in this article; and
  - b. Sign a statement releasing all rights and privileges secured under the construction permit to

the transferee.

(2) The transferee shall:

- a. Certify that the transferee is familiar with the information contained in the original construction permit application, the design plans and specifications, and any other documents filed in support of the application for the original construction permit;
- b. Certify that the transferee is familiar with the present condition of the premises on which the construction activity is to be accomplished pursuant to the construction permit; and
- c. Agree to adopt and be bound by the information contained in the original application for the construction permit, the design plans and specifications, and other documents supporting the original construction permit application; or in the alternative, agree to be bound by such application plans and documents modified by plan amendments submitted to the ~~division of compliance~~ bureau for approval.

(b) The transferee shall assume the responsibilities and obligations of and shall comply with the same procedures required of the transferor (including, but not being limited to, the requirement of section 671-159 that a certificate of completion and compliance be executed and filed) and shall be subject to any written orders issued by the ~~division of compliance~~ bureau.

(c) A permit for construction activity at a specified location may not be transferred to construction activity at another location.

SECTION 94. Sections 701-1 and 701-2 of the "Revised Code of the Consolidated City and County," regarding definition of terms in Chapter 701 regarding trees and flora, and the duty to enforce the chapter, respectively, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 701-1. Definitions.**

As used in this chapter, the following terms shall have the following meanings: ascribed to them in this section.

Bureau of license and permit services or bureau means the bureau of license and permit services of the department of code enforcement.

Department means the department of parks and recreation.

Flora shall mean means all trees, shrubbery and other plants which that grow to a height of more than twelve (12) inches, but expressly excluding weeds and grasses of all types.

Occupant means the person, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious or charitable organization or any owner, person, persons or entities who are from time to time in possession of or exercising dominion and control over any house or other structure located on private property.

Owner shall mean means any one (1) or more of the following:

- (1) The owner or owners in fee simple of a parcel of real estate, including the life tenant or tenants;
- (2) The record owner or owners as reflected by the most current records in the county assessor's office; or
- (3) The purchaser or purchasers of such real estate under any contract for the conditional sale thereof.

~~Person means any individual, firm, partnership, association, corporation, business trust, joint stock company, unincorporated organization, religious or charitable organization or any owner, person, persons or entities.~~

~~Private property shall mean~~ means all real estate within Marion County, except real estate that is owned, leased, controlled or occupied by the State of Indiana, Marion County, the Consolidated City of Indianapolis or any departments or agencies thereof.

~~Tree, when used by itself, shall mean~~ means any woody, perennial plant and includes those having a single main stem ~~which that~~ grows to a minimum height of over ten (10) feet.

#### **Sec. 701-2. Duty to enforce; prosecutions for violations.**

It shall be the duty of the department of ~~parks and recreation (hereinafter referred to as the "department")~~ code enforcement to enforce the provisions of this chapter, and prosecutions by the consolidated city for violations hereof may be initiated by the department of code enforcement, or by the director of ~~the such~~ department through or in cooperation with the office of the city prosecutor.

SECTION 95. Section 701-4 of the "Revised Code of the Consolidated City and County," regarding permits for planting flora in the public rights-of-way, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

#### **Sec. 701-4. Permit required.**

(a) No person shall plant any shade or ornamental flora on or in any portion of a public street, alley, right-of-way, place or park in Marion County, unless the department shall have first approved the kind or variety thereof; and designated the location therefor, and granted a special permit for such planting has been issued by the bureau of license and permit services. Trees must be of high quality and suitable species to be planted on public grounds. Trees to be planted must be well-formed, have a straight trunk, evenly balanced crown, and healthy appearance. The department shall have the power to set forth any further specifications required and may alter methods of planting, reject any tree or tree species, or suspend the right of a permit holder to plant, for any reason and without advance notice. The department will determine tree pit depth and width, and whether fertilizer, peat moss or other additives are necessary. The department must have at least forty-eight (48) hours' advance notice prior to any excavation. The department shall have continuing control over any flora planted. Any permit required by the provisions hereof shall not obviate the requirements for obtaining any other permits or licenses required by any other ordinances or statutes of the state.

(b) Any flora planted pursuant to subsection (a) shall be watered, staked, wrapped, sprayed, trimmed or fenced by guards or gratings by the permit holder when deemed necessary by the department. Trees must be watered at least once per week in dry weather during the first year after planting. The permit holder shall guarantee the survival of each tree planted for one (1) year after the planting date. Any tree not surviving for one (1) year must be replaced, either by the permit holder or by the department, at the permit holder's expense. After a period of one (1) year, all flora planted becomes the property of the city and all care and maintenance becomes the responsibility of the department.

(c) No person shall perform any arboricultural work on any shade or ornamental flora on or in any portion of a public street, alley, right-of-way, place or park in the county, unless the ~~department~~ bureau shall have first granted a special permit indicating the approved activity on each designated flora. All work on city owned trees, including trimming, pruning, protecting, bracing, relocating, cultivating, spraying or removing, will be allowed only when permitted by the ~~department~~ bureau.

(d) For purposes of this chapter, any person obtaining an encroachment permit from the city ~~controller's office~~ for the sole purpose of planting any flora pursuant to this section will not be required to pay the encroachment permit fee once the flora becomes the property of the city.

SECTION 96. Section 701-8 of the "Revised Code of the Consolidated City and County," regarding moving buildings where flora is affected, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 701-8. Moving buildings where flora affected.**

(a) No person shall move any building or structure on, upon or along any public street, alley, way or place or within any public park without first obtaining a special permit from the ~~department~~ bureau of license and permit services and then only in such manner as shall not damage or destroy any flora. The application for such permit shall identify the building or structure to be moved and the proposed route over which it is to be moved.

(b) In the event it becomes necessary to relocate, trim, care or replace any flora in or upon any public street, alley, way, place or public park because of the removal or transportation of any building or structure, such relocation, trimming, care or replacement shall be done by the department or its agents or, when directed by the department, by any person upon his or her own premises at the expense of the applicant. Should such relocation, trimming, care or replanting of any such flora or any acts in the moving of any building or structure result in the death of any such flora within one (1) year from the date of such moving, the applicant shall replace such flora at his, her or its expense, as may be required by the department. Before any such permit is granted, the applicant shall either (1) execute an indemnity bond with surety to the satisfaction of the department or (2) deposit a cash bond with the department equal to one hundred fifty dollars (\$150.00) per tree and a like sum for all flora combined ~~which that~~ it is anticipated will be adversely affected by any such move. The bonds so deposited shall be retained by the department until all flora or its replacement has been provided for and all damage sustained remedied to the reasonable satisfaction of the department.

SECTION 97. Section 701-16 of the "Revised Code of the Consolidated City and County," regarding permits issued under Chapter 701, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 701-16. Contents, duration, charge for permits.**

Every special permit ~~granted~~ issued by the ~~department~~ bureau of license and permit services under the provisions of this chapter shall specifically describe the work to be done, and, except for persons holding annual permits for work of such nature, all permits shall expire by law sixty (60) days after date, unless extended by the ~~department~~ bureau. No charge shall be made for any specials permit, unless otherwise provided by ordinance.

SECTION 98. Section 701-24 of the "Revised Code of the Consolidated City and County," regarding enforcement of the provisions of Chapter 701, hereby is amended by the addition of the language that is underscored, to read as follows:

**Sec. 701-24. Enforcement.**

(a) The department, and the division of inspections of the department of code enforcement, shall have the right to inspect all trees and flora covered by this chapter for compliance with this chapter and the regulations promulgated pursuant hereto.

(b) Any violations of this chapter or of the regulations promulgated pursuant hereto, not otherwise covered in section 701-18 through 701-22, shall be subject to the penalties of section 103-3 of this Code and shall carry a fine of one hundred dollars (\$100.00) per day for a maximum period of twenty-five (25) days.

(c) In addition to the penalties prescribed in subsection (b), the department may enjoin or abate any violation of this chapter by appropriate action.

(d) The department may take appropriate legal action including, but not limited to, an action to recover attorney's fees.

SECTION 99. Section 801-102 of the "Revised Code of the Consolidated City and County," regarding definitions used in Chapter 801, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 801-102. Applicability; definitions.**

(a) The provisions of this chapter shall apply to all businesses ~~which that~~ are required under the following chapters of this title to be licensed by the ~~controller~~ license administrator, but shall have no application to businesses ~~which that~~ may be franchised or licensed under this title by some authority other than the ~~controller~~ license administrator, or to other businesses.

(b) As used in those chapters of Title IV of the Code ~~which that~~ provide for licensure by the ~~controller~~ license administrator, the following terms shall have the meanings ascribed to them in this section.

*Applicant* means the person who makes an application for a license, and who will be the licensee if the license is granted.

*Application* includes the words "registration form," and means the written form provided by the ~~controller~~ license administrator upon which a person may apply for a license, or register.

*Bureau of license and permit services or bureau* means the bureau of license and permit services of the department of code enforcement.

*Business* means and includes any kind of vocation, occupation, profession, enterprise or any other kind of activity (together with any equipment, vehicles or other personal property, and any premises used therein) ~~which that~~ is conducted, directly or indirectly, in the city.

~~*City Controller and Controller* mean the Controller of the city appointed under section 202-201 of this Code, or his or her designee.~~

*Division of inspections* means the division of inspections of the department of code enforcement.

*Financial interest* means:

- (1) Any of the legal rights of ownership or beneficial interest in the profits of a business; or
- (2) Any portion of the legal rights of ownership in any partnership, corporation or other legal entity having any portion of such rights or beneficial interest;

equal to or greater than five (5) percent of the whole. "Financial interest" includes, but is not limited to, that interest held by stockholders and officers of corporations or similar business entities.

*Insignia* means any certificate, tag, badge, plate, card or emblem ~~which that~~ may be issued by the ~~controller~~ license administrator as evidence that a license has been issued.

*License* includes the words "registration," "certificate of registration," and "permit," and means the privilege of carrying on a specified business in the city; however, registrations, permits and licenses each may be granted where specifically authorized by this Code.

*License administrator* means the administrator of the bureau of license and permit services.

*Licensee* includes the words "registrant" and "permittee," and means the person to whom a current license, registration or permit has been issued, and that person's agents and employees.

*Premises* means all real estate (including structures and fixtures affixed thereto) used in a business, together with all equipment, vehicles and other personal property used in that business.

*Public welfare* means the health, safety, prosperity and convenience of the inhabitants of the city, either as a whole or individually.

(c) Under the definitions provided in this section, all the rights, duties, responsibilities, conditions, restrictions, enforcement, and other procedures, including provisions for the suspension or revocation of

licenses, which are provided in Title IV of this Code and ~~which~~ have general application to licenses and licensees, shall apply with equal force to registrations and registrants, and permits and permittees, unless the context in which the words "license" or "licensee" are used clearly indicates otherwise.

SECTION 100. Sections 801-201, 801-202, and 801-203 of the "Revised Code of the Consolidated City and County," regarding general license procedures, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 801-201. Powers of the ~~controller~~ license administrator regarding licenses.**

The ~~controller~~ license administrator hereby is authorized to issue, renew, deny, suspend and revoke licenses, and in furtherance thereof the ~~controller~~ license administrator shall have the following general powers:

- (1) To adopt all forms to be used in applications, licenses, bonds, and insignia, where such forms are not otherwise prescribed;
- (2) To adopt, amend, rescind and enforce reasonable regulations and orders in the administration and enforcement of all provisions of this Code relating to licenses;
- (3) To institute an investigation to determine the qualifications of the applicant or the applicant's surety or insurance carrier, if a bond or insurance is required;
- (4) To request or receive information from any source regarding an applicant or licensee, either during the course of a ~~controller's~~ license administrator's hearing or otherwise; and
- (5) To exercise sound discretion, taking into consideration the effect of the proposed business on the public welfare, including in particular its effect on any surrounding property and nearby residents and businesses.

**Sec. 801-202. Qualifications of applicant.**

In order to obtain a license issued by the ~~controller~~ license administrator, the applicant shall have the burden of proof that the applicant is qualified to be licensed. In addition to specific qualifications provided in other chapters of Title IV of this Code, the qualifications of an applicant include the following:

- (1) The applicant and all persons having a financial interest in the applicant or the associated premises:
  - a. Shall not have had any license issued by the ~~controller~~ license administrator revoked within the twelve (12) months preceding the date of the application; and
  - b. Shall not have had more than four (4) suspensions and/or revocations of any licenses issued by the ~~controller~~ license administrator within the six (6) years preceding the date of the application;
- (2) The applicant shall not have any license to operate a business subject to a current suspension;
- (3) If not a natural person, the applicant shall be organized and controlled by the laws of the State of Indiana or be authorized and qualified to engage in business in the State of Indiana; and
- (4) The applicant shall not be delinquent to the city, county or state for any taxes, or be indebted to the city, county or state for any other reason unless the delinquency or indebtedness is the subject of pending litigation.

**Sec. 801-203. Application contents.**

- (a) All applications for licenses shall contain the following information:

- (1) The applicant's name and business address;
- (2) The name and address of all persons who have a financial interest in the business;
- (3) The name in which, and address where, the business will be conducted; and
- (4) Any other information specifically required by following chapters of this title, or deemed necessary by the ~~controller~~ license administrator.

(b) All applications shall be signed personally by the applicant, and if the applicant is not a natural person, then by an authorized representative of the applicant.

SECTION 101. Sections 801-205, 801-206, and 801-207 of the "Revised Code of the Consolidated City and County," regarding general license procedures, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 801-205. Approval and filing of bonds.**

All bonds ~~which that~~ are required to be posted in connection with any license shall be approved by the ~~controller~~ license administrator as to the surety thereon, and shall be filed with the ~~controller~~ license administrator prior to the issuance of the license.

**Sec. 801-206. Payment of fees; receipt; deposit; exemptions.**

(a) Prior to the issuance or renewal of a license, the applicant shall pay all fees required by this Code, as follows:

- (1) For annual licenses ~~which that~~ expire on a calendar date stated in this Code:
  - a. The license fee for the entire term shall be paid if the license is applied for and issued more than six (6) months prior to the date of expiration;
  - b. One-half (1/2) of the annual license fee shall be paid if the license is applied for and issued three (3), four (4), or five (5) months prior to the date of expiration; and
  - c. One-fourth ( 1/4) of the annual license fee shall be paid if the license is applied for and issued one (1), two (2), or three (3) months prior to the date of expiration;
- (2) For all other licenses, the license fee for the entire term of the license shall be paid; and
- (3) For all licenses ~~which that~~ relate to real estate, any applicable zoning, building, or fire code inspection fees.

(b) Whenever a license is not issued at the time of application, the applicant shall pay the fee in advance, and the ~~controller~~ license administrator shall issue a receipt to the applicant for the fee and all other required charges. The receipt shall not be construed as approval of the application.

(c) Except where otherwise expressly provided, all fees and other charges collected by the ~~controller~~ license administrator under Title IV of this Code shall be ~~deposited~~ remitted to the office of finance and management for deposit in the fire service district fund of the city as miscellaneous revenues, and shall be deemed a reimbursement to the city for its expenses in the issuance of licenses and the enforcement of the provisions of this Code. Notwithstanding the foregoing, all fire inspection fees collected by the ~~controller~~ license administrator for inspections conducted by the Indianapolis Fire Department shall be ~~deposited~~ remitted to the office of finance and management for deposit in the fire service district fund.

(d) Notwithstanding the provisions of subsection (a) of this section, the ~~controller~~ license administrator may issue licenses to any not-for-profit organization to conduct a licensed business for a public, charitable, educational, literary, fraternal, religious or other not-for-profit purpose, without the licensee having to pay any license fee or other charges required by this Code.

**Sec. 801-207. Issuance of license; nature of interest conferred; contents.**

(a) The ~~controller~~ license administrator shall issue all licenses in the name of the city, ~~with the controller's official seal affixed thereon.~~

(b) All licenses shall be granted and accepted as temporary privileges, and a license shall not confer any property or other rights not specifically provided in Title IV of this Code on any licensee. All licenses and temporary privileges associated therewith shall be subject to regulation, suspension and revocation under this title whenever the mayor, the council or the ~~controller~~ license administrator deems the public welfare to require such regulation, suspension or revocation.

(c) All licenses shall contain, at a minimum, the following information:

(1) The name of the licensee, and any other name in which the business is to be conducted;

(2) The business address of the licensee, and the location of the licensed business, if any;

(3) The amount of the license fee;

(4) The date of issuance and date of expiration of the license; and

(5) An identification number unique to each license.

SECTION 102. Sections 801-210 through 801-213, inclusive, of the "Revised Code of the Consolidated City and County," regarding general license procedures, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 801-210. Denial of license; notification; refund of fee.**

(a) Whenever an application for a license or renewal of a license is denied, the ~~controller~~ license administrator shall give the applicant or licensee written notice of the denial. The notice shall state the reason or reasons for the denial, and inform the applicant or licensee of the following:

(1) The right to request a ~~controller's~~ license administrator's hearing, and the time limitations in which to do so; and

(2) The right to appeal the decision to the ~~license review~~ board of code enforcement, and the time limitations in which to do so.

(b) Whenever an application for a license or renewal of a license is denied, the license fee paid in advance shall be refunded upon demand.

**Sec. 801-211. License renewal.**

The ~~controller~~ license administrator may give written notice to a licensee of the expiration date of the license, and provide the licensee an application and a statement of the license fees and other charges ~~which that~~ which that are due if the license is to be renewed. The term of a license ~~which that~~ which that has been renewed shall commence upon the expiration of the preceding license term.

**Sec. 801-212. Notification by licensee of cessation of business.**

For each license or registration ~~which that~~ which that the ~~controller~~ license administrator may renew automatically and without application for renewal, the licensee or registrant thereof shall give written notice to the ~~controller~~ administrator if the licensed or registered business ceases to operate.

**Sec. 801-213. Notification by ~~controller~~ license administrator; manner of service.**

(a) Whenever the ~~controller~~ license administrator is authorized or required to give notice under Title

IV of this Code, the ~~controller~~ license administrator shall cause personal service of all notices and orders to be made on the applicant or licensee either by personal delivery or by registered or certified mail, return receipt requested. The return of any such notice sent by United States mail, registered or certified, but unclaimed, shall constitute service of the notice.

(b) In the absence of service or refusal of service by an applicant or licensee, a copy of the notice may be affixed to some structure on the premises identified in the applicant's or licensee's application, where it may be readily found, or it may be delivered to any agent of the applicant or licensee upon the premises or to any adult occupant thereof, and the applicant or licensee shall be bound thereby.

SECTION 103. Sections 801-301, 801-302, and 801-303 of the "Revised Code of the Consolidated City and County," regarding general license requirements, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 801-301. License required; evidence of doing business; applicability to nonresidents.**

(a) It shall be unlawful for a person, either directly or indirectly, to conduct or maintain any business or premises for which a license is required by this Code, unless a valid license has been obtained therefor from the ~~controller~~ license administrator and kept in effect at all times. No person shall operate, or permit another to operate on the person's behalf or on the person's premises, any business the license for which is suspended, revoked or expired.

(b) For purposes of this section, the following shall constitute prima facie evidence of a person conducting or maintaining such a business or premises:

- (1) The placement or permitting of any sign or notice on, near or within any premises;
- (2) The publication of the opening or conduct of business by advertisement in any newspaper or other publication, or by any poster, circular, letter or card, or by any other method of attracting public notice; or
- (3) The solicitation of business in any manner.

(c) Notwithstanding the requirements of subsection (a) of this section, no license shall be required of a person for the mere delivery in the city of any property purchased or acquired in good faith from such person at such person's regular place of business outside the city, and where no intent by such person or the purchaser to evade the provisions of this Code is shown to exist.

**Sec. 801-302. Separate license required for separate locations.**

Whenever a license is issued for a business to be conducted in a fixed, or certain, location, the licensee shall not conduct that business in a different location in the city without first having obtained a separate license therefor from the ~~controller~~ license administrator.

**Sec. 801-303. Duties of licensees.**

- (a) All licenses shall be issued upon the condition that the licensee shall:
- (1) Permit inspections of the licensed business and premises by the division of inspections and other public authorities acting pursuant to law;
  - (2) Conduct and maintain the licensed business and premises in such a manner that they will not create a nuisance or become inimical to the public welfare;
  - (3) Comply with all laws, statutes, ordinances, and regulations promulgated thereunder, as well as any orders and decisions of public officials ~~which~~ that pertain to the licensed business or premises;
  - (4) Not permit any illegal activity to take place on the licensee's premises or in the conduct of the

licensed business; and

- (5) Provide the ~~controller~~ license administrator with written notice of any additions or changes in the information given in the license application.

(b) Any violation of the conditions listed in this section shall be cause for suspension or revocation of the license under Article IV of this chapter.

SECTION 104. Sections 801-305 through 801-309, inclusive, of the "Revised Code of the Consolidated City and County," regarding general license requirements, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 801-305. Inspection of licensed premises.**

(a) The ~~controller~~ license administrator may have licensed businesses inspected by ~~the controller's employees or the~~ employees of the division of inspections or other departments or divisions of the city government to determine if the licensee is in violation of any requirement imposed by law.

(b) All employees of the city who have been authorized by the ~~controller~~ license administrator to make inspections may enter any place of business of a licensee for that purpose at a reasonable time and in a reasonable manner.

(c) It shall be unlawful for a person to prevent or deny an inspection authorized under this section.

(d) With respect to licensed businesses, all violations of law observed during the course of an inspection or observed by a policeman, fireman, health inspector or other city official during the course of such person's employment, shall be reported immediately to the ~~controller~~ license administrator.

**Sec. 801-306. Change of business location.**

During the term of a license ~~which that~~ designates a specific location for a business, the licensee may make written application to the ~~controller~~ license administrator to conduct the business at a location other than the location when the license was issued. The ~~controller~~ license administrator shall treat the application in the same manner as an initial license application and shall grant or deny the request based on the same considerations that are used in the instance of an initial application.

**Sec. 801-307. Transfer of license to another person.**

(a) A license may be transferred to a person other than the licensee only as provided in this section.

(b) Except where otherwise expressly provided, a licensee may request that the ~~controller~~ license administrator transfer the licensee's license to another person for the remainder of the license term. The ~~controller~~ license administrator shall treat the application in the same manner as an initial license application, and shall grant or deny the request based on the same considerations that are used in the instance of an initial application.

**Sec. 801-308. Insignia--Display; replacement; surrender.**

(a) Except where otherwise expressly provided, all insignia issued by the ~~controller~~ license administrator shall be posted and maintained in a conspicuous place at the location where the licensed business is conducted.

(b) If any insignia is lost, destroyed or defaced, the ~~controller~~ license administrator shall issue a duplicate, upon application of the licensee.

(c) Immediately upon the expiration, suspension or revocation of a license, all related insignia shall be surrendered to the ~~controller~~ license administrator.

**Sec. 801-309. Insignia--Unlawful possession; alteration or forgery.**

(a) It shall be unlawful for a person to possess any license insignia unless that person is the licensee or an agent of the licensee.

(b) It shall be unlawful for a person to alter or forge an insignia issued by the ~~controller~~ license administrator.

SECTION 105. Sections 801-412 and 801-413 of the "Revised Code of the Consolidated City and County," regarding suspension and revocation of licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 801-412. Suspension and revocation of licenses.**

(a) In addition to any other reasons provided in Title IV of this Code, the ~~controller~~ license administrator may suspend or revoke a license if the licensee has:

- (1) For any reason ceased to be qualified to receive or maintain a license;
- (2) Engaged in conduct or committed an offense ~~which~~ that reflects on the licensee's fitness to hold a license; or
- (3) Violated any law, ordinance, regulation, order or decision of a public official pertaining to the licensed business and premises.

(b) The ~~controller~~ license administrator shall not suspend or revoke a license under this section without first holding a ~~controller's license administrator's~~ license administrator's hearing to investigate and examine the qualifications and conduct of the licensee. The ~~controller~~ license administrator shall serve notice of and conduct the hearing according to the provisions of Division 2 of this article.

(c) Under this section, a license suspension shall be in effect on the date or dates stated in the ~~controller's license administrator's~~ license administrator's decision, and a license revocation shall become effective on the date the ~~controller's license administrator's~~ license administrator's decision is issued.

**Sec. 801-413. Emergency suspension by the ~~controller~~ license administrator.**

(a) Notwithstanding the provisions of section 801-402 of this chapter, if the ~~controller~~ license administrator:

- (1) Receives reliable information that:
  - a. The conduct of the licensed business or the condition of the associated premises creates or maintains a condition inimical to the public welfare; or
  - b. The licensee is charged in any court with an offense ~~which~~ that reflects on the licensee's fitness to hold a license; and
- (2) Finds that an emergency exists;

then the ~~controller~~ license administrator temporarily may suspend the license of that licensee without a hearing. The ~~controller~~ license administrator shall notify the licensee of the emergency temporary suspension. The notice shall also inform the licensee of a ~~controller's license administrator's~~ license administrator's hearing to be held within ten (10) business days of the issuance of the emergency temporary suspension.

(b) Upon written application of the licensee prior to the ~~controller's license administrator's~~ license administrator's hearing scheduled under subsection (a) of this section, the ~~controller~~ license administrator shall set a ~~controller's license administrator's~~ license administrator's hearing to be held within the two (2) business days following the ~~controller's license administrator's~~ license administrator's receipt of that written application. The hearing shall be conducted under the procedures established under Division 2 of this article.

(c) If the ~~controller~~ license administrator fails for any reason to timely schedule and conduct a ~~controller's~~ license administrator's hearing as required by this section, the emergency temporary suspension of the license shall terminate; however, the ~~controller~~ license administrator may proceed to suspend or revoke the license under the procedures of section 801-402 of this chapter.

SECTION 106. Division 2 and Division 3 of Chapter 801, Article IV, of the "Revised Code of the Consolidated City and County," regarding controller's hearings and the license review board, respectively, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

DIVISION 2. ~~CONTROLLER'S~~ LICENSE ADMINISTRATOR'S HEARINGS

**Sec. 801-421. Hearing requested by applicant or licensee; time limitation.**

Except where otherwise expressly provided, in order to exercise the right to a ~~controller's~~ license administrator's hearing as provided in this chapter, the affected applicant or licensee must submit a written request therefor to the ~~controller~~ license administrator within ten (10) days following the issuance of the notice of the ~~controller's~~ license administrator's decision. The request shall be delivered to the ~~controller~~ license administrator by registered or certified mail, return receipt requested, or by personal service with a signed receipt.

**Sec. 801-422. Notice of hearing.**

(a) Whenever the ~~controller~~ license administrator receives a proper request for a hearing from an applicant or licensee, or otherwise determines a need for a ~~controller's~~ license administrator's hearing, the ~~controller~~ license administrator shall cause written notice to be served on the affected applicant or licensee, with a copy of the notice served on each person the ~~controller~~ license administrator knows has a complaint or relevant information regarding the applicant or licensee and wishes to present that complaint or information at a ~~controller's~~ license administrator's hearing.

(b) The notice shall be served in the manner provided by this chapter, and shall contain the following information:

- (1) The date the notice is issued;
- (2) The date, time and place of the hearing;
- (3) The purpose of the hearing, including any adverse determination ~~which that~~ could result therefrom;
- (4) Identification of any written materials ~~which that~~ have been received by the ~~controller~~ license administrator and may be considered at the hearing;
- (5) A statement that a person may be represented at the hearing by legal counsel, and if the licensee or other person is a corporation, it can participate in the hearing only through its attorney or through an officer of the corporation who has been authorized by the corporation to represent it; and
- (6) A statement that the hearing will be conducted as an administrative hearing in an informal manner and not subject to the strict rules of evidence or trial procedure.

**Sec. 801-423. Hearing procedures.**

The ~~controller~~ license administrator shall preside over and conduct the hearings in an informal manner, giving the affected applicant or licensee and any other person who has relevant information an opportunity to participate to the extent necessary to provide due process and full consideration of all facts and issues. The ~~controller~~ license administrator may require that testimony be given under oath.

**Sec. 801-424. Decision of the controller license administrator.**

Following a hearing, the controller license administrator shall cause written notice of the controller's license administrator's decision to be served on the licensee in the manner provided by this chapter. If the decision is adverse to the applicant or licensee, the decision shall include the following:

- (1) The factual and legal basis for the decision; and
- (2) A statement of the licensee's right to appeal the decision to the license review board of code enforcement, and the time limitations in which to do so.

**Sec. 801-425. Costs.**

If after a controller's license administrator's hearing a license is revoked or a suspension is imposed or continued, the licensee shall pay to the city the cost of all hearings in connection with such revocation or suspension. The controller license administrator shall determine the costs incurred by the city for such hearings, including, but not limited to court reporter's fees, the costs of transcripts or reports, attorneys' fees, the cost of preparing and mailing notices and orders, and all other miscellaneous expenses. Such costs shall be paid to the city within thirty (30) days of notice thereof.

**Sec. 801-426. Suspended licenses.**

Following a controller's license administrator's hearing, if the controller license administrator issues a ruling imposing or continuing a suspension of a license, the suspension shall be for a specified minimum period of time, during which it shall be unlawful for the licensed activity to be conducted. Following the suspension period, the license may not be reinstated except upon written application for reinstatement by the licensee, and upon the controller license administrator finding that the licensee is in compliance with all requirements for the license. A request for reinstatement shall be processed on the same terms and conditions as an original application for a new license.

DIVISION 3. LICENSE REVIEW BY THE BOARD  
OF CODE ENFORCEMENT

**Sec. 801-431. Composition Jurisdiction.**

~~There is hereby created the license review board, which shall be composed of three (3) members. With respect to the matters presented as provided in this division, the board of code enforcement shall have jurisdiction throughout the consolidated city and county. The members of the board shall be appointed by the mayor, and shall serve at the pleasure of the mayor; no members of the board shall otherwise be employed by the city or county.~~

**Sec. 801-432. Compensation of members Composition of the board for license hearings.**

~~Members of the board shall receive no compensation for their services as such. In all instances where this code provides that a decision of the license administrator or other official may be appealed to the board of code enforcement, the board shall act by and through a committee. At its first meeting each calendar year, the board of code enforcement shall:~~

- (1) Elect three (3) of its members, not including the chairman of the board, to constitute a committee for the purpose of hearing such appeals; and
- (2) Elect one of the committee members to serve as the chairperson.

The actions of the committee with respect to an appeal of a decision of the license administrator or other official shall constitute final action of the entire board of code enforcement without any further action, review or approval by the board.

**Sec. 801-433. Chairperson; mMeetings; quorum.**

(a) ~~The members of the board annually shall elect a chairperson, who may be reelected.~~

~~(b) The board committee established under this division shall meet annually by January 31 of each year in order to elect a chairperson. The upon call of the committee chairperson of the board shall call additional meetings of the board as required to hear appeals, and otherwise as needed.~~

~~(c) Two (2) members of the committee shall constitute a quorum. To pass a motion or determination, a quorum of the board committee must vote in favor thereof.~~

**Sec. 801-434. Right to appeal to the board; time requirement.**

(a) Whenever an applicant or licensee wishes to appeal a decision of the ~~controller~~ license administrator not to issue or renew a license, or to suspend or revoke a license, the applicant or licensee shall first appeal the ~~controller's~~ license administrator's decision to the ~~license review board of code enforcement~~.

(b) The applicant or licensee shall deliver a written notice of appeal to the ~~controller~~ license administrator, either by registered or certified mail, return receipt requested, or by personal service with a signed receipt. If the notice is not delivered to the ~~controller~~ license administrator within twenty (20) days after the date of issuance of the decision from which the appeal is taken, then the applicant or licensee shall forfeit the appeal.

**Sec. 801-435. Hearing procedures.**

(a) Upon receipt of a notice of appeal, the ~~controller~~ license administrator shall notify the chairperson of the ~~license review board~~ committee established under section 801-432, who shall schedule a hearing and notify the applicant or licensee and the ~~controller~~ license administrator of the hearing date, time, and place at least twenty (20) days prior to the hearing.

(b) All hearings shall be conducted by the committee chairperson in the manner prescribed by the Administrative Adjudication Act (IC 4-21.5-3-1 through 4-21.5-3-37), and the determination of the board shall be subject to judicial review as provided in that act.

(c) The applicant or licensee shall bear the burden of proof that the ~~controller's~~ license administrator's decision should be vacated because it was either unlawful, based upon an incorrect or incomplete factual record, or otherwise an abuse of the ~~controller's~~ license administrator's discretion. The ~~controller~~ license administrator or some person appointed by the ~~controller~~ license administrator may present evidence at the hearing ~~which that~~ supports the ~~controller's~~ license administrator's decision.

**Sec. 801-436. Notification of board's determination.**

Within thirty (30) working days following the close of a ~~license review board~~ hearing by the committee established under section 801-432, the ~~board~~ committee shall make a written determination ~~which that~~ either affirms or vacates the ~~controller's~~ license administrator's decision, and ~~which that~~ includes the date of the determination and a statement of the reasons therefor. The ~~board's~~ committee's determination shall be delivered to the applicant or licensee, and a certified copy shall be delivered to the ~~controller~~ license administrator who shall keep all ~~board~~ committee determinations on file in the ~~controller's~~ license administrator's office.

SECTION 107. Sections 807-202, 807-203, and 807-204 of the "Revised Code of the Consolidated City and County," regarding adult entertainment licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 807-202. License required.**

(a) It shall be unlawful for any person to maintain or operate an adult entertainment business in the city without first obtaining a license therefor from the ~~controller~~ license administrator.

(b) A license granted pursuant to this section shall be subject to annual renewal upon the written

application of the applicant and a finding by the city that the applicant is in compliance with all of the provisions of this chapter. The renewal of the license shall be subject to the payment of the fee as set forth in section 807-203 of the Code.

**Sec. 807-203. License fee.**

The annual license fee shall be for the period of January first to December thirty-first and shall be ~~seventy-five dollars (\$75.00) for each business location~~ provided in section 131-501 of the code.

**Sec. 807-204. Application for license.**

(a) All applications for licenses shall be made to the ~~controller~~ license administrator. The application for a license required by this article shall include the following information:

- (1) Name and business address of the applicant;
- (2) The name and address of the business;
- (3) Telephone number of the applicant;
- (4) The state of incorporation (where applicable);
- (5) The names of partners or corporate officers (where applicable);
- (6) The registered agent, his or her address, and the principal office of the corporation (where applicable);
- (7) The length of time the business has been in Indianapolis;
- (8) Any previous location or location change of the business within two (2) years;
- (9) The applicant's citizenship;
- (10) Whether or not the applicant or any partner or corporate officer for the applicant business has ever been denied a license, had a license revoked or suspended;
- (11) Whether all city, county and state taxes have been paid;
- (12) The seating capacity of the establishment; and
- (13) The number of business locations, stages, motion picture or video screens, closed circuit televisions and motion picture or video screens, projectors or other image-producing devices.

(b) The application shall be signed and sworn to be true and correct by the applicant.

(c) Where a person seeks a license to operate an adult entertainment business, the applicant may begin operating the facility forty-five (45) days after submitting a completed application, even in those instances when the ~~controller~~ license administrator denies the request to issue a license, except as otherwise set forth in this paragraph. The ~~controller~~ license administrator shall have forty-five (45) days in which to determine whether to issue a license. If the ~~controller~~ license administrator fails to act by either granting or denying the license within forty-five (45) days, the license shall be granted by operation of law. If the ~~controller~~ license administrator denies the request to issue a license, the ~~controller~~ license administrator shall issue a conditional license to operate if a timely petition for judicial review is filed within ten (10) days of receipt of notice of the ~~controller's~~ license administrator's decision. Such a conditional license shall operate in all respects as a license until judicial review is completed by a trial court of competent jurisdiction. A conditional license shall not permit the applicant to operate in violation of any other ordinance or law. In particular, the applicant shall not operate in violation of any zoning requirement set forth in section 732-216 of the Code.

(d) During the term of a license under this chapter, a licensee shall provide the ~~controller~~ license administrator with written notice of any additions or changes in the information given in the license application.

SECTION 108. Sections 807-206 and 897-207 of the "Revised Code of the Consolidated City and County," regarding adult entertainment licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 807-206. Grounds for suspension or revocation; ~~controller's~~ license administrator's hearing.**

(a) A license granted under this article may be suspended or revoked for any reason an application for renewal may be denied under section 807-205 of this Code, or if the licensee:

- (1) Conducts the business or maintains the premises in such a manner as to create a nuisance to the public;
- (2) Knowingly permits any illegal conduct or practice to take place on the business premises or in the conduct of the business; or
- (3) Violates the premises requirements or operational requirements provided in section 807-301 or section 807-302 of this Code.

(b) A suspension or revocation of a license under this chapter shall not be made without first holding a ~~controller's~~ license administrator's hearing under the procedures provided in Chapter 801, Article IV, Division 2 of this Code.

**Sec. 807-207. Judicial review of denial, suspension or revocation.**

(a) A denial of an application for a license or for renewal of a license under this chapter shall not be subject to administrative review under the procedures provided in Chapter 801, Article IV, Divisions 2 and 3 of this Code, but in the alternative may be appealed to the Marion Superior Court.

(b) A suspension or revocation of a license under this chapter shall not be subject to administrative review under the procedures provided in Chapter 801, Article IV, Division 3 of this Code, but in the alternative may be appealed to the Marion Superior Court.

(c) The appeal of a denial, suspension or revocation under this chapter shall be subject to the same rules and procedures, and shall be conducted in the same manner, as prescribed for judicial review under Indiana Code Chapter 4-21.5-5, as the same shall be amended from time to time; provided, however, that notwithstanding the provisions of those statutes, the following requirements apply to a petition for judicial review filed under this chapter:

- (1) The petition must be filed within ten (10) days of the issuance of the ~~controller's~~ license administrator's decision; and
- (2) Within fourteen (14) days from the date the city was served with the petition, the ~~controller~~ license administrator shall prepare the city's record for the petitioner to transmit to the court.

SECTION 109. Sections 807-301 and 807-302 of the "Revised Code of the Consolidated City and County," regarding adult entertainment license regulations, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 807-301. Premises requirements.**

(a) It shall be unlawful to own or operate an adult entertainment business that is not in compliance with the requirements stated in this section, provided that adult entertainment businesses in operation on the effective date of this ordinance shall have sixty (60) days from such effective date to come into compliance with subsections (b) through (h) of this section.

(b) Upon application for an adult entertainment business license or a renewal of such a license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The ~~controller~~ license administrator may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since the diagram was prepared.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the ~~controller~~ license administrator.

(d) Restrooms may not contain video reproduction equipment.

(e) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (b) of this section.

(f) Except for those premises identified in sections 807-105, 807-108, 807-109, and 807-111 of the Code and those premises identified in subsection (h) of this section, the premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than ten (10) foot candles as measured at the floor level. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described in this subsection is maintained at all times that any patron is present in the premises.

(g) All locational requirements of this section must be approved or denied by the ~~controller~~ license administrator within forty-five (45) days from the time the application is filed.

(h) With respect to an adult entertainment business that has individual booths:

(1) Each booth shall have a rectangular shaped entranceway of not less than two (2) feet wide and six (6) feet high;

(2) There shall be no door, curtain or other obstruction blocking or closing off such entranceway so as to obstruct the visibility of a patron;

(3) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises;

(4) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station. Viewing booths must be separated at least twelve (12) inches from the exterior walls of any other viewing booths by open space; and

(5) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than ten (10) foot

candles as measured at the floor level. However, if a lesser level of illumination shall be necessary to enable a patron to view the adult entertainment in a booth, a lesser amount of illumination may be maintained in the booth, provided, however, at no time shall there be less than two (2) foot candles of illumination, as measured from the floor. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described in this subsection is maintained at all times that any patron is present in the premises.

(i) A person having a duty under subsections (b) through (h) of this section commits a violation if he or she knowingly fails to fulfill that duty.

**Sec. 807-302. Operational requirements.**

(a) It shall be unlawful to own or operate an adult entertainment business that is not in compliance with the requirements stated in this section.

(b) An adult entertainment business shall be kept in a sanitary condition at all times. As a condition of licensure under this chapter, the ~~controller~~ license administrator or ~~controller's license administrator's~~ designee shall have the right to enter any licensed premises during business hours without notice to insure compliance with this chapter, and it shall be unlawful for a person to prevent or deny any such entry. The ~~controller~~ license administrator shall have the power to determine if such business is in a sanitary condition. For such purpose, the ~~controller~~ license administrator shall have, upon demand, the assistance of the administrator of the division of ~~compliance of the department of metropolitan development~~ inspections, and the Health and Hospital Corporation of Marion County. If the ~~controller~~ license administrator shall determine, after investigation by the division of ~~development services~~ inspections or the Health and Hospital Corporation of Marion County, that an unsanitary condition exists within an adult entertainment business, the ~~controller~~ license administrator shall suspend the license for such premises until such unsanitary condition is rectified.

(c) No licensee under this article, or his or her employee, shall violate any state statute or city ordinance, or allow any other person to commit such a violation, within such business or on parking areas or other property immediately adjacent to or normally used for purposes of parking for such business, which property is under the control of the business owner or owners or their lessee or lessor.

(d) Adult entertainment businesses shall not be open between the hours of midnight and 10:00 a.m. and shall not be open on Sundays.

SECTION 110. Sections 831-1 through 831-5, inclusive, of the "Revised Code of the Consolidated City and County," regarding amusement machine location licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 831-1. Definitions.**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

*Accompanied by* means, for purposes of subsections 831-5(h), 831-5(i), 831-5(j), 831-6(f), 831-6(g), and 831-6(h), means that the parent, guardian, or custodian of the minor either:

- (1) Is within five (5) feet of the minor at all times while the minor is operating the amusement machine; or,
- (2) Has appeared in person with the minor at the amusement location or place of business containing amusement machines on that day and has given his or her permission for the exhibitor or registrant or an employee of the exhibitor or registrant to place on the back of the minor's hand or wrist a clearly visible, non-transferable designation such as a stamp or wrist band signifying that the parent, guardian, or custodian has consented to allow the minor to operate amusement machines that are harmful to minors.

*Amusement location* means any public room or area in the city ~~which~~ that contains five (5) or more

amusement machines; however, amusement locations shall not include premises ~~which~~ that are licensed (as defined in IC 7.1-1-3-20) for the sale of alcoholic beverages and where entry is limited to persons who are eighteen (18) years of age or older.

*Amusement machine* means a currency-operated machine or device, including a machine or device operated by tokens, cards, points, or other currency-like means, offered to the public as a game or amusement, the object of which is to achieve a high or low score based on the skill of the player, including, but not limited to, video games, pool or billiard tables and pinball machines. Such a machine or device designed and used exclusively for the vending of merchandise of a tangible nature shall not be deemed an amusement machine.

*Exhibitor* means a person who owns or operates a place of business in the city where four (4) or fewer amusement machines are located; however, the provisions of this chapter shall not apply to an exhibitor's place of business ~~which~~ that is licensed (as defined in IC 7.1-1-3-20) for the sale of alcoholic beverages and where entry is limited to persons who are eighteen (18) years of age or older.

*Graphic violence* means an amusement machine's visual depiction or representation of realistic serious injury to a human or human-like being where such serious injury includes amputation, decapitation, dismemberment, bloodshed, mutilation, maiming or disfiguration.

*Harmful to minors* means an amusement machine that predominantly appeals to minors' morbid interest in violence or minors' prurient interest in sex, is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for persons under the age of eighteen (18) years, lacks serious literary, artistic, political or scientific value as a whole for persons under the age of eighteen (18) years, and:

- (1) Contains graphic violence; or,
- (2) Contains strong sexual content.

*Incidental view* means a minor's view for fewer than thirty (30) seconds of the playing surface or screen of an amusement machine.

*Knowingly* means having general knowledge of, or reason to know, or a belief or ground for belief that warrants further inspection or inquiry of both:

- (1) The character and content of the visual representations of the amusement machine; and,
- (2) The age of the person operating or seeking to operate the amusement machine, provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt (including but not limited to asking for legal photo identification) to ascertain the true age of the minor.

*Minor* means a person under the age of eighteen (18) years. This definition does not apply to a minor who has obtained a court decree pursuant to IC 31-34-20-6.

*Not harmful* means an amusement machine that is not harmful to minors.

*Nudity* means an amusement machine's visual depiction or representation of human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or of a female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernibly turgid state.

*Parent, guardian or custodian* means and includes a person who has legal custody of the minor and is the minor's:

- (1) Natural parent;
- (2) Stepparent, adoptive parent or custodian as those terms are defined by IC 35-42-4-7;

- (3) Guardian as defined by IC 29-3-1-6; or
- (4) Other adult who has been appointed by a court to care for a minor;

but, for purposes of subsections 831-5(e), 831-5(f) and 831-5(g) and subsections 831-6(c), 831-6(d) and 831-6(e), shall not include an exhibitor, or owner or operator of an amusement location with respect to a minor who is present in the exhibitor's, owner's or operator's place of business.

*Pool or billiard table* means a table used for any form of the games commonly referred to as pool or billiards and includes any table of any size, the top of which is surrounded by an elastic ledge or cushion and ~~which~~ is designed or used to play any game ~~which~~ that consists of impelling balls by means of sticks or cues.

*Public property* means all buildings and areas within Marion County that are owned, operated, or leased as lessee, by the City of Indianapolis, Marion County, a city or county department, a city-county agency, or a township, including but not limited to the Department of Parks and Recreation, but does not include property for which the City of Indianapolis, Marion County is the lessor.

*Registrant* in this chapter means a person registered with the ~~controller~~ license administrator under this chapter as the owner or operator of an amusement location in the city.

*Strong sexual content* means the visual depiction or representation by an amusement machine of nudity or explicit human sexual behavior by any human or human-like being in one or more of the following forms: Masturbation; deviate sexual conduct; sexual intercourse; or, fondling of genitals.

**Sec. 831-2. Registration required; fee.**

(a) It shall be unlawful for a person to own or operate an amusement location in the city unless the amusement location first is registered with the ~~controller~~ license administrator. The registrant under this chapter shall be the operator or business owner of the amusement location.

(b) The annual fee for registration of an amusement location shall be ~~twenty dollars (\$20.00)~~ provided in section 131-501 of the code.

**Sec. 831-3. Registration information required; investigation of applicant; report of changed information.**

(a) The registration of an amusement location shall be filed with the ~~office of finance and management~~ bureau of license and permit services on a form provided by that office, contain the following information, and be verified and signed individually by the registrant:

- (1) The name of the registrant and, if a partnership or corporation, the state in which organized;
- (2) The residence address of registrant;
- (3) The business address of registrant;
- (4) The name, age and citizenship of the registrant, if an individual; of all partners, if the registrant is a partnership or joint venture; or of the manager and officers, if the registrant is a corporation; and
- (5) A description of each amusement machine in the amusement location, including the manufacturer, serial number, and name of the owner of each amusement machine.

(b) Before a certificate of registration is issued, the ~~controller~~ license administrator shall investigate the character of the registrant or registrants, and the officers or general manager of the business. The registration may be denied if the ~~controller~~ license administrator finds that any of the persons named in the registration previously have been convicted of a felony, connected with any amusement location where any of the provisions of the law applicable to such persons have been violated.

(c) If there is any change in the registrant's business during the term of the registration such that the information provided in the application form is no longer complete or accurate, including the addition or removal of an amusement machine in the amusement location, then the registrant shall:

- (1) Notify the ~~controller~~ license administrator in writing within ten (10) days after such change occurs; and
- (2) Retain a copy of each written notice throughout the term of the registration.

Failure to comply with this subsection shall be a violation of the Code.

**Sec. 831-4. Registration term and renewal; certificate of registration.**

(a) Registrations of amusement locations shall be valid for the period of one (1) year, from July ~~first 1~~ to June ~~thirtieth 30~~, and shall be renewed automatically by the ~~controller~~ license administrator and without application for renewal by the registrant, unless at the time of renewal:

- (1) The registration has been revoked or suspended;
- (2) The registration is the subject of administrative or judicial proceedings ~~which that~~ have the potential to result in the revocation or suspension of the registration, in which case the registration may continue in effect until the conclusion of the administrative or judicial proceedings; or
- (3) The registrant has not paid the registration fee for the following year.

(b) When an amusement location is registered, the ~~controller~~ license administrator shall issue to the registrant a certificate of registration.

**Sec. 831-5. Operation of amusement locations; violations.**

(a) All amusement locations shall be kept in a clean, healthful and sanitary condition at all times and the ~~controller~~ license administrator shall have the power to determine if such room or rooms are kept in a clean, healthful and sanitary condition and for such purpose, when desired, have the assistance of any law enforcement agency or the Health and Hospital Corporation of Marion County. If the ~~controller~~ license administrator shall determine, by a law enforcement agency or the division of buildings of the Health and Hospital Corporation of Marion County, that an unsanitary condition exists within an amusement location or on property immediately adjacent to the amusement location, which property is under the control of the amusement location owners or their lessee or lessor, the ~~controller~~ license administrator shall have the power to suspend the amusement location registration until such unsanitary condition is rectified.

(b) No registrant under this chapter shall permit persons to congregate in a disturbing manner within an amusement location or on parking areas or other property immediately adjacent to or normally used for purposes of parking for an amusement location, which property is under the control of the amusement location owner or owners or their lessee or lessor. A violation of this provision shall be sufficient grounds for the revocation of the amusement location registrations by the ~~controller~~ license administrator.

(c) No registrant under this chapter, or registrant's employee, shall violate any state statute or city ordinance, or allow any other person to commit such violation, within an amusement location or on parking areas or other property immediately adjacent to or normally used for purposes of parking for an amusement location, which property is under the control of the amusement location owner or owners or their lessee or lessor. A violation of this provision shall be sufficient grounds for the revocation of the amusement location registrations by the ~~controller~~ license administrator.

(d) All employees of a registrant under this chapter shall be eighteen (18) years of age or older.

(e) It shall be unlawful for a person to allow a minor under sixteen (16) years of age who is subject to the compulsory school attendance laws of the state and who is not accompanied by the minor's parent,

guardian or custodian to be present in an amusement location between the hours of 7:00 a.m. and 3:30 p.m. on a day when such minor's school is in session.

(f) It shall be unlawful for a person to allow a minor to be present in an amusement location after the hours established by state statute or city ordinance for juvenile curfew unless such minor is accompanied by the minor's parent, guardian or custodian, or an adult specified by the minor's parent, guardian or custodian.

(g) It shall be unlawful for a person to operate an amusement location unless a sign is conspicuously posted inside the location ~~which~~ that provides that no minor under sixteen (16) years of age may be present in an amusement location between the hours of 7:00 a.m. and 3:30 p.m. on a day when the minor's school is in session unless accompanied by the minor's parent, guardian or custodian, and that no minor may be present in an amusement location in violation of the curfew established by state statute or city ordinance.

(h) It shall be unlawful for a registrant, a registrant's agent, or an employee of an amusement location knowingly to allow a minor who is not accompanied by the minor's parent, guardian or custodian to operate in the amusement location an amusement machine that is harmful to minors.

(i) It shall be unlawful for a registrant to operate an amusement location unless each amusement machine that is harmful to minors in the amusement location displays a conspicuous sign indicating that the machine may not be operated by a minor under eighteen (18) years of age unless the minor is accompanied by his or her parent, guardian, or custodian. If amusement machines that are harmful to minors are displayed together in an area separate from amusement machines that are not harmful, a single conspicuous sign in that area or at the entrance to that area may be used to mark the group of machines for purposes of this subsection.

(j) It shall be unlawful for a registrant to make available to patrons any amusement machine that is harmful to minors within ten (10) feet of an amusement machine that is not harmful. It shall further be unlawful for a registrant not to separate amusement machines that are harmful to minors from other machines by some form of partition, divider, drape, barrier, panel, screen, or wall that completely obstructs the view of persons outside the partitioned area of the playing surface or display screen of the machines that are harmful to minors. It shall be unlawful for a registrant, registrant's agent, or employee of an amusement location to allow a minor who is not accompanied by his or her parent, guardian, or custodian into the partitioned area.

(k) It shall be unlawful for a registrant to make available to patrons any amusement machine that is harmful to minors if the registrant has been cited for three (3) or more violations of section 831-5(h), (i), (j), or (k) of this Code in any 12-month period in the preceding three (3) years.

(l) One or more violations of section 831-5(h), (i), (j), or (k) of this Code may serve as grounds for suspension or revocation of the amusement location's registration, pursuant to the authority vested in the ~~controller~~ license administrator and procedures prescribed in chapter 801 of this Code. Three (3) or more violations of section 831-5(h), (i), (j), or (k) of this Code, however, shall require revocation of the amusement location's registration, subject to the notice and hearing requirements of chapter 801. For the purposes of this subsection, no more than one (1) violation shall be deemed to have occurred on any one (1) day.

**SECTION 111.** Section 831-8 of the "Revised Code of the Consolidated City and County" as amended by G. O. No. 47, 2009, regarding amusement machine location licenses, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 831-8. Inspections; report of violations.**

It shall be the duty of every law enforcement officer, and all persons designated by the chief of the Indianapolis metropolitan police department, county sheriff and ~~controller~~ division of inspections, to make frequent inspections of all amusement locations, and amusement machines, and if any gaming, improper or unlawful practices are observed to report the same to the chief of ~~the~~ such department or county sheriff for proper action and also to the ~~controller~~ license administrator, who thereupon may recommend

proceedings to revoke the registration.

SECTION 112. Sections 836-2 and 836-3 of the "Revised Code of the Consolidated City and County," regarding kennel, pet shop, and stable registrations, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 836-2. Registration required; fee.**

(a) It shall be unlawful for any person to own or operate a kennel, pet shop or stable within the city, unless the kennel, pet shop or stable, respectively, first is registered with the ~~controller~~ license administrator; however, the provisions of this section shall not be applicable to kennels operated by a veterinarian as a part of the veterinarian's medical clinic.

(b) Each kennel, pet shop or stable shall require only one (1) registration, although it may operate as more than one (1) type of facility.

(c) When a kennel, pet shop or stable is registered pursuant to this chapter, the ~~controller~~ license administrator shall issue a certificate of registration therefor.

(d) The annual fee for registration of a kennel, pet shop or stable shall be ~~twenty-five dollars (\$25.00)~~ provided in section 131-501 of the code.

**Sec. 836-3. Annual inspection; registration term; renewal.**

(a) Prior to the issuance of a certificate of registration or renewal of registration, the ~~controller~~ license administrator shall cause an inspection of the kennel, pet shop or stable to be made by the animal control division to determine whether the applicant or registrant is qualified under this chapter. The animal control division shall report its findings to the ~~controller~~ license administrator.

(b) Each kennel, pet shop or stable registration issued pursuant to this chapter shall be valid for a period of one (1) year. If the ~~controller~~ license administrator determines that the registrant remains qualified and has operated as required by this chapter, the ~~controller~~ license administrator shall renew the registration automatically and without application for renewal by the registrant, unless at the time of renewal:

- (1) The registration has been revoked or suspended;
- (2) The registration is the subject of administrative or judicial proceedings ~~which~~ that have the potential to result in the revocation or suspension of the registration, in which case the registration may continue in effect until the conclusion of the administrative or judicial proceedings; or
- (3) The registrant has not paid the registration fee for the following year.

SECTION 113. Section 836-5 of the "Revised Code of the Consolidated City and County," regarding kennel, pet shop, and stable registrations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 836-5. Requirements for kennels, pet shops and stables; enforcement.**

(a) In addition to the registration required by this chapter, all kennels, pet shops and stables in the city shall:

- (1) Be operated in such a manner as not to constitute a nuisance;
- (2) Provide an isolation ward for boarded animals ~~which~~ that are sick or diseased, sufficiently removed so as not to endanger the health of other animals;
- (3) Keep all boarded animals caged or under the control of the owner or operator of the kennel, pet shop or stable;

- (4) With respect to all animals in the kennel, pet shop or stable, comply with all the requirements of the Code for the general care of animals; and
  - (5) Comply with all applicable federal, state and local laws, and all applicable regulations adopted by the city department of public safety.
- (b) The owner or operator of all kennels and pet shops in the city shall:
- (1) At the time of purchase, notify the purchaser of all state and local laws ~~which~~ that require an animal kept in the city to be vaccinated;
  - (3) Retain the name, address and telephone number of the owner of each dog or cat boarded, and retain the name and address of each person selling, trading or giving any animal to the kennel or pet shop; and
  - (5) Not sell animals ~~which~~ that are unweaned or so young or weak that their sale would be injurious to the animals.
- (c) The provisions of this section shall be enforced by the ~~controller~~ license administrator, and by the animal control division as provided in Article VI of Chapter 531 of the Code.

SECTION 114. Sections 875-101 and 875-102 of the "Revised Code of the Consolidated City and County," regarding contractor license requirements and the board of contractors, respectively, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-101. Definitions; contractor licenses Required.**

(a) Definitions. The terms used in this chapter shall have the meanings ascribed to them in section 536-111 of the Code.

(b) Contractor licenses required.

(a) Any person, partnership or corporation ~~which~~ that has entered into a contractual relationship to engage in any construction, land alteration (as defined in section 561-109 of this Code), sewer work (as defined in section 671-2 of this Code), driveway work (as defined in section 645-421 of this Code) or excavation work (as defined in section 645-431 of this Code) with another person, partnership or corporation ~~which~~ that holds a property interest in the real estate on which such activity is occurring must be a listed contractor under this article. This requirement shall not apply, however, with reference to persons, partnerships or corporations ~~which~~ that are described in section 536-202(a)(2), (4) or (5) of this Revised Code and whose construction is confined to the activities described in those subsections.

(b) If a person, partnership or corporation that engages in any construction, land alteration (as defined in section 561-109 of this Code), sewer work (as defined in section 671-2 of this Code), driveway work (as defined in section 645-421 of this Code) or excavation work (as defined in section 645-431 of this Code) under more than one (1) business name, the person, partnership or corporation shall be required to have a separate listing under this article for each business name.

**Sec. 875-102. Board of contractors.**

A board of contractors (hereinafter in this article referred to as the "board") shall consist of eight (8) members and shall be responsible for carrying out the provisions of this article relative to listing of contractors. The license administrator shall be a nonvoting member of the board, ex officio. The seven (7) voting members of the board shall be appointed by the mayor for two-year terms in such manner that three (3) terms expire on January first of one (1) year and four (4) other terms expire on January first of the next year. Two (2) of the seven (7) members appointed by the mayor shall be persons representing the public at large and shall not be persons listed under this article, one (1) of whom shall be a licensed

engineer. All other members appointed by the mayor shall be persons listed in accordance with this article, who have at least five (5) years experience as a contractor. Each of the appointed members shall be a resident of the consolidated city. Members shall not receive compensation for serving on the board. Those members appointed by the mayor shall serve at his or her pleasure and shall hold no other elective or appointive office in the consolidated city.

SECTION 115. Section 875-104 of the "Revised Code of the Consolidated City and County," regarding meetings of contractor boards, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-104. Meetings of board.**

(a) The board shall hold regular meetings once each month in offices of the consolidated city if there is some official business to come before the board. Special meetings may be called by the chairman or any three (3) members upon giving written notice fixing the time and place of the meeting at least two (2) days in advance of the special meeting. Four (4) appointed members of the board shall constitute a quorum for the transaction of all business.

(b) At its annual meeting each January, the board shall promulgate written policies and regulations concerning the requirement that a contractor secure building permits stated in section 875-116.

(c) Such written ~~policies~~ policies and regulations shall be maintained and made available to the public through the offices of the ~~division of compliance~~ bureau of license and permit services.

SECTION 116. Section 875-107 of the "Revised Code of the Consolidated City and County," regarding qualifications to be listed as contractor, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-107. Qualifications for person, partnership or corporation to be listed as contractor.**

A person, partnership or corporation shall be entitled to receive a listing as a contractor if the following requirements are met:

- (1) An application form indicating the name, address and legal business status of the contractor has been submitted to the ~~division of compliance~~ bureau of license and permit services; ~~and~~
- (2) The listing fee specified in section 875-701 of this Revised Code has been paid; ~~and~~
- (3) A surety bond meeting the requirements of section 875-109 has been posted and certificates of insurance meeting the requirements of section 875-110 have been submitted, unless these requirements are relieved because a person meets the inspector status requirement stated in section 875-108; ~~and~~
- (4) The person, partnership or corporation does not presently have a listing issued under this article currently suspended, nor has it had such a listing revoked within a period of the preceding three hundred sixty-five (365) days; ~~and~~
- (5) The partnership does not presently have a partner or the corporation does not presently have an officer who has a listing under this article currently suspended or who has had such a listing revoked within the preceding three hundred sixty-five (365) days; ~~and~~
- (6) The partnership does not presently have a partner or the corporation does not presently have an officer who, within the preceding three hundred sixty-five (365) days, served as a partner in a partnership or an officer in a corporation listed under this article at the time when actions related to policies or practices of the partnership or corporation occurred ~~which~~ that provided a primary basis on which the listing of the partnership or corporation was revoked or suspended for more than one hundred eighty (180) days; and
- (7) The person, general partner of a partnership, or officer of a corporation attends an orientation

presented or approved by the board that provides general knowledge of the provisions of chapters 536 and 875 pertaining to building standards and procedures within sixty (60) days of the listing approval by the board.

Unless these requirements are met a person, partnership or corporation shall not be entitled to receive a listing as a contractor. No prerequisites other than the six (6) listed in this section shall be imposed in determining which persons, partnerships and corporations may be listed contractors.

SECTION 117. Sections 875-109, 875-110, and 875-111 of the "Revised Code of the Consolidated City and County," regarding contractor bonds, insurance, and approval for listing, respectively, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-109. Bond.**

(a) Before a listing is issued by the ~~division of compliance~~ bureau of license and permit services to any person, partnership or corporation, the license administrator shall require the applicant to file a surety bond in the amount of ten thousand dollars (\$10,000.00). Such a bond shall be maintained in full force and effect for the full period of the listing. The bond shall set forth the name, phone number and address of the agent representing the bonding company and shall be:

- (1) Issued by a surety authorized to do business in Indiana;
- (2) Payable to the Consolidated City of Indianapolis or an unknown third party as obligee; and
- (3) Conditioned upon:
  - a. Compliance with requirements set forth in this chapter ~~which that~~ must be met to retain listing and licensure; and
  - b. Prompt payment of all fees owed the consolidated city as set forth in this chapter, and Chapters 561, 645 and 671 of this Code; ~~and~~
  - c. Prompt payment to the Consolidated City of Indianapolis for any loss or expense for damages to property of the Consolidated City of Indianapolis caused by any action of the contractor, his or her agents, employees, principals, subcontractors, materialmen or suppliers in violation of requirements of state statute, city regulation or this Revised Code, which requirements must be met to properly carry out construction, a land alteration (as defined in section 561-109 of this Code), sewer work (as defined in section 671-2 of this Code), driveway work (as defined in section 645-421 of this Code) or excavation work (as defined in section 645-431 of this Code) while engaged in any construction, land alteration, sewer work, driveway work or excavation work; and
  - d. Prompt payment to a person, partnership or corporation ~~which that~~ is an unknown third party obligee for any:
    1. Losses arising out of violations;
    2. Expenses necessary to correct violations; and
    3. Court costs and attorney fees allowed by the court incurred in connection with the commencement and prosecution of a court action to recover such losses and expenses for violation of requirements of state statute, city regulation or this Revised Code, which requirements must be met to properly carry out construction, a land alteration, sewer work, driveway work, or excavation work on property of the unknown third party obligee, caused by any action of the contractor, his or her agents, employees, principals, subcontractors, materialmen or suppliers while engaged in any construction, land alteration, sewer work or driveway work. However, the surety is not responsible under the bond for losses or expenses arising out of negligent conduct or improper

workmanship unless such conduct or improper workmanship violates requirements of state statute, city regulation or this Revised Code, which requirement must be met to properly carry out construction, a land alteration, sewer work, driveway work, or excavation work.

(b) The license administrator of the division of compliance may accept in lieu of the surety bond a properly conditioned irrevocable letter of credit in the amount of ten thousand dollars (\$10,000.00) if the ~~city~~ controller approves the obligor financial institution as being financially responsible and if the corporation counsel approves the letter of credit as affording the same protections to the City of Indianapolis and an unknown third party as the protections afforded by the surety bond.

(c) The obligation of the surety and financial institution relative to this bond or letter of credit is limited to ten thousand dollars (\$10,000.00). A surety or financial institution may pay on the bond or disburse from the letter of credit to pay a claim in full at any time when that claim and pending claims (reflected by written notice to the surety or financial institution) together do not exceed the unpaid penalty of the bond or the undisbursed balance of the letter of credit. If written notice is received of claims ~~which~~ that exceed the unpaid penalty of the bond or undisbursed balance of the letter of credit, the surety or financial institution shall pro-rate payment according to the amount of such claims.

#### **Sec. 875-110. Insurance.**

Insurance requirements are met if the person, partnership or corporation secures insurance covering all construction accomplished by the listed contractor or under permits obtained by the listed contractor, any land alteration (as defined in section 561-109 of this Code) accomplished by the listed contractor or under a permit obtained by the listed contractor, all sewer work (as defined in section 671-2 of this Code) accomplished by the listed contractor or under a permit obtained by the listed contractor, and all driveway work (as defined in section 645-421 of this Code) accomplished by the listed contractor or under a permit obtained by the listed contractor and thereafter maintains such insurance in full force and effect throughout the listing period:

- (1) A public liability and property damage insurance policy assuring the listed contractor and naming the Consolidated City of Indianapolis as an "additional assured," providing for the payment of any liability imposed by law on such listed contractor or the Consolidated City of Indianapolis arising out of operations being performed by or on behalf of the listed contractor in the minimum amounts of five hundred thousand dollars (\$500,000.00) for combined bodily injury and property damage coverage of five hundred thousand dollars (\$500,000.00) for any occurrence relative to which there is injury or death to one (1) or more persons and one hundred thousand dollars (\$100,000.00) for any occurrence relative to which there is damage to property. A certificate of such policy shall be delivered to the license administrator of the division of compliance; and
- (2) Workmen's compensation insurance covering the personnel employed for death or injury arising out of operations being performed by or on behalf of the listed contractor. A certificate of such insurance shall be delivered to the license administrator of the division of compliance. This provision shall not apply if the listed contractor has no employees and gives appropriate notice to the ~~division of compliance~~ license administrator.

The insurance carrier shall give notice both to the listed contractor and the ~~division of compliance~~ bureau of license and permit services at least fifteen (15) days before such insurance is either canceled or not renewed, and the certificate shall state this obligation.

#### **Sec. 875-111. Approval for listing.**

Approval of a person, partnership or corporation as a listed contractor shall be by the board or the license administrator acting on behalf of the board. Upon receipt of such approval the ~~division of compliance~~ bureau of license and permit services shall issue the listing. The listing shall be for a period from January 1 of any year ending in an odd number to December 31 of the following year. No listing shall be issued by the ~~division of compliance~~ bureau to any person, partnership or corporation except as provided in this article.

SECTION 118. Section 875-115 of the "Revised Code of the Consolidated City and County," regarding hearings and appeals on suspension or revocation of contractor listings, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-115. Hearing and appeal.**

(a) The date and place for a revocation or suspension hearing shall be fixed by the board. At least ten (10) days before such date a written copy of the charges, prepared by the consolidated city, and notice of the time and place of the hearing thereon shall be served upon the listed contractor, either by hand delivery to the charged listed person or to the partner of a charged listed partnership or officer of a charged listed corporation, or by certified mail with return receipt addressed to the listed contractor at its main place of business as shown by the listed contractor's application for listing. The ten (10) or more days shall run from the date such notice is mailed as shown by the postmark thereon.

(b) The listed contractor may appear in person or by counsel, produce evidence (including testimonial and documentary evidence), make argument and cross-examine witnesses at such hearing. The consolidated city shall have the same right. The board may cause or allow any other relevant evidence to be introduced. On the basis of the evidence presented at the hearing, the board shall make findings and enter an order in accordance with such findings, which shall not become effective until ten (10) days after notice and a copy thereof has been served upon the listed contractor, in the same manner required for notice of the hearing.

(c) On or before ten (10) days after service of such order, the listed contractor may appeal therefrom to the deputy director of the department of ~~metropolitan development~~ code enforcement, division of administration, logistics, licenses and permits, by serving a notice of appeal upon the deputy director either in person or by filing it at his or her office, with a copy thereof delivered to the board at the office of the license administrator of ~~the division of compliance~~, who shall deliver such copy to the board. Unless such appeal is so taken, the order of the board shall be final.

(d) If so appealed, the order of the board shall be stayed until the appeal is heard and determined by the deputy director of ~~the department of metropolitan development~~, under the procedure prescribed by statute for hearings on the suspension or revocation of licenses. The deputy director shall thereupon render such decision as he or she finds justified and sustained by the evidence, either affirming, reversing or modifying the terms of the order of the board. The deputy director's order shall be final and conclusive and be binding upon both the listed contractor and the board.

SECTION 119. Sections 875-203 and 875-204 of the "Revised Code of the Consolidated City and County," regarding the board of electrical examiners and licensing and regulation of electrical contractors, respectively, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-203. Board of electrical examiners.**

A board of electrical examiners (hereinafter in this article referred to as the "board") shall consist of eight (8) members and shall be responsible for carrying out the provisions of this article relative to licensure of electrical contractors. The license administrator shall be a nonvoting member of the board, ex officio. The seven (7) voting members of the board shall be appointed by the mayor for two-year terms in such manner that three (3) terms expire on January first of one year and four (4) terms expire on January first of the next year. Five (5) of the seven (7) members appointed by the mayor shall be persons to whom a license has been issued in accordance with this article, and the two (2) remaining appointed members shall be persons (not licensed under this article) representing the public at large. Each of the appointed members shall be a resident of the consolidated city. Members shall not receive compensation for serving on the board. Those members appointed by the mayor shall serve at his or her pleasure and shall hold no other elective or appointive office in the consolidated city.

**Sec. 875-204. Organization of board.**

(a) The board shall meet annually in each January on a date specified for regular monthly meetings

in offices of the department of ~~metropolitan development~~ code enforcement and elect a chairman and any other officers, who shall serve one (1) year or until a successor is chosen, whichever is longer.

(b) At its annual meeting each January, the board shall promulgate written policies and regulations concerning the administration of the written examination stated in section 875-209 and of the equivalent examination stated in section 875-211.

(c) Such written ~~policies~~ policies and regulations shall be maintained and made available to the public through the offices of the ~~division of compliance~~ bureau of license and permit services.

SECTION 120. Section 875-214 of the "Revised Code of the Consolidated City and County," regarding licensing and regulation of electrical contractors, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-214. Inspector status.**

The inspector status requirement of section 875-208(4) is met by a person who is employed full time by the division of ~~compliance~~ inspections in a position in which he or she makes or supervises the making of inspections to determine compliance with building standards and procedures relative to electricity, or this article of this chapter. Such a person shall not use a license as an electrical contractor other than with respect to his or her employment by the Consolidated City of Indianapolis. Licensure under this section terminates by operation of law when the person is no longer employed by the division of ~~compliance~~ inspections and does not meet the requirements of sections 875-216 and 875-217.

SECTION 121. Sections 875-216 and 875-217 of the "Revised Code of the Consolidated City and County," regarding licensing and regulation of electrical contractors, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-216. Bond.**

(a) Before a license is issued by the ~~division of compliance~~ bureau of license and permit services to any person, partnership or corporation, the license administrator shall require the applicant to file a surety bond in the amount of ten thousand dollars (\$10,000.00). Such a bond shall be maintained in full force and effect for the full period of the license. The bond shall set forth the name, phone number and address of the agent representing the bonding company and shall be:

- (1) Issued by a surety authorized to do business in Indiana;
- (2) Payable to the Consolidated City of Indianapolis or an unknown third party as obligee; and
- (3) Conditioned upon:
  - a. Compliance with requirements set forth in this chapter ~~which~~ that must be met to retain licensure; ~~and~~
  - b. Prompt payment of all fees owed the consolidated city as set forth in this chapter; ~~and~~
  - c. Prompt payment to the Consolidated City of Indianapolis for any loss or expense for damages to property of the Consolidated City of Indianapolis caused by any action of the contractor, his or her agents, employees, principals, subcontractors, materialmen or suppliers in violation of building standards and procedures while engaged in any electrical work or any related construction; and
  - d. Prompt payment to a person, partnership or corporation ~~which~~ that is an unknown third party obligee for any:
    1. Losses arising out of violations;
    2. Expenses necessary to correct violations; and

3. Court costs and attorney fees allowed by the court incurred in connection with the commencement and prosecution of a court action to recover such losses and expenses for violations of building standards and procedures caused by any action of the contractor, his or her agents, employees, principals, subcontractors, materialmen or suppliers while engaged in electrical work or any related construction.

However, the surety is not responsible under the bond for losses or expenses arising out of negligent conduct or improper workmanship unless such conduct or workmanship violates requirements of building standards and procedures.

(b) The license administrator ~~of the division of compliance~~ may accept in lieu of the surety bond a properly conditioned irrevocable letter of credit in the amount of ten thousand dollars (\$10,000.00) if the ~~city~~ controller approves the obligor financial institution as being financially responsible and if the corporation counsel approves the letter of credit as affording the same protections to the City of Indianapolis and an unknown third party as the protections afforded by the surety bond.

(c) The obligation of the surety financial institution relative to this bond or letter of credit is limited to ten thousand dollars (\$10,000.00). A surety or financial institution may pay on the bond or disburse from the letter of credit to pay a claim in full at any time when that claim and pending claims (reflected by written notice to the surety or financial institution) together do not exceed the unpaid penalty of the bond or the undisbursed balance of the letter of credit. If written notice is received of claims ~~which~~ that exceed the unpaid penalty of the bond or undisbursed balance of the letter of credit, the surety or financial institution shall pro-rate payment according to the amount of such claims.

#### **Sec. 875-217. Insurance.**

Insurance requirements are met if the person, partnership or corporation secures insurance covering all electrical work and related construction accomplished by the licensee or under permits obtained by the licensee and thereafter maintains such insurance in full force and effect throughout the license period:

- (1) A public liability and property damage insurance policy assuring the licensee and naming the Consolidated City of Indianapolis as an "additional assured," and providing also for the payment of any liability imposed by law on such licensee or the Consolidated City of Indianapolis arising out of operations being performed by or on behalf of the licensee in the minimum amounts of five hundred thousand dollars (\$500,000.00) for combined bodily injury and property damage coverage or five hundred thousand dollars (\$500,000.00) for any occurrence relative to which there is injury or death to one (1) or more persons and one hundred thousand dollars (\$100,000.00) for any occurrence relative to which there is damage to property. A certificate of such policy shall be delivered to the license administrator ~~of the division of compliance;~~ and
- (2) Workmen's compensation insurance covering the personnel employed for death or injury arising out of operations being performed by or on behalf of the licensee. A certificate of such insurance shall be delivered to the license administrator ~~of the division of compliance~~. This provision shall not apply if the licensee has no employees and gives appropriate notice to the ~~division of compliance~~ bureau of license and permit services.

The insurance carrier shall give notice both to the licensee and the ~~division of compliance~~ bureau at least fifteen (15) days before such insurance is either canceled or not renewed, and the certificate shall state this obligation.

SECTION 122. Section 875-219 of the "Revised Code of the Consolidated City and County," regarding licensing and regulation of electrical contractors, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

#### **Sec. 875-219. Board's approval for licensure.**

(a) Approval for licensure of a person, partnership or corporation as an electrical contractor shall be in writing signed by a majority of the board. The board may, however, by resolution agreed to by a

majority of the board delegate to one (1) of its officers or the license administrator ~~of the division of compliance~~ authority to approve applications for licensure or renewal of licensure on behalf of the board in instances where the applicant is a person whose eligibility for license renewal is established by section 875-212(1) or the applicant is a partnership or corporation.

(b) Prior to approval for licensure, a person, general partner of a partnership or officer of a corporation shall attend an orientation presented or approved by the board that provides general knowledge of the provisions of chapters 536 and 875 pertaining to building standards and procedures.

(c) Upon delivery of such approval an electrical contractor's license shall be issued by the ~~division of compliance~~ bureau of license and permit services. The licensure period shall be from January 1 of any year ending in an even number to December 31 of the following year. No license shall be issued by the ~~division of compliance~~ bureau to any person, partnership or corporation as an electrical contractor except as provided in this article.

SECTION 123. Section 875-221 of the "Revised Code of the Consolidated City and County," regarding licensing and regulation of electrical contractors, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-221. Supervision by licensee.**

All electrical work shall be accomplished under the direction and control of either:

- (1) The licensed person who applied for the building permit; ~~or~~
- (2) If the building permit has been transferred, the licensed person who is the applicant representing the transferee of the building permit; or
- (3) If the applicant for the building permit no longer is able or desires to continue his or her responsibilities and obligations as the applicant and the obtainer of the building permit is a partnership ~~which that~~ has a licensed person as a partner or a corporation ~~which that~~ has a licensed person as an officer who meets the requirements imposed by section 536-202 of this Revised Code to apply for such a building permit in the first instance, such licensed partner or officer upon his or her notifying (using a form furnished by the ~~division of compliance~~ bureau of license and permit services) the license administrator of his or her assumption of the responsibilities and obligations of the applicant for the specified building permit.

The licensed person providing direction and control shall specify materials and work processes and supervise the person or persons accomplishing the electrical work.

SECTION 124. Sections 875-223, 875-224, and 875-225 of the "Revised Code of the Consolidated City and County," regarding licensing and regulation of electrical contractors, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-223. License suspension, revocation or determination of ineligibility for renewal for a person.**

The board may, under section 875-225, suspend the license of a person for a period of up to seven hundred thirty (730) days, revoke the license of a person or determine on the basis of activities carried out while licensed that a person who is or has been licensed within the previous three hundred sixty-five (365) days is ineligible for license renewal, if one (1) of the following is shown:

- (1) The licensee made any materially false statement of fact either to the board or on his or her application for license or license renewal; ~~or~~
- (2) The licensee acted fraudulently in the license examination; ~~or~~
- (3) The licensee (but not including licensees who are exempt because of compliance with the

requirements of section 875-213 or section 875-214) failed to post and maintain a surety bond and insurance required by section 875-216 or 875-217; ~~or~~

- (4) The licensee acted fraudulently, or with deceit, in his or her business relationship with other persons, partnerships or corporations with which he or she dealt in connection with electrical work; ~~or~~
- (5) Electrical work for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit was performed either incompetently or in such manner that it does not meet standards of reasonable workmanship or compliance with building standards and procedures; ~~or~~
- (6) The licensee failed to correct a violation of building standards and procedures relative to electrical work for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit, after the license administrator ~~of the division of compliance~~ issued a notice of building code violation, revoked a building permit or issued a stop-work order and the violation(s) causing any of these actions remained uncorrected for a period of ten (10) days from the date of issuance of the notice of the building code violation, revocation of permit or stop-work order, or in the instance where a period of ten (10) days was not sufficient, such longer period of time as was fixed by the license administrator ~~of the division of compliance~~ in writing; ~~or~~
- (7) The licensee has consistently failed to apply for or obtain required applicable permits for electrical work accomplished by the licensee or under his or her supervision; ~~or~~
- (8) The licensee has consistently failed to timely file certificates of completion and compliance for electrical work relative to which he or she was the applicant for the permits or applicant representing the transferee of the permits; ~~or~~
- (9) The licensee has consistently failed to give notice of availability for inspection at designated stages of electrical work as required by section 536-402 of this Revised Code; ~~or~~
- (10) The licensee, excluding licensees who meet the inspector status requirement of section 875-214, has not for a period of five (5) continuous years accomplished or supervised the accomplishment of a significant amount of electrical work; ~~or~~
- (11) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-216 and 875-217 by meeting the inspector status requirements of section 875-214, but is no longer employed by the division of ~~compliance~~ inspections and does not meet the requirements of sections 875-216 and 875-217; ~~or~~
- (12) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-216 and 875-217 by meeting the partnership or corporate agent requirements of section 875-213 but, without presently meeting the requirements of sections 875-216 and 875-217, either he or she:
  - a. Is no longer a partner or employee of a partnership or an officer or employee of a corporation licensed under this article; or
  - b. Has made use of his or her license other than as an agent of the partnership or corporation named in his or her application; ~~or~~
- (13) The licensee has not properly paid the fee specified by section 875-701 of this Revised Code for a license ~~which~~ that has been issued or is delinquent in the payment of fees owed pursuant to this chapter; ~~or~~
- (14) The licensee has failed to give proper supervision to electrical work in accordance with the requirements of section 875-221; or
- (15) The licensee has attempted to conceal or has concealed violations of building standards and

procedures.

**Sec. 875-224. License suspension, revocation or determination of ineligibility for receipt of successor license for partnership or corporation.**

The board may, under section 875-225, suspend the license of a partnership or corporation for a period of up to seven hundred thirty (730) days, revoke the license of a partnership or corporation, or determine on the basis of activities carried out while licensed within the previous three hundred sixty-five (365) days that the partnership or corporation is ineligible to receive a successor license, if one (1) of the following is shown:

- (1) A materially false statement of fact was made to the board by an agent of the licensee or placed on the licensee's application for license; ~~or~~
- (2) The licensee failed to post and maintain the surety bond and insurance required by sections 875-216 and 875-217; ~~or~~
- (3) Agents of the licensee acted fraudulently or with deceit in its relationship with other persons, partnerships or corporations with which it dealt in connection with electrical work; ~~or~~
- (4) Electrical work for which the licensee was responsible as obtainer of the permit or as transferee of the permit was performed either incompetently or in such manner that it does not meet standards of reasonable workmanship or compliance with building standards and procedures; ~~or~~
- (5) The licensee failed to correct a violation of building standards and procedures relative to electrical work for which the licensee was responsible as obtainer of the permit or as transferee of the permit, after the license administrator ~~of the division of compliance~~ issued notice of a building code violation, revoked a building permit or issued a stop-work order and the violation(s) causing any of these actions remained uncorrected for a period of ten (10) days from the date of issuance of the notice of the building code violation, revocation of permit or stop-work order, or in the instance where a period of ten (10) days was not sufficient, such longer period of time as was fixed by the license administrator ~~of the division of compliance~~ in writing; ~~or~~
- (6) The licensee has consistently failed to obtain required applicable permits for electrical work accomplished by the licensee; ~~or~~
- (7) The licensee has consistently failed to give notice of availability for inspection at designated stages of electrical work as required by section 536-402 of this Revised Code; ~~or~~
- (8) The licensee has consistently failed to timely file certificates of completion and compliance, as required, for electrical work accomplished pursuant to his or her license; ~~or~~
- (9) The licensee has not properly paid the fee specified by section 875-701 of this Revised Code for a license ~~which~~ that has been issued or is delinquent in the payment of fees owed pursuant to this chapter; ~~or~~
- (10) If a partnership, does not have a licensed person as a general partner or employee, or if a corporation, does not have a licensed person as an officer or employee; ~~or~~
- (11) The partnership presently has a partner or the corporation presently has an officer who has a license under this article presently suspended or who has had such a license revoked within the preceding seven hundred thirty (730) days or a determination made of ineligibility of license renewal within the preceding three hundred sixty-five (365) days; ~~or~~
- (12) The partnership presently has a partner or the corporation presently has an officer who, within the previous three hundred sixty-five (365) days, served as a partner in a partnership or an officer in a corporation licensed under this article at the time when actions related to policies or practices of the partnership or corporation occurred ~~which~~ that provided the primary basis on which the license of the partnership or corporation was revoked, suspended for more than three hundred

sixty-five (365) days, or a determination made of ineligibility for receipt of a successor license; or

(13)The licensee has attempted to conceal or has concealed violations of building standards and procedures.

**Sec. 875-225. Hearing and appeal.**

(a) The date and place for a revocation or suspension hearing shall be fixed by the board. At least ten (10) days before such date, a written notice of the general nature of the charges, prepared by the ~~division of compliance~~ bureau of license and permit services, and of the time and place of the hearing thereon shall be served upon the licensee, either by hand delivery to the charged licensed person or to a partner of a charged partnership or officer of a charged corporation, or by certified mail with return receipt requested addressed to the licensee at his or her main place of business as shown by the licensee's application for license or license renewal. The ten (10) or more days shall run from the date such notice is mailed. In the instance where charges are made ~~which~~ that have a similar factual basis and a business relationship exists (as, for example, charges against two (2) licensed partners or charges against a licensed corporation and its licensed corporate officer), the board may hear evidence relative to two (2) or more charges at the same hearing.

(b) The licensee may appear in person or by counsel, produce evidence (including testimonial and documentary evidence), make argument and cross-examine witnesses at such hearing. The ~~division of compliance~~ bureau of license and permit services shall have the same right. The board may cause or allow any other relevant evidence to be introduced. On the basis of evidence presented at the hearing, the board shall make findings and enter an order in accordance with such findings, which shall not become effective until ten (10) days after notice and a copy thereof has been served upon the licensee, in the manner required for notice of the hearing.

(c) On or before ten (10) days after service of such order, the licensee may appeal therefrom to the deputy director of the department of ~~metropolitan development~~ code enforcement, division of administration, logistics, licenses and permits, by serving a notice of appeal upon the deputy director either in person or by filing it at his or her office, with a copy thereof delivered to the board at the office of the license administrator ~~of the division of compliance~~, who shall deliver such copy to the board. Unless such appeal is so taken, the order of the board shall be final.

(d) If so appealed, the order of the board shall be stayed until the appeal is heard and determined by the deputy director ~~of the department of metropolitan development~~ or a representative designated in writing (but not an employee of the ~~division of compliance~~ bureau of license and permit services) by the deputy director, under the procedure prescribed by statute for hearings on the suspension or revocation of licenses. The deputy director or his or her representative shall thereupon render such decisions as he or she finds justified and sustained by the evidence, either affirming, reversing or modifying the terms of the order of the board. The order of the deputy director or his or her representative shall be final and conclusive and be binding upon both the licensee and the board.

SECTION 125. Sections 875-302 and 875-303 of the "Revised Code of the Consolidated City and County," regarding the board of heating and cooling examiners and licensing and regulation of heating and cooling contractors, respectively, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-302. Board of heating and cooling examiners.**

A board of heating and cooling examiners (hereinafter in this article referred to as the "board") shall consist of eight (8) members and shall be responsible for carrying out the provisions relative to licensure of heating and cooling contractors. The license administrator shall be a nonvoting member of the board, ex officio. The seven (7) voting members of the board shall be appointed by the mayor for two-year terms in such manner that three (3) terms expire on January first of one (1) year and four (4) other terms expire on January first of the next year. Five (5) of the seven (7) members appointed by the mayor shall be persons to whom a license has been issued in accordance with this article and the remaining appointed members shall be persons (not licensed under this article) representing the public at large. At least two (2) of the licensed appointed members shall hold a refrigeration license. Each of the appointed members

shall be a resident of the consolidated city. Members shall not receive compensation for serving on the board. Those members appointed by the mayor shall serve at his or her pleasure and shall hold no other elective or appointive office in the consolidated city.

**Sec. 875-303. Organization of board.**

(a) The board shall meet annually in each January on a date specified for regular monthly meetings in offices of the department of ~~metropolitan development~~ code enforcement and elect a chairman and any other officers, who shall serve one (1) year or until a successor is chosen, whichever is longer. At its annual meeting each January, the board shall promulgate written policies and regulations concerning the administration of the written examination stated in section 875-308 and of the equivalent examination stated in section 875-310.

(b) Such written policies and regulations shall be maintained and made available to the public through the offices of the ~~division of compliance~~ bureau of license and permit services.

SECTION 126. Section 875-313 of the "Revised Code of the Consolidated City and County," regarding licensing and regulation of heating and cooling contractors, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-313. Inspector status.**

The inspector status requirement of section 875-307(4) is met by a person who is employed full time by the division of ~~compliance~~ inspections in a position in which he or she makes or supervises the making of inspections to determine compliance with building standards and procedures relating to heating and cooling work, or this article of this chapter. Such a person shall not use a license as a heating and cooling contractor other than with respect to his or her employment by the Consolidated City of Indianapolis. Licensure under this section terminates by operation of law when the person is no longer employed by the division of ~~compliance~~ inspections and does not meet the requirements of sections 875-315 and 875-316.

SECTION 127. Sections 875-315 and 875-316 of the "Revised Code of the Consolidated City and County," regarding licensing and regulation of heating and cooling contractors, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-315. Bond.**

(a) Before a license is issued by the ~~division of compliance~~ bureau of license and permit services to any person, partnership or corporation, the license administrator shall require the applicant to file a surety in the amount of five thousand dollars (\$5,000.00). Such a bond shall be maintained in full force and effect for the full period of the license. The bond shall set forth the name, phone number and address of the agent representing the bonding company and shall be:

- (1) Issued by a surety authorized to do business in Indiana;
- (2) Payable to the Consolidated City of Indianapolis or an unknown third party as obligee; and
- (3) Conditioned upon:
  - a. Compliance with requirements set forth in this chapter ~~which~~ that must be met to retain licensure; ~~and~~
  - b. Prompt payment of all fees owed the consolidated city as set forth in this chapter; ~~and~~
  - c. Prompt payment to the Consolidated City of Indianapolis for any loss or expense for damages to property of the Consolidated City of Indianapolis caused by any action of the contractor, his or her agent, employees, principals, subcontractors, materialmen or suppliers in violation of building standards and procedures while engaged in any heating and cooling

work or any related construction; and

- d. Prompt payment to a person, partnership or corporation ~~which~~ that is an unknown third party obligee for any:
  1. Losses arising out of violations;
  2. Expenses necessary to correct violations; and
  3. Court costs and attorney fees allowed by the court incurred in connection with the commencement and prosecution of a court action to recover such losses and expenses for violations of building standards and procedures caused by any action of the contractor, his or her agents, employees, principals, subcontractors, materialmen or suppliers while engaged in heating and cooling work or any related construction.

However, the surety is not responsible under the bond for losses or expenses arising out of negligent conduct or improper workmanship unless such conduct or workmanship violates requirements of building standards and procedures.

(b) The license administrator may accept in lieu of the surety bond a properly conditioned irrevocable letter of credit in the amount of five thousand dollars (\$5,000.00) if the ~~city~~ controller approves the obligor financial institution as being financially responsible and if the corporation counsel approves the letter of credit as affording the same protections to the City of Indianapolis and an unknown third party as the protections afforded by the surety bond.

(c) The obligation of the surety and financial institution relative to this bond or letter of credit is limited to five thousand dollars (\$5,000.00). A surety or financial institution may pay on the bond or disburse from the letter of credit to pay a claim in full at any time when that claim and pending claims (reflected by written notice to the surety or financial institution) together do not exceed the unpaid penalty of the bond or the undisbursed balance of the letter of credit. If written notice is received of claims ~~which~~ that exceed the unpaid penalty of the bond or undisbursed balance of the letter of credit, the surety or financial institution shall pro-rate payment according to the amount of such claims.

#### **Sec. 875-316. Insurance.**

The insurance requirements are met if the person, partnership or corporation secures insurance covering all heating and cooling work and any related construction accomplished by the licensee or under permits obtained by the licensee and thereafter maintains such insurance in full force and effect throughout the license period:

- (1) A public liability and property damage insurance policy assuring the licensee and naming the Consolidated City of Indianapolis as an "additional assured," and providing also for the payment of any liability imposed by law on such licensee or the Consolidated City of Indianapolis arising out of operations being performed by or on behalf of the licensee in the minimum amounts of five hundred thousand dollars (\$500,000.00) for combined bodily injury and property damage coverage of five hundred thousand dollars (\$500,000.00) for any occurrence relative to which there is injury or death to one (1) or more persons and one hundred thousand dollars (\$100,000.00) for any occurrence relative to which there is damage to property. A certificate of such policy shall be delivered to the license administrator ~~of the division of compliance;~~ and
- (2) Workmen's compensation insurance covering the personnel employed for death or injury arising out of operations being performed by or on behalf of the licensee. A certificate of such insurance shall be delivered to the license administrator ~~of the division of compliance.~~ This provision shall not apply if the licensee has no employees and gives appropriate notice to the ~~division of compliance~~ bureau of license and permit services.

The insurance carrier shall give notice both to the licensee and the ~~division of compliance~~ bureau at least fifteen (15) days before such insurance is either canceled or not renewed, and the certificate shall state this obligation.

SECTION 128. Section 875-318 of the "Revised Code of the Consolidated City and County," regarding licensing and regulation of heating and cooling contractors, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-318. Board's approval for licensure.**

(a) Approval for licensure of a person, partnership or corporation as a heating and cooling contractor of the appropriate type shall be in writing signed by a majority of the board. The board may, however, by resolution agreed to by a majority of the board delegate to one (1) of its officers or the license administrator ~~of the division of compliance~~ authority to approve applications for licensure or renewal of licensure on behalf of the board in instances where the applicant is a person whose eligibility for license renewal is established by section 875-311(1) or the applicant is a partnership or corporation.

(b) Prior to approval for licensure, a person, general partner of a partnership or officer of a corporation shall attend an orientation presented or approved by the board that provides general knowledge of the provisions of chapters 536 and 875 pertaining to building standards and procedures.

(c) Upon delivery of such approval a heating and cooling contractor's license of the appropriate type shall be issued by the ~~division of compliance~~ bureau of license and permit services. The licensure period shall be from January 1 of any year ending in an even number to December 31 of the following year. No license shall be issued by the ~~division of compliance~~ bureau to any person, partnership or corporation as a heating and cooling contractor except as provided in this article.

SECTION 129. Section 875-320 of the "Revised Code of the Consolidated City and County," regarding licensing and regulation of heating and cooling contractors, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-320. Supervision by licensee.**

(a) All heating and cooling work shall be accomplished under the direction and control of either:

- (1) The licensed person who applied for the building permit; ~~or~~
- (2) If the building permit has been transferred, the licensed person who is the applicant representing the transferee of the building permit; or
- (3) If the applicant for the building permit no longer is able or desires to continue his or her responsibilities and obligations as the applicant and the obtainer of the building permit is a partnership ~~which that~~ has a licensed person as a partner or a corporation ~~which that~~ has a licensed person as an officer who meets the requirements imposed by section 536-202 of this Revised Code to apply for such a building permit in the first instance, such licensed partner or officer upon his or her notifying (using a form furnished by the office of the ~~division of compliance~~ bureau of license and permit services) the license administrator of his or her assumption of the responsibilities and obligations of the applicant for the specified building permit.

(b) The licensed person providing direction and control shall specify work processes and supervise the person or persons accomplishing the heating and cooling work. Such licensed person or a competent person responsible to him or her must be present at the site when any significant heating and cooling work occurs.

SECTION 130. Sections 875-322, 875-323, and 875-324 of the "Revised Code of the Consolidated City and County," regarding licensing and regulation of heating and cooling contractors, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-322. License suspension, revocation or determination of ineligibility for renewal for a person.**

The board may, under section 875-324, suspend the license of a person for a period of up to seven hundred thirty (730) days, revoke the license of a person, or determine on the basis of activities carried out while licensed that a person who is or has been licensed within the previous three hundred sixty-five (365) days is ineligible for license renewal, if one (1) of the following is shown:

- (1) The licensee made any materially false statement of fact either to the board or on his or her application for license or license renewal; ~~or~~
- (2) The licensee acted fraudulently in the license examination; ~~or~~
- (3) The licensee (but not including licensees who are exempt because of compliance with the requirements of section 875-312 or section 875-313) failed to post and maintain the surety bond and insurance required by sections 875-315 and 875-316; ~~or~~
- (4) The licensee acted fraudulently, or with deceit, in his or her relationship with other persons, partnerships or corporations with which he or she dealt in connection with heating and cooling work; ~~or~~
- (5) Heating and cooling work for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit was performed either incompetently or in such manner that it does not meet standards of reasonable workmanship or compliance with building standards and procedures; ~~or~~
- (6) The licensee failed to correct a violation of building standards and procedures relative to heating and cooling work for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit, after the license administrator ~~of the division of compliance~~ issued notice of a building code violation, revoked a building permit or issued a stop-work order and the violation(s) causing any of these actions remained uncorrected for a period of ten (10) days from the date of issuance of the notice of the building code violation, revocation of permit or stop-work order, or in the instance where the period of ten (10) days was not sufficient, such longer period of time as was fixed by the license administrator in writing; ~~or~~
- (7) The licensee has consistently failed to apply for or obtain required applicable permits for heating and cooling work accomplished by the licensee or under his or her supervision; ~~or~~
- (8) The licensee has consistently failed to give notice of availability for inspection at designated stages of heating and cooling work as required by section 536-402 of this Revised Code; ~~or~~
- (9) The licensee has consistently failed to timely file certificates of completion and compliance for heating and cooling work relative to which he or she was the applicant for the permits; ~~or~~
- (10) The licensee, excluding licensees who meet the inspector status requirement of section 875-313, has not for a period of five (5) continuous years accomplished or supervised the accomplishment of a significant amount of heating and cooling work; ~~or~~
- (11) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-315 and 875-316 by meeting the inspector status requirements of section 875-222, but is no longer employed by the division of ~~compliance~~ inspections and does not meet the requirements of sections 875-315 and 875-316; ~~or~~
- (12) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-315 and 875-316 by meeting the partnership or corporate agent requirements of section 875-312, but without presently meeting the requirements of sections 875-315 and 875-316, either he or she:
  - a. Is no longer a partner or employee of a partnership or an officer or employee of a corporation licensed under this division; or
  - b. Has made use of his or her license other than as an agent of the partnership or corporation

named in his or her application; ~~or~~

- (13) The licensee has not properly paid the fee specified by section 875-701 of this Revised Code for a license ~~which~~ that has been issued or is delinquent in other fees owed pursuant to this chapter; ~~or~~
- (14) The licensee has failed to give proper supervision to heating and cooling work in accordance with requirements of section 875-320; ~~or~~
- (15) The licensee holding a heating and cooling license other than an "air conditioning "A" (unrestricted)" license has accomplished (without supervision by a licensee of the appropriate type) or supervised the accomplishment of heating and cooling work without having the type license ~~which~~ that is required for such construction; or
- (16) The licensee has attempted to conceal or has concealed violations of building standards and procedures.

**Sec. 875-323. License suspension, revocation or determination of ineligibility for receipt of a successor license for a partnership or corporation.**

The board may, under section 875-324, suspend the license of a partnership or corporation for a period of up to seven hundred thirty (730) days, revoke the license of a partnership or corporation, or determine on the basis of activities carried out while licensed within the previous three hundred sixty-five (365) days that the partnership or corporation is ineligible to receive a successor license, if one (1) of the following is shown:

- (1) A materially false statement of fact was made to the board by an agent of the licensee or placed on the licensee's application for license; ~~or~~
- (2) The licensee failed to post and maintain the surety bond and insurance required by sections 875-315 and 875-316; ~~or~~
- (3) An agent of the licensee acted fraudulently or with deceit in its relationship with other persons, partnerships or corporations with which it dealt in connection with heating and cooling work; ~~or~~
- (4) Heating and cooling work for which the licensee was responsible as obtainer of the permit or as transferee of the permit was performed either incompetently or in such manner that it does not meet standards of reasonable workmanship or compliance with building standards and procedures; ~~or~~
- (5) The licensee failed to correct a violation of building standards and procedures relative to heating and cooling work for which the licensee was responsible as obtainer of the permit or as transferee of the permit, after the license administrator ~~of the division of compliance~~ issued notice of a building code violation, revoked a building permit or issued a stop-work order and the violation(s) causing any of these actions remained uncorrected for a period of ten (10) days from the date of issuance of notice of the building code violation, revocation of permit, or stop-work order, or in the instance where a period of ten (10) days was not sufficient such longer period of time as was fixed by the license administrator in writing; ~~or~~
- (6) The licensee has consistently failed to obtain required applicable permits for heating and cooling work; ~~or~~
- (7) The licensee has consistently failed to give notice of availability for inspection at designated stages of heating and cooling work as required by section 536-402 of this Revised Code; ~~or~~
- (8) The licensee has consistently failed to timely file certificates of completion and compliance, as required, for heating and cooling work accomplished pursuant to his or her license; ~~or~~
- (9) The licensee has not properly paid the fee specified by section 875-701 of this Revised Code for

a license ~~which~~ that has been issued or is delinquent in the payment of fees owed pursuant to this chapter; ~~or~~

- (10) If a partnership, does not have a licensed person as a general partner or employee, or if a corporation, does not have a licensed person as an officer or employee; ~~or~~
- (11) The partnership presently has a partner or the corporation presently has an officer who has a license under this article presently suspended or who has had such a license revoked within the preceding seven hundred thirty (730) days or a determination made of ineligibility for license renewal within the preceding three hundred sixty-five (365) days; ~~or~~
- (12) The partnership presently has a partner or the corporation presently has an officer who, within the previous three hundred sixty-five (365) days, served as a partner in a partnership or an officer in a corporation licensed under this article at a time when actions related to policies or practices of the partnership or corporation occurred ~~which~~ that provided the primary basis on which the license of the partnership or corporation was revoked, suspended for more than three hundred sixty-five (365) days, or a determination made of ineligibility for receipt of a successor license; ~~or~~
- (13) Heating and cooling work for which the licensee, holding a heating and cooling license other than a "air conditioning "A" (unrestricted)" license, was responsible as obtainer of the permit or as transferee of the permit was performed without the licensee having the type of license ~~which~~ that is required for such work; or
- (14) The licensee has attempted to conceal or has concealed violations of building standards and procedures.

#### **Sec. 875-324. Hearing and appeal.**

(a) The date and place for a revocation or suspension hearing shall be fixed by the board. At least ten (10) days before such date, a written notice of the general nature of the charges, prepared by the ~~division of compliance bureau of license and permit services~~, and of the time and place of the hearing thereon shall be served upon the licensee, either by hand delivery to the charged licensed person or to a partner of a charged partnership or officer of a charged corporation or by certified mail with return receipt requested, addressed to the licensee at his or her main place of business as shown by the licensee's application for license or license renewal. The ten (10) or more days shall run from the date such notice is mailed. In the instance where charges are made ~~which~~ that have a similar factual basis and a business relationship exists (as, for example, charges against two (2) licensed partners or charges against a licensed corporation and a licensed corporate officer), the board may hear evidence relative to two (2) or more charges at the same hearing.

(b) The licensee may appear in person or by counsel, produce evidence (including testimonial and documentary evidence), make argument and cross-examine witnesses at such hearing. The ~~division of compliance bureau~~ shall have the same right. The board may cause or allow any other relevant evidence to be introduced. On the basis of the evidence presented at the hearing, the board shall make findings and enter an order in accordance with such findings, which shall not become effective until ten (10) days after notice and a copy thereof has been served upon the licensee in the manner required for notice of the hearing.

(c) On or before ten (10) days after service of such order, the licensee may appeal therefrom to the deputy director of the department of ~~metropolitan development~~ code enforcement, division of administration, logistics, licenses and permits, by serving a notice of appeal upon the deputy director either in person or by filing it at his or her office, with a copy thereof delivered to the board at the office of the license administrator of the division of compliance, who shall deliver such copy to the board. Unless such appeal is so taken, the order of the board shall be final.

(d) If so appealed, the order of the board shall be stayed until the appeal is heard and determined by the deputy director of the department of ~~metropolitan development~~ or a representative designated in writing (but not an employee of the ~~division of compliance bureau of license and permit services~~) by the deputy director, under the procedure prescribed by statute for hearings on the suspension or revocation

of licenses. The deputy director or his or her representative shall thereupon render such decision as he or she finds justified and sustained by the evidence, either affirming, reversing or modifying the terms of the order of the board. The order of the deputy director or his or her representative shall be final and conclusive and be binding upon the licensee and the board.

SECTION 131. Sections 875-401, 875-402, and 875-403 of the "Revised Code of the Consolidated City and County," regarding the board of wrecking examiners and licensing and regulation of wrecking contractors, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-401. License required.**

(a) Licensure as a wrecking contractor of the appropriate type is required to engage in the demolishing, dismantling, dismembering, razing or removing structures; provided, however, that licensure as a wrecking contractor is not required:

- (1) To wreck a one-story detached accessory structure containing less than five hundred seventy-seven (577) square feet of floor area ~~which~~ that is located on the same premises as a one- or two-family residential structure or to wreck a structure containing less than five hundred (500) square feet of floor area; ~~or~~
- (2) To wreck a one-story, one- or two-family residential structure if:
  - a. The wrecking is accomplished by the person who owns the structure; ~~and~~
  - b. The person is a previous occupant of the structure; ~~and~~
  - c. No part of the structure is located nearer than ten (10) feet to another structure not owned by the person accomplishing the wrecking or any street, alley or sidewalk; ~~and~~
  - d. The wrecking will not create a substantial potential health or safety hazard; and
  - e. If deemed reasonably necessary by the license administrator ~~of the division of compliance~~, the person who will accomplish the wrecking demonstrates that the wrecking activity is covered by a public liability and property damage insurance policy, in amounts established by the license administrator (but not less than fifty thousand dollars (\$50,000.00) for personal injury or death and twenty-five thousand dollars (\$25,000.00) for property damage), naming the person doing the wrecking and the Consolidated City of Indianapolis as the insured; ~~or~~
- (3) To wreck a one-story, wood-frame structure that is not a residential structure if:
  - a. The wrecking is accomplished by the person who owns the structure or by permanent, full-time employees of the partnership or corporation ~~which~~ that owns the structure; ~~and~~
  - b. The person, partnership or corporation ~~which~~ that owns the premises where the structure is located is in possession of the premises where the structure is located; ~~and~~
  - c. No part of the structure is located nearer than ten (10) feet to another structure not owned by the person, partnership or corporation accomplishing the wrecking or any street, alley or sidewalk; ~~and~~
  - d. The wrecking will not create a substantial potential health or safety hazard; and
  - e. If deemed reasonably necessary by the license administrator ~~of the division of compliance~~, the person, partnership or corporation who will accomplish the wrecking demonstrates that the wrecking activity is covered by a public liability and property damage insurance policy in amounts established by the license administrator (but not less than fifty thousand dollars (\$50,000.00) for personal injury or death and twenty-five thousand dollars (\$25,000.00) for property damage), naming the person doing the wrecking and the Consolidated City of

Indianapolis as the insured; or

- (4) To wreck or dismantle a structure or part of a structure if:
- a. The structure to be demolished or dismantled is a water storage tank, gas storage tank, or other structure ~~which that~~ has some unique characteristic requiring specialized expertise beyond that of the typical licensed demolition contractor, or that the demolition or dismantling work involves some unique circumstance requiring such specialized expertise; ~~and~~
  - b. The person responsible for supervising the demolition or dismantling work demonstrates his or her familiarity with this chapter and Chapter 536 and his or her expertise and experience in demolishing or dismantling the type of structure or part of the structure to be demolished or dismantled; ~~and~~
  - c. The person, partnership or corporation submits proof of bond and insurance in the amounts required for the type license normally required to demolish or dismantle the structure or part of the structure and naming the person, partnership or corporation doing the demolition or dismantling work and the Consolidated City of Indianapolis as insured; and
  - d. The person, partnership or corporation is listed as a general contractor under article I of this chapter prior to obtaining any wrecking permits or accomplishing any demolition or dismantling work.

The determinations under this paragraph (4) are to be made by the board of wrecking examiners or an employee of the department of ~~metropolitan development~~ code enforcement designated by that board as qualified to make such determination. The board may appoint an alternate qualified employee for this designee.

(b) In determining whether to issue a permit for wrecking pursuant to paragraphs (1) through (3) above, the license administrator ~~of the division of compliance~~ may consult with and seek the advice of the board of wrecking examiners.

(c) A determination by the license administrator under paragraphs (1) through (3) or by the board's designee under paragraph (4) not to allow the nonlicensed person to accomplish the work under this section may be appealed to the board of wrecking examiners for reconsideration.

(d) A person not licensed under this article who is employed by a licensed wrecking contractor may, however, accomplish wrecking while working under the direction and control of a person who is a licensed wrecking contractor. The scope of activity of such nonlicensed person shall not extend beyond that allowed by the license type of the licensed wrecking contractor providing direction and control over the nonlicensed person. Such nonlicensed person shall not enter into or offer to enter into a contractual relationship with a consumer to himself engage in wrecking.

(e) Construction ~~which that~~ this article allows licensed wrecking contractors to carry out is hereafter referred to in this article as "wrecking."

#### **Sec. 875-402. Board of wrecking examiners.**

A board of wrecking examiners (hereinafter in this chapter referred to as the "board") shall consist of six (6) members and shall carry out the provisions of this chapter relative to licensure of wrecking contractors. The license administrator shall be a nonvoting member of the board, ex officio. The five (5) voting members of the board shall be appointed by the mayor for two-year terms in such manner that two (2) terms expire on January first of one (1) year and three (3) other terms expire on January first of the next year. One (1) of the five (5) members appointed by the mayor shall be a person to whom a license has been issued in accordance with this article, one (1) appointed member shall be an architect registered in the state, one (1) appointed member shall be a professional engineer registered in the state, and two (2) appointed members shall be persons (not licensed under this article) representing the public at large. Each of the appointed members shall be a resident of the consolidated city. Members shall not receive compensation for serving on the board. Those members appointed by the mayor shall serve at

his or her pleasure and shall hold no other elective or appointive office in the consolidated city.

**Sec. 875-403. Organization of board.**

(a) The board shall meet annually in each January on a date specified for regular monthly meetings in offices of the department of ~~metropolitan development~~ code enforcement and elect a chairman and any other officers, who shall serve one (1) year or until a successor is chosen, whichever is longer.

(b) At its annual meeting each January, the board shall promulgate written policies and regulations concerning the administration of the written examination stated in section 875-408.

(c) Such written policies and regulations shall be maintained and made available to the public through the offices of the ~~division of compliance~~ bureau of license and permit services.

SECTION 132. Section 875-413 of the "Revised Code of the Consolidated City and County," regarding licensing and regulation of wrecking contractors, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-413. Inspector status.**

The inspector status requirement of section 875-407(4) is met by a person who is employed full time by the division of ~~compliance~~ inspections in a position in which he or she makes or supervises the making of inspections to determine compliance with building standards and procedures relating to wrecking, Article II provisions or this article of this chapter. Such a person shall not use a license as a wrecking contractor other than with respect to his or her employment by the Consolidated City of Indianapolis. Licensure under this section terminates by operation of law when the person is no longer employed by the division of ~~compliance~~ inspections and does not meet the requirements of sections 875-415 and 875-416.

SECTION 133. Sections 875-415 and 875-416 of the "Revised Code of the Consolidated City and County," regarding licensing and regulation of wrecking contractors, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-415. Bond.**

(a) Before a license is issued by the ~~division of compliance~~ bureau of license and permit services to any person, partnership or corporation, the license administrator of the division shall require the applicant to file a surety bond in the amount of thirty thousand dollars (\$30,000.00) in the case of a type A license, twenty thousand dollars (\$20,000.00) in the case of a type B license and ten thousand dollars (\$10,000.00) in the case of a type C license. Such a bond shall be maintained in full force and effect for the full period of the license. The bond shall set forth the name, phone number and address of the agent representing the bonding company and shall be:

- (1) Issued by a surety authorized to do business in Indiana;
- (2) Payable to the Consolidated City of Indianapolis or an unknown third party as obligee; and
- (3) Conditioned upon:
  - a. Compliance with requirements set forth in this chapter ~~which~~ that must be met to retain licensure; ~~and~~
  - b. Prompt payment of all fees owed the consolidated city as set forth in this chapter; ~~and~~
  - c. Prompt payment to the Consolidated City of Indianapolis for any loss or expense for damages to property of the Consolidated City of Indianapolis caused by any action of the contractor, his or her agents or employees, principals, subcontractors, materialmen or suppliers in violation of building standards and procedures while engaged in any wrecking or any related construction; and

- d. Prompt payment to a person, partnership or corporation ~~which~~ that is an unknown third party obligee for any:
1. Losses arising out of violation;
  2. Expenses necessary to correct violations; and
  3. Court costs and attorney fees allowed by the court incurred in connection with the commencement and prosecution of a court action to recover such losses and expenses for violations of building standards and procedures caused by any action of the contractor, his or her agents, employees, principals, subcontractors, materialmen or suppliers while engaged in wrecking or any related construction.

However, the surety is not responsible under the bond for losses or expenses arising out of negligent conduct or improper workmanship unless such conduct or workmanship violates requirements of building standards and procedures.

(b) The license administrator may accept in lieu of the surety bond a properly conditioned irrevocable letter of credit in the amount of thirty thousand dollars (\$30,000.00) in the case of a type A license, twenty thousand dollars (\$20,000.00) in the case of a type B license and ten thousand dollars (\$10,000.00) in the case of a type C license if the ~~city~~ controller approves the obligor financial institution as being financially responsible and if the corporation counsel approves the letter of credit as affording the same protections to the City of Indianapolis and an unknown third party as the protections afforded by the surety bond.

(c) The obligation of the surety and financial institution relative to this bond or letter of credit is limited to thirty thousand dollars (\$30,000.00) in the case of a type A license, twenty thousand dollars (\$20,000.00) in the case of a type B license and ten thousand dollars (\$10,000.00) in the case of a type C license. A surety or financial institution may pay on the bond or disburse from the letter of credit to pay a claim in full at any time when that claim and pending claims (reflected by written notice to the surety or financial institution) together do not exceed the unpaid penalty of the bond or the undisbursed balance of the letter of credit. If written notice is received of claims ~~which~~ that exceed the unpaid penalty of the bond or undisbursed balance of the letter of credit, the surety or financial institution shall pro-rate payment according to the amount of such claims.

#### **Sec. 875-416. Insurance.**

The insurance requirements are met if the person, partnership or corporation secures insurance covering all wrecking and related construction accomplished by the licensee or under permits obtained by the licensee and thereafter maintains such insurance in full force and effect throughout the license period:

- (1) A public liability and property damage insurance policy assuring the licensee and naming the Consolidated City of Indianapolis as an "additional assured," and providing also for the payment of any liability imposed by law on such licensee or the Consolidated City of Indianapolis arising out of operations being performed by or on behalf of the licensee in the minimum amounts of five hundred thousand dollars (\$500,000.00) for combined bodily injury and property damage coverage or five hundred thousand dollars (\$500,000.00) for any occurrence relative to which there is injury or death to one (1) or more persons, and one hundred thousand dollars (\$100,000.00) for any occurrence relative to which there is damage to property. A certificate of such policy shall be delivered to the license administrator ~~of the division of compliance;~~ and
- (2) Workmen's compensation insurance covering the personnel employed for death or injury arising out of operations being performed by or on behalf of the licensee. A certificate of such insurance shall be delivered to the license administrator ~~of the division of compliance.~~ This provision shall not apply if the licensee has no employees and gives appropriate notice to the ~~division of compliance~~ bureau of license and permit services.

The insurance carrier shall give notice both to the licensee and the ~~division of compliance~~ bureau at least fifteen (15) days before such insurance is either canceled or not renewed, and the certificate shall state

this obligation.

SECTION 134. Section 875-418 of the "Revised Code of the Consolidated City and County," regarding licensing and regulation of wrecking contractors, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-418. Board's approval for licensure.**

(a) Approval for licensure of a person, partnership or corporation as a wrecking contractor of the appropriate type shall be in writing signed by a majority of the board. The board may, however, by resolution agreed to by a majority of the board delegate to one (1) of its officers or the license administrator ~~of the division of compliance~~ authority to approve applications for licensure or renewal of licensure on behalf of the board in instances where the applicant is a person whose eligibility for license renewal is established by section 875-411(1) or the applicant is a partnership or corporation.

(b) Prior to approval for licensure, a person, general partner of a partnership or officer of a corporation shall attend an orientation presented or approved by the board that provides general knowledge of the provisions of chapters 536 and 875 pertaining to building standards and procedures.

(c) Upon delivery of such approval, a wrecking contractor's license of the appropriate type shall be issued by the ~~division of compliance~~ bureau of license and permit services. The license period shall be from January 1 of any year ending in an even number to December 31 of the following year.

(d) No license shall be issued by the ~~division of compliance~~ bureau to any person, partnership or corporation as a wrecking contractor except as provided in this section.

SECTION 135. Sections 875-420 through 875-423, inclusive, of the "Revised Code of the Consolidated City and County," regarding licensing and regulation of wrecking contractors, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-420. Supervision by licensee.**

(a) All wrecking shall be accomplished under the direction and control of either:

(1) The licensed person who applied for the building permit; or

(2) If the building permit has been transferred, the licensed person who is the applicant representing the transferee of the building permit; or

(3) If the applicant for the building permit no longer is able or desires to continue his or her responsibilities and obligations as the applicant and the obtainer of the building permit is a partnership ~~which that~~ has a licensed person as a partner or a corporation ~~which that~~ has a licensed person as an officer who meets the requirements imposed by section 536-202 of this Revised Code to apply for such a building permit in the first instance, such licensed partner or officer upon his or her notifying (using a form furnished by the ~~division of compliance~~ bureau of license and permit services) the license administrator ~~of the division of compliance~~ of his or her assumption of the responsibilities and obligations of the applicant for the specified building permit.

(b) The licensed person providing direction and control shall specify work processes and supervise the person or persons accomplishing the wrecking. Such licensed person or a competent person responsible to him or her must be present at the site when any significant wrecking occurs.

**Sec. 875-421. License suspension, revocation or determination of ineligibility for renewal for a person.**

The board may, under section 875-423, suspend the license of a person for a period of up to seven hundred thirty (730) days, revoke the license of a person, or determine on the basis of activities carried out while licensed that a person who is or has been licensed within the previous three hundred sixty-five

(365) days is ineligible for license renewal, if one (1) of the following is shown:

- (1) The licensee made any materially false statement of fact either to the board or on his or her application for license renewal; ~~or~~
- (2) The licensee acted fraudulently in the license examination; ~~or~~
- (3) The licensee (but not including licensees who are exempt because of compliance with the requirements of section 875-412 or section 875-413) failed to post and maintain the surety bond and insurance required by sections 875-415 and 875-416; ~~or~~
- (4) The licensee acted fraudulently or with deceit in his or her relationship with other persons, partnerships or corporations with which he or she dealt in connection with wrecking; ~~or~~
- (5) Wrecking for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit was performed either incompetently or in such manner that it does not meet standards of reasonable workmanship or compliance with building standards and procedures; ~~or~~
- (6) The licensee failed to correct a violation of building standards and procedures relative to wrecking for which the licensee was responsible as applicant for the permit or applicant representing the transferee of the permit, after the license administrator ~~of the division of compliance~~ issued notice of a building code violation, revoked a building permit or issued a stop-work order and the violations(s) causing any of these actions remained uncorrected for a period of ten (10) days from the date of issuance of the notice of the building code violation, revocation of permit or stop-work order, or in the instance where a period of ten (10) days was not sufficient, such longer period of time as was fixed by the license administrator ~~of the division of compliance~~ in writing; ~~or~~
- (7) The licensee has consistently failed to apply for or obtain required applicable permits for wrecking accomplished by the licensee or under his or her supervision; ~~or~~
- (8) The licensee has consistently failed to give notice of availability for inspection at designated stages of wrecking as required by section 536-402 of this Revised Code; ~~or~~
- (9) The licensee has consistently failed to timely file certificates of completion and compliance for wrecking relative to which he or she was the applicant for the permits or applicant representing the transferee of the permits; ~~or~~
- (10) The licensee, excluding licensees who meet the inspector status requirement of section 875-409, has not for a period of five (5) continuous years accomplished or supervised the accomplishment of a significant amount of wrecking; ~~or~~
- (11) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-415 and 875-416 by meeting the inspector status requirements of section 875-413, but is no longer employed by the division of ~~compliance~~ inspections and does not meet the requirements of sections 875-415 and 875-416; ~~or~~
- (12) The licensee qualified for licensure without meeting the bond and insurance requirements of sections 875-415 and 875-416 by meeting the partnership or corporate agent requirements of section 875-408 but, without presently meeting the requirements of sections 875-415 and 875-416, either he or she:
  - a. Is no longer a partner or employee of a partnership or an officer or employee of a corporation licensed under this article; or
  - b. Has made use of his or her license other than as an agent of the partnership or corporation named in his or her application; ~~or~~
- (13) The licensee has not properly paid the fee specified by section 875-701 of this Revised Code for

a license ~~which~~ that has been issued or is delinquent in other fees owed pursuant to this chapter;  
~~or~~

- (14)The licensee has failed to give proper supervision to wrecking in accordance with the requirements of section 875-420; ~~or~~
- (15)The licensee holding a type B or type C wrecking license has accomplished (without supervision by a licensee of the appropriate type) or supervised the accomplishment of wrecking without having the type license ~~which~~ that is required for such construction; or
- (16)The licensee has attempted to conceal or has concealed violations of building standards and procedures.

**Sec. 875-422. License suspension, revocation or determination of ineligibility for receipt of a successor license for a partnership or corporation.**

The board may, under section 875-419, suspend the license of a partnership or corporation for a period of up to seven hundred thirty (730) days, revoke the license of a partnership or corporation, or determine on the basis of activities carried out while licensed within the previous three hundred sixty-five (365) days that the partnership or corporation is ineligible to receive a successor license, if one (1) of the following is shown:

- (1) A materially false statement of fact was made to the board by an agent of the licensee or placed on the licensee's application for license; ~~or~~
- (2) The licensee failed to post and maintain a surety bond and insurance required by sections 875-415 and 875-416; ~~or~~
- (3) An agent of the licensee acted fraudulently or with deceit in its relationship with other persons, partnerships or corporations with which it dealt in connection with wrecking; ~~or~~
- (4) Wrecking for which the licensee was responsible as obtainer of the permit or as transferee of the permit was performed either incompetently or in such manner that it does not meet standards of reasonable workmanship or compliance with building standards and procedures; ~~or~~
- (5) The licensee failed to correct a violation of building standards and procedures relative to wrecking for which the licensee was responsible as obtainer of the permit or as transferee of the permit, after the license administrator ~~of the division of compliance~~ issued notice of a building code violation, revoked a building permit or issued a stop-work order and the violation(s) causing any of these actions remained uncorrected for a period of ten (10) days from the date of issuance of the notice of the building code violation, revocation of permit or stop-work order, or in the instance where a period of ten (10) days was not sufficient, such longer period of time as was fixed by the license administrator ~~of the division of compliance~~ in writing; ~~or~~
- (6) The licensee has consistently failed to obtain required applicable permits for wrecking accomplished by the licensee; ~~or~~
- (7) The licensee has consistently failed to give notice of availability for inspection at designated stages of wrecking as required by section 536-402 of this Revised Code; ~~or~~
- (8) The licensee has consistently failed to timely file certificates of completion and compliance, as required, for wrecking accomplished pursuant to his or her license; ~~or~~
- (9) The licensee has not properly paid the fee specified by section 875-701 of this Revised Code for a license ~~which~~ that has been issued or is delinquent in the payment of fees owed pursuant to this chapter; ~~or~~
- (10)If a partnership, does not have a licensed person as a general partner or employee, or if a corporation, does not have a licensed person as an officer or employee; ~~or~~

- (11)The partnership presently has a partner or the corporation presently has an officer who has a license under this article presently suspended or who has had such a license revoked within the preceding seven hundred thirty (730) days or a determination made of ineligibility of license renewal within the preceding three hundred sixty-five (365) days; ~~or~~
- (12)The partnership presently has a partner or the corporation presently has an officer who, within the previous three hundred sixty-five (365) days, served as a partner in a partnership or an officer in a corporation licensed under this article at the time when actions related to policies or practices of the partnership or corporation occurred ~~which~~ that provided the primary basis on which the license of the partnership or corporation was revoked, suspended for more than three hundred sixty-five (365) days, or a determination made of ineligibility for receipt of a successor license; ~~or~~
- (13)Wrecking, for which the licensee holding a type B or type C wrecking license is responsible as obtainer of the permit or as transferee of the permit, was performed without the licensee having the type license ~~which~~ that is required for such wrecking activity; or
- (14)The licensee has attempted to conceal or has concealed violations of building standards and procedures.

**Sec. 875-423. Hearing and appeal.**

(a) The date and place for a revocation or suspension hearing shall be fixed by the board, and at least ten (10) days before such date a written notice of the general nature of the charges, prepared by the ~~division of compliance~~ bureau of license and permit services, and of the time and place of the hearing thereon shall be served upon the licensee, either by hand delivery to the charged person or to a partner of a charged partnership or officer of a charged corporation, or by certified mail with return receipt requested, addressed to the licensee at his or her main place of business as shown by the licensee's application for license or license renewal. The ten (10) or more days shall run from the date such notice is mailed. In the instance where charges are made ~~which~~ that have a similar factual basis and a business relationship exists (as, for example, charges against two (2) licensed partners or charges against a licensed corporation and a licensed corporate officer), the board may hear evidence relative to two (2) or more charges at the same hearing.

(b) The licensee may appear in person or by counsel and produce evidence (including testimonial and documentary evidence), make argument and cross-examine witnesses at such hearing. The ~~division of compliance~~ bureau shall have the same right. The board may cause or allow any other relevant evidence to be introduced. On the basis of evidence presented at the hearing, the board shall make findings and enter an order in accordance with such findings, which shall not become effective until ten (10) days after notice and a copy thereof has been served upon the licensee, in the manner required for notice of the hearing.

(c) On or before ten (10) days after service of said order, the licensee may appeal therefrom to the deputy director of the department of ~~metropolitan development~~ code enforcement, division of administration, logistics, licenses and permits, by serving a notice of appeal upon the deputy director either in person or by filing it at his or her office, with a copy thereof delivered to the board at the office of the license administrator ~~of the division of compliance~~, who shall deliver such copy to the board. Unless such appeal is so taken, the order of the board shall be final.

(d) If so appealed, the order of the board shall be stayed until the appeal is heard and determined by the deputy director ~~of the department of metropolitan development~~ or a representative designated in writing (but not an employee of the ~~division of compliance~~ bureau of license and permit services) by the deputy director, under the procedure prescribed by statute for hearings on the suspension or revocation of licenses. The deputy director or his or her representative shall thereupon render such decision as he or she finds justified and sustained by the evidence, either affirming, reversing or modifying the terms of the order of the board. The order of the deputy director or his or her representative shall be final and conclusive and be binding upon both the licensee and the board.

SECTION 136. Section 875-501 of the "Revised Code of the Consolidated City and County," regarding

registration of plumbing contractors, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-501. Registration.**

(a) Any person or corporation ~~which that~~ that is licensed by the Indiana Plumbing Commission as a plumbing contractor pursuant to Public Law 188 of the Acts of 1972, as amended, and ~~which that~~ performs any work within the Consolidated City of Indianapolis ~~which that~~ it is privileged to accomplish pursuant to such license shall register with the ~~division of compliance~~ bureau of license and permit services.

(b) Such registration shall be accomplished by paying a fee provided by section 875-701 and specified by section 875-704 131-501 of the code, and by furnishing the following information on a form supplied by the ~~division of compliance~~ bureau:

- (1) Name of business;
- (2) Legal status (whether sole proprietor, member of partnership or corporation);
- (3) Address of business;
- (4) The identification number of the license issued by the Indiana Plumbing Commission; and
- (5) In the instance of a corporation ~~which that~~ that is a licensed plumbing contractor, the name of all corporate officers or employees who hold a plumbing contractor's license and are authorized by the corporation to obtain building permits on behalf of the corporation for construction relative to which state licensure as a plumbing contractor is required.

(c) Such registration shall be for a two-year period, beginning on January 1 of any year ending in an even number and expiring on December 31 of the following year.

(d) Such registration shall terminate during the period of registration at such time as the person or corporation is not licensed by the Indiana Plumbing Commission as a plumbing contractor.

SECTION 137. Section 875-701 of the "Revised Code of the Consolidated City and County," regarding contractor listings, registrations, and fees, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 875-701. Listing, registration and license fees.**

(a) The fee for listing a sole proprietor, partnership or corporation as a general contractor; fee for licensing a person, sole proprietor, partnership or corporation as an electrical contractor, heating and cooling contractor or wrecking contractor shall be ~~as follows:~~ provided in section 131-501 of the code.

- (1) ~~New listing or license: Three hundred ninety five dollars (\$395.00).~~
- (2) ~~Renewal of listing or license: Three hundred fifteen dollars (\$315.00).~~
- (3) ~~New listing or license that has a duration for a period from three hundred sixty five (365) days to five hundred forty eight (548) days: Two hundred ninety five dollars (\$295.00).~~
- (4) ~~New listing or license that has a duration from one (1) to three hundred sixty four (364) days: Two hundred dollars (\$200.00).~~

(b) The fee for registration of state licensed plumbing contractors who are sole proprietors or for individuals within a corporation who are eligible to secure permits: shall be provided in section 131-501 of the code.

- (1) ~~New registration: One hundred sixty dollars (\$160.00).~~

- (2) ~~Renewal of registration: One hundred twenty-five dollars (\$125.00).~~
- (3) ~~New registration that has a duration from three hundred sixty-five (365) days to five hundred forty-eight (548) days: One hundred twenty dollars (\$120.00).~~
- (4) ~~New registration that has a duration from one (1) to three hundred sixty-four (364) days: Eighty dollars (\$80.00).~~

(c) A licensed or listed contractor shall be allowed to specify five (5) names, which includes officers, partners, employees or agents of the contractor, who are eligible to secure permits for the contractor. Additional names may be specified, but ~~sixty-five dollars (\$65.00) shall be charged~~ a fee for each additional name shall be provided in section 131-501 of the code.

(d) A person who meets the inspector status requirements stated in section 875-108, 875-214, 875-313 or 875-413 is relieved of the requirement of the annual license, listing or registration fees.

SECTION 138. Section 881-1 of the "Revised Code of the Consolidated City and County," regarding dance permits and licenses, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 881-1. Permit or license required.**

It shall be unlawful for any person to hold any dance, or to own, operate or allow the operation of any building or premises in the city where dancing is indulged in or permitted, and where music is performed live or reproduced by any type of electronic or mechanical device, without first obtaining a dance permit or annual dance license therefor from the ~~controller~~ license administrator. Whenever a dance requiring a permit or annual license is held on premises not owned or leased for a term of one (1) year or more by the person holding the dance, the owner or lessee of the property and the person holding the dance must each first obtain a permit or annual license.

SECTION 139. Sections 881-3 through 881-7, inclusive, of the "Revised Code of the Consolidated City and County," regarding dance permits and licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 881-3. Application for permit or license.**

All applications for a permit or annual license required by this chapter shall be in writing on a form designated by the ~~controller~~ license administrator, and shall include the following and be signed by the applicant:

- (1) The name, mailing address and telephone number of the applicant, and the names and addresses of all partners if a partnership, all officers if a corporation, and all other persons who will be associated in the operation of the business, including, but not limited to, the name, date of birth, mailing address, and telephone number of the person or persons who will be present for the duration of the dance and who will be responsible for managing the dance;
- (2) The applicant's retail merchant certificate number, federal tax identification number, and alcoholic beverage permit number, if the premises is licensed for the sale of alcoholic beverages;
- (3) On dance permit applications, the date and hours when, and address where, each dance will be held, and if a single application is for more than one (1) dance permit, it shall state the date, location and hours of each dance;
- (4) On annual dance license applications, the location, hours, and maximum number of days per week that dances will be held;
- (5) Whether the dance or dances will be open to the public, and whether there will be an admission charge, or any age or other restrictions on who may be admitted;

- (6) Whether the premises on which the dance will be held is owned or leased for a term of one (1) year or more by the applicant;
- (7) Whether the applicant, including partners in a partnership and officers of a corporation, and any person responsible for managing the dance, has ever been convicted of a felony or misdemeanor; and
- (8) Any other information required by the Code or deemed appropriate by the ~~controller~~ license administrator.

**Sec. 881-4. Liability insurance.**

(a) The applicant shall procure, and maintain throughout the term of the permit or license, a policy of general premises liability insurance ~~which that~~ names the City of Indianapolis as an "additional insured" party, and ~~which that~~ would protect the permittee or licensee and the city from any claims ~~which that~~ may arise out of or result from the operation of the dance or dances. The applicant shall file a certificate of insurance with the ~~controller~~ license administrator before a permit or license can be issued.

(b) The limits of liability upon any insurance required by this section shall in no instance be less than one million dollars (\$1,000,000.00) per occurrence.

**Sec. 881-5. Denial; grounds.**

(a) The ~~controller~~ license administrator shall not issue a dance permit or annual dance license to any person who has not reached the age of twenty-one (21) years, or who has been convicted of a felony.

(b) The ~~controller~~ license administrator shall not issue a dance permit or annual dance license to any person who does not provide the ~~controller~~ license administrator with the name, date of birth, mailing address, and telephone number of a person who has reached the age of twenty-one (21) years who will be present for the duration of the dance and who will be responsible for managing the dance;

(c) In addition to any other reasons stated in this Code, the ~~controller~~ license administrator may refuse to issue a permit or license required by this chapter for any of the following reasons:

- (1) The application was not made at least three (3) business days prior to the time of commencement of the dance;
- (2) The applicant or a person named on the application has been convicted of a misdemeanor or found in violation of any law relating to alcoholic beverages, narcotics, or disorderly or immoral conduct;
- (3) The applicant or a person named on the application permitted violations of law to occur at a prior dance held or managed by him, without stopping the violations or reporting them to the police;
- (4) Persons under the age of twenty-one (21) years will be admitted to the dance, and the dance is to be held on premises licensed for the sale of alcoholic beverages or within five hundred (500) feet, measured in any direction, of a premises licensed for the sale of alcoholic beverages; or
- (5) The applicant has failed to provide all information required by this chapter or Chapter 801 or has falsely provided such information.

**Sec. 881-6. Scope of permit and license; hours of operation.**

(a) Each permit issued pursuant to this chapter shall allow the permittee to hold one (1) dance at one (1) location for a continuous period, and a separate permit shall be required for each dance.

(b) In lieu of obtaining separate dance permits pursuant to this chapter, a license with a term of one (1) year may be obtained from the ~~controller~~ license administrator. Annual dance licenses shall be issued

for specific numbers of dance days per week at one (1) location, and separate dance permits shall be required only in the event that an annual licensee desires to hold more dance days in any given week than are allowed by the license.

(c) Under no circumstances may any part of a permitted or licensed dance be held between the hours of 2:00 a.m. and 6:00 a.m., or between the hours of midnight and 6:00 a.m. if entry is not limited to persons eighteen (18) years of age or older.

**Sec. 881-7. Fees.**

(a) A separate fee of ~~seventy-five dollars (\$75.00)~~ provided in section 131-501 of the code shall be paid for each permit issued pursuant to this chapter.

(b) The fee for an annual license obtained pursuant to this chapter shall be ~~eighty dollars (\$80.00)~~ provided in section 131-501 of the code.

SECTION 140. Sections 886-3 and 886-4 of the "Revised Code of the Consolidated City and County," regarding fire extinguisher service company licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 886-3. Administration of this chapter.**

The administration of this chapter is vested in the fire prevention bureaus of the city fire department and the township fire departments located in the county, and the ~~controller which shall have the power to promulgate the proper rules and regulations to administer this chapter~~ license administrator.

**Sec. 886-4. Persons servicing fire extinguishers; license required.**

(a) It shall be unlawful for a person to engage in the business of servicing portable fire extinguishers in the county without first having obtained a license therefor from the ~~controller~~ license administrator.

(b) It shall be unlawful for an employee of a firm engaged in the business of servicing portable fire extinguishers to service portable extinguishers in the county without first having obtained a license therefor from the ~~controller~~ license administrator.

(c) Each firm performing hydrostatic testing of portable fire extinguishers manufactured in accordance with the specifications of the National Fire Prevention Association shall do so in accordance with the procedures specified by such for compressed gas cylinders. Each person qualified to perform such hydrostatic testing shall present a hydrostatic testing certificate to the ~~controller~~ license administrator, who then shall note the person's authority on his or her fire extinguisher service license.

(d) It shall be unlawful for a person to service or sell portable fire extinguishers contrary to the provisions of this chapter or the rules and regulations formulated and administered under the authority of this chapter.

SECTION 141. Sections 886-6, 886-7, and 886-8 of the "Revised Code of the Consolidated City and County," regarding fire extinguisher service company licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 886-6. Service record to be maintained on extinguishers.**

Each person who services a portable fire extinguisher in the county shall upon completion affix to the extinguisher a durable tag or label ~~which that~~ which that bears such person's name and license number, the date of the service, and any additional information ~~which that~~ which that the ~~controller~~ license administrator by regulation may require. Failure to comply with the provisions of this section shall constitute a violation of the Code.

**Sec. 886-7. Powers and duties of the ~~controller~~ license administrator and fire prevention bureaus under this chapter.**

(a) The fire prevention bureaus shall:

- (1) Evaluate the qualifications of firms or individuals for licensing to engage in the business of servicing fire extinguishers; and
- (2) Conduct examinations to ascertain the qualifications and fitness of applicants for a license to service fire extinguishers.

(b) The ~~controller~~ license administrator shall not issue or renew a license under this chapter to an applicant or licensee who has not passed the examination given by the fire prevention bureaus. Upon any substantial revision of the examination, each licensee shall be required to pass the revised examination prior to having his or her license renewed.

**Sec. 886-8. Fees.**

The original and annual renewal fee for any license issued under the provisions of this chapter and the rules and regulations formulated and administered under the authority of this chapter shall be ~~twenty-five dollars (\$25.00)~~ provided in section 131-501 of the code.

SECTION 142. Sections 895-1 through 895-4, inclusive, of the "Revised Code of the Consolidated City and County," regarding horse-drawn carriage licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 895-1. Registration required; fee.**

(a) It shall be unlawful for a person to operate, or cause to be operated, a horse-drawn carriage upon the streets of the city for the purpose of transporting persons for hire or as a contractual service, unless the carriage first is registered with the ~~controller~~ license administrator as provided in this chapter.

(b) The annual fee for registration of a horse-drawn carriage shall be ~~twenty dollars (\$20.00)~~ provided in section 131-501 of the code.

**Sec. 895-2. Registration information required.**

(a) Registrations of horse-drawn carriages shall be made with the ~~controller~~ license administrator on forms provided by the ~~controller~~ license administrator, and the registrant shall be the owner or operator of the carriage. In addition to the information required by section 801-203 of this Code, the registration shall contain the following information:

- (1) The seating capacity, manufacturer, and scale drawing or photograph of each carriage to be registered;
- (2) The name, age, address, and state motor vehicle operator's license number of each person who will act as a coachman on any registered carriage, along with written evidence of such person's experience in driving a horse-drawn carriage, or his or her successful completion of a course in such driving given by a source approved by the ~~controller~~ license administrator, or both;
- (3) Whether the registrant has ever been convicted of a felony, if the registrant is an individual; whether any of the partners have been convicted of a felony, if the registrant is a partnership; and whether any of the officers or directors have been convicted of a felony, if the registrant is a corporation;
- (4) The site or sites off-street to be used to store, stable, and load carriages and horses; and
- (5) A schedule of rates and charges to be made to passengers.

(b) The information on the registration form shall be verified under oath and include a written agreement by the registrant to operate the carriage, if registered, strictly in accordance with section 895-8 of this Code, and to indemnify and hold harmless the city for all judgments, losses and expenses arising

out of the operations permitted by the registration.

**Sec. 895-3. Certificate of registration; issuance, term and renewal.**

(a) Upon the receipt of a completed registration form, the qualification of the registrant's coachmen under section 895-6 of this chapter, and the filing of a bond or insurance under section 895-9 of this chapter, the ~~controller~~ license administrator shall issue a certificate of registration for each registered carriage.

(b) Registrations of horse-drawn carriages under this chapter shall be valid for a period of one (1) year, with an expiration date of June 30.

(c) If the ~~controller~~ license administrator finds that the registrant of a horse-drawn carriage remains qualified and has operated as required by this chapter, the ~~controller~~ license administrator shall renew the registration automatically and without application for renewal by the registrant, unless at the time of renewal:

- (1) The registration has been revoked or suspended;
- (2) The registration is the subject of administrative or judicial proceedings ~~which~~ that have the potential to result in the revocation or suspension of the registration, in which case the registration may continue in effect until the conclusion of the administrative or judicial proceedings; or
- (3) The registrant has not paid the registration fee for the following year.

**Sec. 895-4. Restrictions on hours of operation, and streets.**

(a) It shall be unlawful for a person to operate a horse-drawn carriage upon any public street in the city between the hours of 6:00 a.m. and 9:00 a.m., or 3:00 p.m. and 6:00 p.m., except on Saturdays, Sundays and city holidays.

(b) The ~~controller~~ license administrator shall consult the directors of the city departments of ~~capital asset management~~ public works and public safety with respect to which public streets would be unsafe or inappropriate for use by horse-drawn carriages. Upon a finding that the operation of a horse-drawn carriage would present a hazard to the public safety on certain city streets or ways or would otherwise jeopardize the public welfare, the ~~controller~~ license administrator shall by regulation prohibit the operation of horse-drawn carriages upon those streets.

(c) The operation of horse-drawn carriages upon any public street and at any time may be prohibited by the director of the city department of public safety when such operation would be inconsistent with other special events or public safety requirements, by giving forty-eight (48) hours' advance written notice of such prohibition.

SECTION 143. Section 895-6 of the "Revised Code of the Consolidated City and County," regarding horse-drawn carriage licenses, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 895-6. Qualification of coachmen.**

(a) It shall be unlawful for a registrant under this chapter to cause, suffer or allow the operation of a horse-drawn carriage upon any public street in the city by a person, referred to in this chapter as a *coachman*, until the ~~controller~~ license administrator first investigates such person's character, and such person first demonstrates to the ~~controller~~ license administrator that he or she is:

- (1) Able to speak, read and write the English language;
- (2) The holder of a valid motor vehicle operator's license issued by the state;
- (3) Free of defective vision, defective hearing, and any other infirmities that would render the

coachman unfit for safe operation of a public vehicle; and

(4) Free of alcohol or drug addiction.

(b) The ~~controller~~ license administrator may require the coachman to demonstrate the ability to drive a horse-drawn carriage and, by test or otherwise, the coachman's knowledge of the requirements of this chapter.

SECTION 144. Sections 895-8 through 895-11, inclusive, of the "Revised Code of the Consolidated City and County," regarding horse-drawn carriage licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 895-8. General requirements of operation.**

Horse-drawn carriages shall be operated only in accordance with the ~~following~~ provisions: of this section.

- (1) A registrant shall give the ~~controller~~ license administrator written notice within ten (10) days after a registered carriage, or coachman listed in the registration, is no longer used or employed by the registrant.
- (2) A copy of the certificate of registration shall be displayed in all carriages.
- (3) Each coachman shall carry an identification card or be wearing some type of visible identification at all times when operating such carriage.
- (4) Horse-drawn carriages shall pick up and discharge passengers only upon the curb lane, while lawfully parked at the curb.
- (5) Horse-drawn carriages, when in motion, shall be operated only in the curb-most traffic lane on any public street, and the coachman shall obey all applicable state and local traffic and parking laws, ordinances and regulations.
- (6) Coachmen shall carry rate cards and exhibit them on demand. Rate cards shall also be affixed to the carriage in a prominent location so as to advise prospective clientele of the rates and fares. Rate cards shall bear the name and business address of the registrant, and a complete schedule of rates and fares, which shall be the same as those on file with the ~~controller~~ license administrator. It shall be the responsibility of the registrant to provide rate cards to all coachmen and affix same to the carriages. Registrants shall give the ~~controller~~ license administrator written notice at least ten (10) days prior to any change in the rates and fares.
- (7) Horse-drawn carriage owners and operators shall maintain their horses in good health abiding by the rules of good animal husbandry. This shall include an annual health examination of each animal by a veterinarian of equine medicine licensed by the state. A copy of such examination shall be submitted to the ~~controller~~ license administrator to be placed on file.
- (8) Occupancy of a horse-drawn carriage shall not exceed the rated seating capacity of the carriage.
- (9) No passenger shall be allowed to ride on any part of the carriage while in motion except seated inside the carriage.
- (10) Coachmen shall not solicit patronage in a loud tone of voice or in any manner to annoy or obstruct the movement of a person, or follow a person for the purpose of soliciting patronage.
- (11) Coachmen are prohibited from smoking while carrying passengers.
- (12) All horses must be shod with horse shoes that are either a rubber compound shoe, a steel shoe with borium or Drill-Tek on the street-gripping surfaces, or other type of shoe approved for use by the director of the department of public works.

(13) Each horse pulling a carriage on the city streets shall be equipped with manure-catching devices to prevent manure from falling to the street surface.

(14) Each carriage shall be equipped with a chemical to be poured over horse urine so as to break down and eliminate accumulated agents and odor, and coachmen shall use the chemical each time a horse urinates on the street surface.

**Sec. 895-9. Public liability.**

(a) Before the issuance of any certificate of registration or renewal of registration under this chapter, the registrant therefor shall post or maintain with the ~~controller~~ license administrator either an indemnity bond or a policy of public liability insurance, approved as to form by the corporation counsel and conditioned substantially that the registrant will indemnify and save harmless the city, its officers, agents and employees, from any and all loss, costs, damages or expenses, by reason of legal liability ~~which that~~ which that may result from or arise out of the operation of a carriage for which a certificate of registration is issued, and that the registrant will pay any and all loss or damage that may be sustained by a person ~~which that~~ which that results from or arises out of the illegal or negligent operation or maintenance of a carriage. The bond or policy of insurance shall be maintained in its original amount by the registrant at the registrant's expense at all times during the period for which the registration is in effect. In the event two (2) or more certificates of registration are issued to one (1) registrant, one (1) such bond or policy of insurance may be furnished to cover two (2) or more carriages and each bond or policy shall be of a type where coverage shall automatically be restored after the occurrence of any accident or event from which liability may thereafter accrue.

(b) The limit of liability upon any bond or policy posted under subsection (a) of this section shall in no case be less than one hundred thousand dollars (\$100,000.00) for death or injury of one (1) person, three hundred thousand dollars (\$300,000.00) for total liability for death or personal injury arising out of any one (1) event or casualty, and fifty thousand dollars (\$50,000.00) for property damage.

(c) Any bond posted under this section shall be accompanied by good and sufficient sureties approved by the ~~controller~~ license administrator.

(d) The ~~controller~~ license administrator shall notify the registrant under this chapter of any claim of which the city has notice, where such claim arises from the operation or maintenance of any carriage.

(e) The failure to maintain the bond or policy required under this section throughout the entire term of a registration shall constitute a violation of this Code.

**Sec. 895-10. Limitation on number of carriages in the downtown area.**

(a) The council determines that to prevent disruption of the primary public uses of the city streets by pedestrians and motor vehicles, the number of carriages permitted in the downtown area should be limited. The ~~controller~~ license administrator shall authorize no more than twenty (20) registered carriages to operate in the area bounded by White River on the west, Eleventh Street on the north, and I-70 on the east and south, referred to in this chapter as the *downtown area*. The authorization shall be in writing, and noted on a registrant's certificate of registration.

(b) If more than twenty (20) carriages are registered, the ~~controller~~ license administrator shall select carriages to be authorized to operate in the downtown area by random method until the maximum is reached.

(c) No registrant or other person may own, operate, or have a financial interest in more than eight (8) carriages authorized to operate in the downtown area.

(d) If the registration of a carriage is revoked or suspended for a period of three (3) months or more, or if the use of such carriage has been abandoned by the registrant, then an authorization for that carriage to operate in the downtown area shall terminate automatically. When such a termination occurs, the ~~controller~~ license administrator shall select, under the procedures provided by this section, another

carriage to operate in the downtown area.

(e) It shall be unlawful for a registrant under this chapter to operate, or cause to be operated, a carriage in the downtown area unless the carriage is authorized to do so under this section.

**Sec. 895-11. Enforcement and penalties.**

In addition to ~~controller's~~ license administrator's hearings and any penalties the ~~controller~~ license administrator may impose, the first violation of any provision of this chapter in a twelve-month period, including but not limited to the operation upon any public street in the city of a horse-drawn carriage:

- (1) ~~Which~~ That is not registered, or not in compliance with the requirements of sections 895-7 and 895-8 of this chapter;
- (2) By a coachman who is not qualified under section 895-6 of this chapter; and
- (3) In the downtown area without authorization under section 895-10 of this chapter;

shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103 of this Code. A person's second and subsequent violations in the twelve-month period are subject to the enforcement procedures and penalties provided in section 103-3 of this Code.

SECTION 145. Section 901-3 of the "Revised Code of the Consolidated City and County," regarding licenses of hotels and places of public lodging, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 901-3. License required; fee; term and renewal.**

(a) It shall be unlawful for any person to maintain a hotel in the city without first procuring an annual license therefor from the ~~controller~~ license administrator. The annual fee for this license shall be ~~twenty dollars (\$20.00)~~ provided in section 131-501 of the code.

(b) Each license issued pursuant to this section shall be renewed automatically by the ~~controller~~ license administrator and without application for renewal by the licensee, unless at the time of renewal:

- (1) The license has been revoked or suspended;
- (2) The license is the subject of administrative or judicial proceedings ~~which~~ that have the potential to result in the revocation or suspension of the license; or
- (3) The licensee has not paid the license fee for the following year.

SECTION 146. Sections 903-102 through 903-106, inclusive, of the "Revised Code of the Consolidated City and County," regarding pedal cab licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 903-102. Registration required; fee.**

(a) It shall be unlawful for a person to operate, or cause to be operated, a pedal cab on a street or highway in the city, unless the pedal cab first is registered with the ~~controller~~ license administrator as provided in this chapter.

(b) The annual fee for registration of a pedal cab shall be ~~twenty dollars (\$20.00)~~ provided in section 131-501 of the code.

**Sec. 903-103. Registration information.**

- (a) Registrations shall be made on forms provided by the ~~controller~~ license administrator, and verified

under oath by a person who owns or has a financial interest in the pedal cabs.

(b) In addition to the information required by Section 801-203 of this Code, the registrant shall provide the following information:

- (1) The number of pedal cabs to be operated, which shall not be less than four (4);
- (2) A description of each pedal cab, including the vehicle type, seating capacity, manufacturer, serial number, and a color photograph;
- (3) Whether the registrant has ever been convicted of a felony, if the registrant is an individual; whether any of the partners have been convicted of a felony, if the registrant is a partnership; and whether any of the officers or directors have been convicted of a felony, if the registrant is a corporation;
- (4) The name, age, address, and state motor vehicle operator's license number of each person who will act as an operator of a registered pedal cab, and whether such person has ever been convicted of a felony;
- (5) A schedule of rates and charges applicable to passengers; and,
- (6) Any other information deemed necessary by the ~~controller~~ license administrator.

**Sec. 903-104. Public liability.**

(a) Before the issuance of a certificate of registration or renewal of a registration under this chapter, the registrant shall post or maintain with the ~~controller~~ license administrator either an indemnity bond or a policy of public liability insurance, approved as to form by the corporation counsel, and conditioned substantially that the registrant will indemnify and save harmless the city, its officers, agents and employees, from any and all loss, costs, damages or expenses, by reason of legal liability ~~which that~~ may result from or arise out of the operation of a pedal cab for which a certificate of registration is issued, and that the registrant will pay any and all loss or damage that may be sustained by a person ~~which that~~ results from or arises out of the illegal or negligent operation or maintenance of a pedal cab. The bond or policy of insurance shall be maintained in its original amount by the registrant at the registrant's expense at all times during the period for which the registration is in effect. In the event two (2) or more certificates of registration are issued to one (1) registrant, one (1) such bond or policy of insurance may be furnished to cover two (2) or more pedal cabs, and each bond or policy shall be of a type where coverage shall be restored automatically after the occurrence of any accident or event from which liability may thereafter accrue.

(b) The limit of liability upon any bond or policy posted under this section in no event shall be less than one million dollars (\$1,000,000.00) for death or injury of one (1) person, two million dollars (\$2,000,000.00) for total liability for death or personal injury arising out of any one (1) event or casualty, and fifty thousand dollars (\$50,000.00) for property damage.

(c) Any bond posted under this section shall be accompanied by good and sufficient sureties approved by the ~~controller~~ license administrator.

(d) The ~~controller~~ license administrator shall notify the registrant under this chapter of any claim of which the city has notice, where such claim arises from the operation or maintenance of any pedal cab.

(e) The failure to maintain the bond or policy required under this section throughout the entire term of a registration shall constitute a violation of this Code.

**Sec. 903-105. Qualification of operators.**

(a) Before the issuance of a certificate of registration or renewal of a registration under this chapter, the ~~controller~~ license administrator shall first investigate the character of each person identified as an operator of a pedal cab. Each such person shall demonstrate to the ~~controller~~ license administrator that

he or she is:

- (1) Able to speak, read and write the English language;
- (2) The holder of a valid motor vehicle operator's license issued by the state;
- (3) Free of defective vision, defective hearing, and any other infirmities that would render him or her unable to operate a pedal cab in a safe manner; and,
- (4) Free of alcohol or drug addiction.

The ~~controller~~ license administrator may require such person to demonstrate the ability to operate a pedal cab, and, by test or otherwise, his or her familiarity with the requirements of this chapter.

(b) During the term of the registration, the registrant shall give the ~~controller~~ license administrator written notice of a person proposed to act as an operator, but who was not listed on the registration form. The notice shall include the same information as originally required, and such person shall be qualified under this section before operating a pedal cab in the city.

**Sec. 903-106. Registration certificate, term and renewal.**

(a) Upon receipt of a completed registration form, the filing of a bond or insurance under Section 903-104 of this chapter, and the qualification of the registrant's operators under Section 903-105 of this chapter, the ~~controller~~ license administrator shall issue either a certificate of registration for each registered pedal cab, or a written denial of the registration.

(b) A registration under this chapter shall be valid for a period of one (1) year, with an expiration date of December 31; however, if a registrant for any reason fails to operate a registered pedal cab within one hundred and twenty (120) days after the certificate of registration is issued, then such registration shall terminate at that time.

(c) If the ~~controller~~ license administrator finds that the registrant remains qualified and has operated as required by this chapter, the ~~controller~~ license administrator shall renew the registration automatically and without application for renewal by the registrant, unless at the time of renewal:

- (1) The registration has been revoked or suspended;
- (2) The registration is the subject of administrative or judicial proceedings ~~which~~ that have the potential to result in the revocation or suspension of the registration, in which case the registration may continue in effect until the conclusion of the administrative or judicial proceedings; or
- (3) The registrant has not paid the registration fee for the following year.

SECTION 147. Section 903-108 of the "Revised Code of the Consolidated City and County," regarding pedal cab licenses, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 903-108. Manner of operation.**

(a) A pedal cab shall not be operated on a sidewalk.

(b) A pedal cab operator shall not solicit patronage in a loud tone of voice or in any manner so as to annoy or obstruct the movement of a person, nor shall an operator follow a person for the purpose of soliciting patronage.

(c) A pedal cab operator shall not at anytime pick up or discharge passengers in the roadway unless the pedal cab and passengers are in the curb lane and shall not pick up or discharge passengers anywhere in a roadway between 6:00 a.m. and 9:00 a.m. and between 3:00 p.m. and 6:00 p.m.

(d) Occupancy of a pedal cab shall not exceed the rated seating capacity of the vehicle.

(e) A pedal cab operator shall not allow a passenger to ride on any part of the pedal cab other than by sitting on the seats or platforms designed for such purpose.

(f) Operators are prohibited from smoking while carrying passengers.

(g) Each operator shall carry an identification card or be wearing some type of visible identification at all time when operating a pedal cab.

(h) Operators shall carry rate cards and exhibit them on demand. Rate cards shall also be affixed to the pedal cab in a prominent location so as to advise prospective clientele of the rates and fares. Rate cards shall bear the name and business address of the registrant, and a complete schedule of rates and fares, which shall be the same as those on file with the ~~controller~~ license administrator. Registrants shall give the ~~controller~~ license administrator written notice at least ten (10) days prior to any change in the rates and fares.

(i) A pedal cab shall not be operated with an attached trailer, or be used to tow another vehicle of any type.

(j) The operation of pedal cabs upon any public street and at any time may be prohibited by the director of the city department of public safety when such operation would be inconsistent with other special events or public safety requirements, by giving forty-eight (48) hours' advance written notice of such prohibition.

(k) A pedal cab operator shall obey all applicable state and local traffic and parking laws, ordinances and regulations.

(l) It shall be unlawful for a person to operate a pedal cab in violation of the provisions of this section.

SECTION 148. Section 903-110 of the "Revised Code of the Consolidated City and County," regarding pedal cab licenses, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 903-110. Enforcement and penalties.**

In addition to the ~~controller's~~ license administrator's hearings and any penalties the ~~controller~~ license administrator may impose under Chapter 801 of this Code, a person's first violation of any provision of this chapter in a twelve-month period, including but not limited to the operation of a pedal cab:

(1) ~~Which~~ That is not registered, or not in compliance with the requirements of Sections 903-107 and 903-108 of this chapter; and,

(2) By an operator who is not qualified under Section 903-105 of this chapter;

shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103 of this Code. A person's second and subsequent violations in the twelve-month period are subject to the enforcement procedures and penalties provided in Section 103-3 of this Code.

SECTION 149. Sections 909-102 through 909-107, inclusive, of the "Revised Code of the Consolidated City and County," regarding the registration of lobbyists, as enacted by G. O. No. 31, 2009 with an effective date of January 1, 2010, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 909-102. Registration statement required.**

Within fifteen (15) working days after making any contact with an agency regarding an agency action,

a lobbyist shall file with the ~~office of finance and management~~ license administrator a registration statement that contains the following information on a form provided by ~~that office~~ the administrator:

- (1) The name, business address, telephone number, electronic mail address, and occupation of the lobbyist;
- (2) The name, business address, telephone number, and electronic mail address of the:
  - a. Lobbyist's employer; and
  - b. Any real party in interest on whose behalf the lobbyist is acting, if it is different from the employer;
- (3) A brief description of the subject matter to which the engagement or engagements relate;
- (4) The identity of the agency or agencies to which the engagement or engagements relate; and
- (5) A verified statement that in the course of engaging in any lobbying activity, the lobbyist has read and will comply with Chapter 293 of this Code.

**Sec. 909-103. Annual report required; fee.**

(a) Not later than January Fifteenth of each year, a lobbyist shall file with the ~~office of finance and management~~ license administrator an annual report that contains the following information on a form provided by ~~that office~~ the administrator:

- (1) The name, business address, telephone number, electronic mail address, and occupation of the lobbyist;
- (2) The name, business address, telephone number, and electronic mail address of the lobbyist's principal employer;
- (3) The name, business address, and electronic mail address of each real party in interest represented by the lobbyist that has a continuing engagement described in the lobbyist's registration statement;
- (4) The total amount of payments received for each engagement during the previous calendar year;
- (5) A brief description of the subject matter for the lobbying activities in which the lobbyist was engaged during the previous calendar year;
- (6) The identity of the agency or agencies to which the lobbying activities during the previous calendar year were directed;
- (7) A description and the costs of any item of entertainment, food, drink, honoraria, travel expenses, and registration fees given or provided to an official, appointee, or employee; however, the following items need not be listed:
  - a. Items with a face value of less than twenty-five dollars (\$25); and
  - b. Items that are exempt under subdivisions (2) through (11) of Section 293-201(b);and
- (8) A verified statement certifying that in the course of engaging in any lobbying activity during the previous calendar year, the lobbyist has read and complied with Chapter 293 of the Code.

(b) The fee for filing a registration under this section shall be ~~one hundred dollars (\$100)~~ provided in section 131-501 of the code, and shall be deposited in the consolidated county fund.

**Sec. 909-104. Duty to report changed information and termination of engagement.**

(a) If there is a material change to any information contained in a registration statement or annual report under this chapter, the lobbyist shall file an appropriate written amendment with the ~~office of finance and management~~ license administrator within fifteen (15) days after the change occurs.

(b) Each lobbyist shall file a written notice of termination with the ~~office of finance and management~~ license administrator within fifteen (15) days after the end of an engagement; however, this does not relieve the lobbyist of the duty to file an annual report.

**Sec. 909-105. Review of statements and other documents.**

The ~~office of finance and management~~ license administrator shall review the accuracy of registration statements and other documents filed under this chapter, and may require the lobbyist to submit verified statements and other supporting documentation. The ~~office of finance and management~~ license administrator shall notify a lobbyist of any materially incorrect information or other deficiencies in the registration statements or other documents, and within thirty (30) days from receipt of such a notice, the lobbyist shall file an amended statement or other document that satisfies all requirements set forth in this chapter.

**Sec. 909-106. Availability of statements and other documents.**

(a) To facilitate public access to records regarding lobbying activity, the ~~office of finance and management~~ license administrator shall compile and maintain an index of all registration statements and other documents filed under this chapter.

(b) The ~~office of finance and management~~ license administrator shall preserve registration statements and other documents filed under this chapter for a period of at least four (4) years from the date of receipt.

**Sec. 909-107. Enforcement and penalties.**

In addition to ~~controller's~~ license administrator's hearings and any penalties the ~~controller~~ license administrator may impose, including but not limited to suspension and revocation of registrations, a lobbyist's first violation of:

- (1) Failure to file a registration statement as required by Section 909-103 of the Code;
- (2) Failure to file an annual report as required by Section 909-104 of the Code;
- (3) Failure to report changed information or termination of engagement as required by Section 909-105 of the Code; or
- (4) Failure to file an amended statement or other document as required by Section 909-106 of the Code;

shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103 of the Code. A lobbyist's second and subsequent violations of these provisions are subject to the enforcement procedures and penalties provided in Section 103-3 of the Code.

SECTION 150. Sections 911-2 through 911-6, inclusive, of the "Revised Code of the Consolidated City and County," regarding licenses of massage parlors, bathhouses, and related enterprises, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 911-2. License required; exemption.**

- (a) It is unlawful for a person or firm to operate, conduct or maintain a massage parlor, bathhouse,

escort service, body painting studio or nude modeling studio in the city without first having obtained a license therefor from the ~~controller~~ license administrator.

(b) It shall be unlawful for a person employed in the city to be paid:

- (1) As a massage therapist, escort, body painting model, or nude model; or
- (2) To perform massages;

unless such person first obtains a license therefor from the ~~controller~~ license administrator.

(c) Notwithstanding the provisions of subsection (b) of this section, a person who has:

- (1) Been awarded the National Certificate for Therapy Massage and Body Work; or
- (2) Graduated from an institute of professional massage therapy instruction accredited by the state in which it is located;

may engage in massage therapy in the city without first having obtained a massage parlor license or massage therapist license therefor from the ~~controller~~ license administrator.

**Sec. 911-3. Applications for massage parlor, bathhouse, escort service, body painting studio or nude modeling studio licenses.**

(a) The application for a license to operate a massage parlor, bathhouse, escort service, body painting studio or nude modeling studio under this chapter shall be made with the ~~controller~~ license administrator on forms provided by the ~~controller~~ license administrator, and shall contain the following information:

- (1) The name of the applicant, and all aliases and business names used by the licensee to conduct the business;
- (2) The residence address of the applicant, and applicant's residence addresses for the past three (3) years;
- (3) The business address of the applicant;
- (4) The number of massage tables, showers, stalls or other such individual units in the establishment;
- (5) The age, date of birth and citizenship of the applicant, in the case of individuals, and of the manager and officers in the case of a corporation;
- (6) The names, addresses, ages, citizenship and designations of each person employed in or who has a financial interest in the applicant's establishment;
- (7) Whether the applicant or in the case of a corporation, its managers, officers, directors or stockholders, have ever been previously engaged in operating a massage parlor, bathhouse, escort service, body painting studio or nude modeling studio;
- (8) Whether any applicant, or in the case of a corporation, its managers, officers, directors or stockholders, have ever been convicted of any act of violence, moral turpitude, sex offense including but not limited to prostitution or public indecency involving the act of touching oneself or another in a sexual manner, or prior violation of this chapter;
- (9) An agreement by the operator permitting inspection; and
- (10) The type of license for which the applicant is applying.

(b) If there is any change in the licensed business during the term of the license such that the information provided in the application form is no longer complete or accurate, then the licensee shall notify the ~~controller~~ license administrator in writing within thirty (30) days after such change occurs. Failure to comply with this subsection shall be a violation of the Code.

**Sec. 911-4. Applications for massage therapist, escort, body painting model, or nude model licenses.**

(a) Along with the operator's application for a license, there shall be filed a verified application by each person employed in the establishment who is required by this chapter to be licensed. The application shall contain the following information regarding the person:

- (1) Name and aliases;
- (2) Age, and date of birth;
- (3) Address and former addresses for past three (3) years;
- (4) Citizenship;
- (5) Whether convicted of any public offense concerning an act of violence, moral turpitude, sex offense including but not limited to prostitution or public indecency involving the act of touching oneself or another in a sexual manner, or prior violation of this chapter; and
- (6) Nature of work performed.

(b) The Health and Hospital Corporation of Marion County may establish restrictions on the activity of persons licensed under this chapter with respect to communicable diseases. An applicant for such a license shall demonstrate to the ~~controller~~ license administrator, by certificate or otherwise, his or her compliance with such restrictions, if any, at the time of application and throughout the term of the license.

(c) All applicants for licenses to engage in the practice of massage therapy and who are not exempt under subsection 911-2(c) of this chapter must submit a certificate or affidavit of their respective qualifications as to schooling, training and experience, and where and how obtained.

**Sec. 911-5. Issuance or rejection of application.**

(a) Before a license under this chapter is issued, the ~~controller~~ license administrator shall investigate the character of the applicant and the officers, directors and managers of the business if the applicant is a corporation. No license shall be issued if the ~~controller~~ license administrator determines that:

- (1) Any of such persons previously have been connected with any massage parlor, bathhouse, escort service, body painting studio or nude modeling studio where the license therefor has been revoked, or where any law applicable to such establishments has been violated; or
- (2) The premises sought to be licensed fail to comply in any manner with any applicable laws or ordinances.

(b) No person who has been convicted of any public offense concerning an act of violence, moral turpitude, sex offense including but not limited to prostitution or public indecency involving the act of touching oneself or another in a sexual manner, and no business who employs such a person, shall be licensed as an escort or escort service.

**Sec. 911-6. Fees.**

(a) The annual license fee for each person who operates, conducts or maintains a massage parlor, bathhouse, escort service, body painting studio or nude modeling studio, or any combination thereof, shall be ~~two hundred fifty dollars (\$250.00)~~ provided in section 131-501 of the code.

(b) The annual license fee for each person employed as a massage therapist, escort, body painting model or nude model shall be ~~twenty-five dollars (\$25.00)~~ provided in section 131-501 of the code.

SECTION 151. Section 931-101 of the "Revised Code of the Consolidated City and County," regarding commercial parking facility licenses, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 931-101. Definitions.**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

*Attendant parking* means the practice of having the motor vehicle handled by the registrant between the motor vehicle reservoir area and the parking area, and between the parking area and the exits.

*Commercial parking facility* means a lot or building ~~which~~ that is used on a regular basis to provide space for the parking of more than five (5) motor vehicles. Any combination of one (1) or more lots or buildings ~~which~~ that are both located contiguous to another lot or building or across a street or alley from another lot or building, and are operated by the same person shall be considered one (1) commercial parking facility; however, a lot or building ~~which~~ that is provided solely for one (1) or more of the following uses:

- (1) By an employer for use of the employer's employees;
- (2) By a landlord for use of the landlord's tenants;
- (3) By a merchant or professional, selling goods or services, for use of the merchant's or professional's exclusive customers; or
- (4) By the owner of the lot or building, or by a charitable organization, for a period of no more than fourteen (14) consecutive days, and no more than thirty (30) days in a calendar year, for use in connection with a distinct special event or activity outside the geographic area bounded by North, East, South, and West Streets;

shall not be considered a commercial parking facility.

~~*Division of compliance* means the division of compliance of the department of metropolitan development.~~

*Motor vehicle* means any self-propelled wheeled vehicle similar to an automobile, truck, bus or motorcycle.

*Motor vehicle reservoir area* means the area at the entrance of a commercial parking facility between the property line and the point ten (10) feet beyond the point at which a ticket or claim check is given, a fee is paid or the registrant takes physical control of the motor vehicle for the purpose of handling it.

SECTION 152. Article II of Chapter 931 of the "Revised Code of the Consolidated City and County," regarding commercial parking facility licenses, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**ARTICLE II. REGISTRATIONS**

**Sec. 931-201. Registration required; fee.**

(a) It shall be unlawful for a person to operate a commercial parking facility in the city without first being registered therefor with the ~~controller~~ license administrator.

(b) The annual fee for registration of a commercial parking facility shall be ~~twenty dollars (\$20.00)~~ provided in section 131-501 of the code.

**Sec. 931-202. Registration information required; plot plan.**

(a) A registration required by this article shall be made to the ~~controller~~ license administrator upon a registration form approved first by the ~~division of compliance~~ bureau of license and permit services. The form shall include the following information and any other information ~~which that~~ that the ~~division of compliance~~ bureau shall require:

- (1) The name and address of all persons who have a fee or leasehold interest in the real property on which the commercial parking facility is to be located;
- (2) The name and address of the person who proposes to operate the commercial parking facility; if the registrant is a firm, the name and address of each partner shall be given, and if the registrant is a corporation, the name and address of the resident agent and president shall be given;
- (3) The address of the commercial parking facility and legal description of the real estate on which it is to be located;
- (4) The number of square feet of the commercial parking facility, and the type of ground surface, pavement or floor surface;
- (5) The vehicle capacity of the commercial parking facility; and
- (6) The nature of the drainage system for any commercial parking facility lot ~~which that~~ that was constructed or placed in operation after July 1, 1971.

(b) A registrant under this article shall submit with the registration form a scale drawing or plot plan of the commercial parking facility, which shows the configuration of parking spaces, aisles, entrances, exits, barriers, outdoor signs, and motor vehicle reservoir areas; however, a registrant shall not be required to comply with this subsection if:

- (1) The commercial parking facility only uses attendant parking; or
- (2) A scale drawing or plot plan ~~which that~~ that accurately reflects the information required by this subsection is on file in the ~~division of compliance~~ bureau, and is identified in the form.

**Sec. 931-203. Liability insurance or bond.**

(a) As a prerequisite for the approval or renewal of a registration required by this article, the registrant shall post or maintain with the ~~controller~~ license administrator either an indemnity bond or a certificate evidencing a policy of liability insurance, executed by a bonding, surety or insurance company authorized to do business in the state. This bond or policy shall be in an amount and form as determined by the corporation counsel, and shall be conditioned substantially that the registrant will indemnify and save harmless the city, its officers, agents and employees from any and all loss, costs, damages or expenses by reason of legal liability ~~which that~~ that may result from or arise out of the approval of a registration or the operation of the commercial parking facility for which a registration is issued, and that the registrant will pay any and all loss or damage evidenced by a final judgment for damage, including the theft of any motor vehicle, part or accessory thereof, or personal property stored therein, that may be sustained by a person who may claim redress for property damage or theft, if such results from the operation or maintenance of any commercial parking facility.

(b) The bond or policy of insurance required by subsection (a) of this section shall be maintained in its original amount by the registrant, at the expense of the registrant, at all times during the period for which the registration is in effect and shall be of the type where coverage shall automatically be restored to its original amount after each occurrence from which legal liability has arisen.

(c) If two (2) or more registrations are made by the same person, one (1) such bond or policy of insurance may be furnished to cover two (2) or more commercial parking facilities, if it is in the amount as determined by the corporation counsel for each commercial parking facility covered by the bond or policy of insurance. Any bond posted and maintained with the ~~controller~~ license administrator under this section

shall be accompanied by good and sufficient sureties approved by the ~~controller~~ license administrator.

**Sec. 931-204. Investigation by division of ~~compliance~~ inspections.**

Prior to the approval or renewal of a registration under this article, the division of ~~compliance~~ inspections shall investigate whether the commercial parking facility is in compliance with the provisions of this chapter and other applicable ordinances and statutes, and report its findings to the ~~controller~~ license administrator.

**Sec. 931-205. Issuance; required findings.**

Upon the completion of the procedures of this article and compliance with the requirements of section 801-202 of the Code, the ~~controller~~ license administrator shall issue a certificate of registration to the registrant.

**Sec. 931-206. Registration term; renewals.**

(a) All registrations issued under this article shall be valid for a period of one (1) year.

(b) Prior to the time a registration under this chapter is renewed, the division of ~~compliance~~ inspections shall inspect the commercial parking facility. If it is determined by the division of ~~compliance~~ inspections that the commercial parking facility is in compliance with the provisions of this chapter, the ~~controller~~ license administrator shall renew the registration automatically and without application for renewal by the registrant, unless at the time of renewal:

- (1) The registration has been revoked or suspended;
- (2) The registration is the subject of administrative or judicial proceedings ~~which~~ that have the potential to result in the revocation or suspension of the registration, in which case the registration may continue in effect until the conclusion of the administrative or judicial proceedings; or
- (3) The registrant has not paid the registration fee for the following year.

**Sec. 931-207. Report of changes of circumstances.**

If changes occur relative to a commercial parking facility during the time a registration is in force, of such a nature as to make the information stated on the registration form inaccurate or incomplete, the registrant shall supply corrected information in writing within thirty (30) days to the ~~division of compliance~~ bureau of license and permit services.

**Sec. 931-208. Transferability as to premises or persons.**

(a) A registration under this article may not be used by the registrant at a location other than that described on the registration form and for which the registration was issued.

(b) A registration under this article may not be transferred by the registrant or the ~~controller~~ license administrator to any other person.

**Sec. 931-209. Temporary commercial parking facilities.**

(a) For purposes of this section, the term temporary commercial parking facility means and includes a commercial parking facility ~~which~~ that is used as such:

- (1) For no more than three (3) periods of thirty (30) days or less, and no more than a total of forty-five (45) days in a calendar year; or
- (2) For no more than two (2) consecutive years, upon a showing that the owner of the land or building intends to develop it for a specified purpose other than a commercial parking facility, and that maintenance of the land or building in compliance with all the requirements of this chapter for

such a limited period of time would cause undue economic waste.

(b) All provisions of this chapter are applicable in full to temporary commercial parking facilities unless modified or exempted by this section.

(c) The registration of a temporary commercial parking facility shall be made with the ~~controller~~ license administrator, shall meet the applicable requirements of this article for registration forms, and shall be submitted to the ~~controller~~ license administrator at least fourteen (14) calendar days prior to the anticipated first day of use. The registration form shall, in addition to the requirements of this article, also state the duration and reason for the temporary use.

(d) The following additional exemptions or modifications of this chapter shall be effective with respect to temporary commercial parking facilities:

- (1) Conspicuous outlining of motor vehicle reservoir areas with pavement paint shall not be required;
- (2) The provisions of this chapter ~~which~~ that relate to drainage and surfacing shall not apply;
- (3) The provisions of this chapter ~~which~~ that relate to wheel guards shall apply at the discretion of the ~~division of compliance~~ bureau of license and permit services; and
- (4) The provisions of this chapter ~~which~~ that relate to signs are modified to permit temporary signs, and the "first hour" rate shall be posted on the sign unless hourly rates are charged.

#### **Sec. 931-210. Revocation.**

(a) The ~~controller~~ license administrator shall revoke any commercial parking facility registration issued under this article, upon delivery by the division of ~~compliance~~ inspections of its written certification that the registrant:

- (1) Has failed, after having been notified in writing and given a period of twenty (20) days to do so, to correct an inaccurate statement of material importance in the registration form, ~~either~~ which was either inaccurate as originally made or ~~which~~ became inaccurate because of changes which occurred relative to the commercial parking facility after the date of submission; or
- (2) Has knowingly made any false statement in the registration form.

(b) The ~~controller~~ license administrator may revoke any commercial parking facility registration if, upon investigation and after a hearing, the ~~controller~~ license administrator finds the registrant has failed, after having been notified in writing and given a period of ten (10) days to do so, to properly maintain a bond or insurance policy as required by this article.

SECTION 153. Sections 931-302 and 931-303 of the "Revised Code of the Consolidated City and County," regarding commercial parking facility licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

#### **Sec. 931-302. Surfacing and barriers.**

(a) The ground or floor surface of every commercial parking facility shall be covered with concrete, brick, stone slab, asphaltic pavement or a similar durable and dust-free surface ~~which~~ that meets the approval of the division of ~~compliance~~ inspections. The ground or floor surface of the commercial parking facility shall be such as to provide a smooth, level surface for parking and shall be free of depressions, gaps, holes or similar surface aberrations. On due cause shown, the division of ~~compliance~~ inspections may, in writing, allow the use, for a period of time not exceeding six (6) months after the commercial parking facility is opened, of a commercial parking facility ~~which~~ that does not conform to this subsection.

(b) The motor vehicle parking area in every commercial parking facility shall be enclosed by barriers, except at places of entrance and exit. If a motor vehicle parking and storage area abuts a building, barriers shall be erected to prevent motor vehicles from striking the building. Such barriers shall be

sufficient to stop a motor vehicle rolling at a rate of speed of five (5) miles per hour. The ~~division of compliance~~ bureau of license and permit services, upon written request by the registrant, shall have the power to modify or waive this subsection where it is deemed by the ~~division of compliance~~ bureau to be unnecessary and unreasonably burdensome.

**Sec. 931-303. Entrances, exits and required reservoir area.**

(a) Each commercial parking facility shall have at least one (1) entrance and exit, which may or may not be combined, and which shall be adequate to afford safe and efficient ingress and egress to the commercial parking facility.

(b) Each commercial parking facility shall have a motor vehicle reservoir area at each entrance at which a ticket or claim check is given, a fee is paid, or the registrant under this chapter takes physical control of the motor vehicle for the purpose of handling it. In commercial parking facilities that consist of less than fifteen thousand (15,000) square feet of area used for aisles and parking, the motor vehicle reservoir area shall contain three (3), nine-foot by twenty-foot spaces. In all other commercial parking facilities, the motor vehicle reservoir area shall consist of four (4), nine-foot by twenty-foot spaces. The motor vehicle reservoir area shall be conspicuously outlined with pavement paint and shall not be used for the parking or storage of motor vehicles, except when all parking spaces are filled. On good cause shown, the ~~division of compliance~~ bureau of license and permit services may, in writing, allow the use of a commercial parking facility ~~which that~~ has a motor vehicle reservoir area ~~which that~~ does not conform to the requirements of this subsection.

SECTION 154. Sections 931-306 of the "Revised Code of the Consolidated City and County," regarding commercial parking facility licenses, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 931-306. Landscaping requirements for commercial parking facilities not in a building.**

(a) Any commercial parking facility that was constructed or placed in operation after July 1, 1971, and in which motor vehicles are not parked within a building, shall comply with the landscape requirements of this section. Any commercial parking facility that was constructed or placed in operation on or before July 1, 1971, and in which motor vehicles are not parked within a building, shall not be altered or modified so as to put it in further conflict with this section. If, however, a provision of a zoning ordinance, variance grant, parole covenant or commitment imposes a more stringent landscape and screening requirement than is found in this section, the provisions of the zoning ordinance, variance grant, parole covenant or commitment shall be controlling.

(b) Yard requirements include the following.

(1) Ten (10) percent of the lot surface area shall be devoted to yard area. "Lot surface area" shall not be considered to include a street right-of-way. Each yard shall be planted and adequately maintained in ground cover, which may include grass, and shrubbery or trees and shall be raised and defined by a six-inch curb.

(2) Part of the yard area requirement shall be met by providing and maintaining a yard (bufferyard) at least five (5) feet in depth along each property line, except at places of entrance and exit, which is contiguous to a street or residential district. For the purpose of this subsection, the term "street" shall mean all designated streets except for any street ~~which that~~ is less than thirty (30) feet in width and located within the geographic area bounded by North, East, South and West Streets.

(3) An architectural screen may be permitted in lieu of the bufferyard, upon approval of the ~~division of compliance~~ bureau of license and permit services as to design, material and placement of the architectural screen. The architectural screen shall be a wall or fence of ornamental block or brick, or a combination thereof. For each linear foot of architectural screen, the required number of square feet of yard area shall be reduced by two (2) square feet.

(c) Tree requirements include the following.

- (1) A minimum of one (1) live tree of a three-inch caliper size or larger for every two thousand five hundred (2,500) square feet of lot surface area shall be planted and maintained. The trees shall be located in the yard area.
- (2) Where an architectural screen is not permitted in lieu of a bufferyard, one (1) of the required trees shall be planted and maintained in the bufferyard for each fifty (50) linear feet of bufferyard.

(d) ~~The division of compliance bureau of license and permit services,~~ upon request by the registrant and upon receiving a suitable alternative plan ~~which that~~ meets the general objectives of this section, shall have the power to modify or waive, in writing, any landscape requirements ~~which that~~ are deemed by the ~~division of compliance bureau~~ to be unfeasible or unreasonably burdensome.

SECTION 155. Sections 936-2 and 936-3 of the "Revised Code of the Consolidated City and County," regarding public pay telephone licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 936-2. License required; application.**

(a) It shall be unlawful for any provider to own or maintain a public pay telephone without that provider first obtaining a license from the ~~controller~~ license administrator.

(b) The application for a public pay telephone license shall be made to the ~~controller~~ license administrator, and shall provide such information as the ~~controller~~ license administrator deems appropriate.

(c) The application fee for this license shall be ~~fifty-two dollars (\$52.00) per provider~~ provided in section 131-501 of the code.

**Sec. 936-3. License renewal.**

Every year on January 1, each license issued pursuant to this chapter shall be renewed automatically by the ~~controller~~ license administrator and without application or the payment of an additional fee by the licensee, unless at the time of renewal:

- (1) The licensee by law is no longer qualified; or
- (2) The license has been revoked or suspended, or is the subject of administrative or judicial proceedings ~~which that~~ have the potential to result in the revocation or suspension of the license.

SECTION 156. Sections 951-102, 951-103, and 951-104 of the "Revised Code of the Consolidated City and County," regarding pawnbroker licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 951-102. License required.**

It shall be unlawful for any person to engage in the business of pawnbroker without first obtaining a license therefor from the ~~controller~~ license administrator. In order to sell secondhand goods, it is not required that a pawnbroker also obtain a license to be a dealer in secondhand goods for the pawnbroker's licensed business location.

**Sec. 951-103. Application for license.**

All applicants shall, as a condition for the granting of a license and on a portion of the application provided by the ~~controller~~ license administrator, agree that in the event the applicant as licensee receives personal property of any kind ~~which that~~ is stolen, he or she claims no right, title or interest in or to such personal property, and that upon request by any law enforcement officer having jurisdiction over the location of his or her place of business, he or she will voluntarily surrender such personal property to the possession of that law enforcement agency when given a receipt for the same.

**Sec. 951-104. License fees.**

The annual fee for a license required by this article shall be ~~two hundred dollars (\$200.00)~~ for each place of business of the licensee provided in section 131-501 of the code.

SECTION 157. Section 951-106 of the "Revised Code of the Consolidated City and County," regarding pawnbroker licenses, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 951-106. Record book to be kept.**

(a) Every licensee under this article shall keep and preserve a record book in which shall be legibly written in ink an accurate description in the English language of all articles pawned and the amount of money loaned thereon; the time of the transaction; the name, address, telephone number, age, color, height, weight, complexion, style of beard or mustache, any visible distinctive marks or conditions, style of dress of the person pawning the articles; and the number of the pawn ticket issued therefor.

(b) The record book required to be kept by subsection (a) shall be open to inspection at all reasonable times by the police or the ~~controller~~ division of inspections.

(c) In addition to the above records, every licensee under this article shall provide a list of serialized articles that have been acquired by transfers from any location other than the consolidated city and county to the local law enforcement agency having jurisdiction over the locations of the licensee's place of business no later than the next business day after the articles are received.

SECTION 158. Section 951-203 of the "Revised Code of the Consolidated City and County," regarding dealers in secondhand goods, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 951-203. Record book to be kept.**

(a) Every dealer in secondhand goods under this article who deals in firearms, jewelry, electronic items or equipment, tools, or any item originally marked with a serial number shall keep a record book in which shall be legibly written in ink in the English language at the time of receiving any goods the following: ~~An~~ an accurate description of the article received; the amount of money paid for it; the exact time of the transaction; and the name, residence, address, telephone number, age, color, height, weight, complexion, style of beard or mustache, any visible distinguishing marks, style of dress, and number of any license badge of the person delivering the goods to the dealer in secondhand goods.

(b) The record book required to be kept by subsection (a) shall be open to inspection at all reasonable times by the police or the ~~controller~~ division of inspections.

SECTION 159. Sections 951-301 of the "Revised Code of the Consolidated City and County," regarding registration of secondhand motor vehicle dealers, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 951-301. Registration required; fee.**

(a) It shall be unlawful to engage in the business of purchasing, selling, trading, exchanging or dismantling for resale any secondhand motor vehicle or to deal in any used parts for a motor vehicle or to maintain a location used for any such purpose, without first being registered therefor with the ~~controller~~ license administrator.

(b) The annual fee for registration of a secondhand motor vehicle business shall be ~~twenty dollars (\$20.00)~~ provided in section 131-501 of the code.

SECTION 160. Section 951-303 of the "Revised Code of the Consolidated City and County," regarding registration of secondhand motor vehicle dealers, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 951-303. Registration term; renewal.**

Registrations of secondhand motor vehicle dealers shall be valid for a period of one (1) year, and shall be renewed automatically by the ~~controller~~ license administrator and without application for renewal by the registrant, unless at the time of renewal:

- (1) The registration has been revoked or suspended;
- (2) The registration is the subject of administrative or judicial proceedings ~~which~~ that have the potential to result in the revocation or suspension of the registration, in which case the registration may continue in effect until the conclusion of the administrative or judicial proceedings; or
- (3) The registrant has not paid the registration fee for the following year.

SECTION 161. Section 951-305 of the "Revised Code of the Consolidated City and County," regarding registration of secondhand motor vehicle dealers, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 951-305. Required record; contents.**

(a) Every registrant under this chapter shall keep a book in which shall be legibly written in ink at the time of each transaction relating to the purchase, sale, exchange or barter of any secondhand or used motor vehicle, part or accessory, an accurate description in the English language of the motor vehicle, part or accessory, giving, in case of a motor vehicle, its state license number; its motor, body, axle, coil, starter, carburetor, magneto, steering gear, radiator and manufacturer's several numbers; and any other serial numbers and any other peculiar mark of identification whatsoever; its name and that of its manufacturer; the seating capacity, color, style and general purpose; and giving, in case of parts and accessories, their general description, purpose, size, make, number and manufacturer, if possible; in the case of a purchase or sale by the dealer of any such motor vehicle, parts or accessories, the amount of money paid and the medium of payment, and, in case of exchange or barter of any such motor vehicle, parts or accessories, a description of the thing exchanged or bartered; the name, residence, age, color, height, weight, complexion, style of beard, visible distinguishing marks and style of dress of the person with whom the dealer effected the purchase, sale, exchange or barter; and a similar description of any person accompanying the seller or barterer at the time of the transaction.

(b) Each registrant under this chapter shall keep a copy of the records required by subsection (a) available for inspection at any time by the chief of police or any member of the city, county or state police.

(c) The records required by this section shall be kept in such form as is required by the ~~controller~~ license administrator.

SECTION 162. Sections 951-402 through 951-405, inclusive, of the "Revised Code of the Consolidated City and County," regarding licenses of dealers in salvage or scrap metal, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 951-402. License required.**

It shall be unlawful for any person to engage in the business of salvage or scrap metal dealer without first obtaining a license from the ~~controller~~ license administrator.

**Sec. 951-403. Application for license.**

(a) The applicant for a license to engage in the business of salvage or scrap metal dealer shall file an application on a form provided by the ~~controller~~ license administrator and shall pay a filing fee, which shall not be refundable.

(b) An applicant for a salvage or scrap metal dealer's license must be a natural person who has

reached the age of eighteen (18) years or a corporation registered and qualified to do business in the state of Indiana.

(c) The application for a license to engage in the business of salvage or scrap metal dealer shall set forth the address of the proposed place of business, and the name and address of the person responsible for management of the operation of the business, and shall include such other information as the ~~controller~~ license administrator deems necessary to investigate the applicant and the applicant's proposed place of business.

(d) If the applicant is a corporation, the application shall set forth the following:

- (1) The name of the corporation exactly as set forth in the Articles of Incorporation;
- (2) The names and addresses of each officer, director, and shareholder owning more than ten (10) percent of the stock of such corporation;
- (3) The address of the corporation's registered agent for service of process in the state of Indiana; and
- (4) A certified copy of a statement from the Secretary of State of the state of Indiana that the corporation is registered in the state of Indiana and is duly qualified to do business in the state of Indiana shall be attached to the application.

**Sec. 951-404. License fees.**

The annual fee for a license required by this Article shall be ~~two hundred dollars (\$200.00) for each place of business of the licensee provided in section 131-501 of the code.~~

**Sec. 951-405. License term; renewal.**

(a) Any license issued under this Article shall expire on December 31 of the calendar year in which the license was issued.

(b) An applicant for renewal of a license issued under this Article shall file an application on a form provided by the ~~controller~~ license administrator and shall pay the annual license fee.

SECTION 163. Section 951-408 of the "Revised Code of the Consolidated City and County," regarding licenses of dealers in salvage or scrap metal, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 951-408. Record to be kept.**

(a) Every salvage or scrap metal dealer shall keep and preserve a legible record, in a written or electronic form approved by the ~~controller~~ license administrator, of all purchase transactions to which such salvage or scrap metal dealer is a party.

(b) In every purchase transaction in which a salvage or scrap metal dealer acquires regulated metals property from a person other than an officer, director, manager, or other agent or employee of another licensed salvage or scrap metal dealer or a manufacturing, industrial, or other commercial vendor that has a fixed place of business and generates regulated metals property in the ordinary course of business, the salvage or scrap metal dealer acquiring any regulated metals property in the purchase transaction, or an officer, director, manager, or other agent or employee of such salvage or scrap metal dealer shall, at the time of any such purchase transaction, enter the following information into the record required by this section:

- (1) The weight or quantity and a description of all regulated metals property received in the purchase transaction;
- (2) The amount of consideration exchanged for all regulated metals property received in the

purchase transaction;

- (3) The date and time of the purchase transaction;
- (4) The name, address, and date of birth, of the person receiving consideration in exchange for any regulated metals property in the purchase transaction;
- (5) The motor vehicle license number, make, model, and color of the vehicle delivering the regulated metals property to the salvage or scrap metal dealer's place of business;
- (6) The name of the person entering the information into the record required by this section;
- (7) The signature of the person receiving consideration for any regulated metals property in the purchase transaction;
- (8) A photographic copy of the unexpired government-issued photographic identification card of the person receiving consideration in exchange for any regulated metals property in the purchase transaction;
- (9) A photographic or videographic image, made at the time of the purchase transaction, showing a frontal view of the facial features of the person receiving consideration for any regulated metals property; and
- (10) A photographic or videographic image of any regulated metals property received by the salvage or scrap metal dealer in the purchase transaction, and in which image any serial numbers or manufacturer's markings on the regulated metals property are clearly visible.

(c) In every purchase transaction in which a salvage or scrap metal dealer acquires regulated metals property from an officer, director, manager, or other agent or employee of a manufacturing, industrial, or other commercial vendor that has a fixed place of business and generates regulated metals property in the ordinary course of business, the salvage or scrap metal dealer acquiring any regulated metals property in the purchase transaction, or an officer, director, manager, or other agent or employee of such salvage or scrap metal dealer shall, at the time of any such purchase transaction, enter the following information into the record required by this section:

- (1) The weight or quantity and a description of all regulated metals property received in the purchase transaction;
- (2) The amount of consideration exchanged for all regulated metals property received in the purchase transaction;
- (3) The date and time of the purchase transaction;
- (4) The name of the person entering the information into the record required by this section; and
- (5) The name, address, and telephone number of the manufacturing, industrial, or other commercial vendor receiving consideration in exchange for any regulated metals property in the purchase transaction.

(d) A salvage or scrap metal dealer shall maintain or cause to be maintained the record required by this section for not less than five (5) years from the date of the purchase transaction.

(e) The record required by this section shall be open to inspection at all reasonable times by the police or the ~~controller~~ division of inspections.

(f) It shall be unlawful for a salvage or scrap metal dealer to fail to comply with any provision of this section.

SECTION 164. Sections 955-1 and 955-2 of the "Revised Code of the Consolidated City and County,"

regarding waste, rubbish, and trash hauling registrations, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 955-1. Registration required; fee; exception.**

(a) It shall be unlawful for a person to haul waste, rubbish, trash or other discarded material in the city without first being registered therefor with the ~~controller~~ license administrator. The annual fee for registration to haul waste, rubbish, trash or other discarded material shall be ~~twenty dollars (\$20.00)~~ provided in section 131-501 of the code.

(b) The registration requirement of subsection (a) of this section shall not apply to persons who haul waste, rubbish, trash or other discarded materials from their own property, unless such hauling is accomplished by rear loader, front loader, roll-off, roll-off compactor, or transfer-type commercial vehicle.

**Sec. 955-2. Registration information required.**

A registration required by this chapter shall be made on a form provided by the ~~controller~~ license administrator and shall be subject to the approval of the director of the city department of public works, or the director's designated representative, and shall state the number and kind of vehicles to be used to haul waste, rubbish, trash or other discarded materials, the state license plate number of each, and such other information as may be required by the ~~controller~~ license administrator.

SECTION 165. Sections 955-4, 955-5, and 955-6 of the "Revised Code of the Consolidated City and County," regarding waste, rubbish, and trash hauling registrations, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 955-4. Liability insurance.**

Before a certificate of registration may be issued under this chapter, the registrant shall file with the ~~controller~~ license administrator a certification of liability insurance in the following minimum amounts:

- (1) When the vehicle used has a capacity of two (2) tons or less: twenty-five thousand dollars (\$25,000.00) per person, fifty thousand dollars (\$50,000.00) per accident, and ten thousand dollars (\$10,000.00) property damage; and
- (2) When the vehicle used has a capacity in excess of two (2) tons: fifty thousand dollars (\$50,000.00) per person, one hundred thousand dollars (\$100,000.00) per accident, and ten thousand dollars (\$10,000.00) property damage.

**Sec. 955-5. Certificate of registration.**

Upon a qualified registrant's compliance with sections 955-2, 955-3 and 955-4 of this chapter, and approval by the director of the city department of public works or the director's designated representative, the ~~controller~~ license administrator shall issue a certificate of registration to the registrant.

**Sec. 955-6. Registration term; renewal.**

A registration under this chapter shall be valid for a period of one (1) year, from the first day of July through the last day of June of the following year, and shall be renewed automatically by the ~~controller~~ license administrator and without application for renewal by the registrant, unless at the time of renewal:

- (1) The registration has been revoked or suspended;
- (2) The registration is the subject of administrative or judicial proceedings ~~which~~ that have the potential to result in the revocation or suspension of the registration, in which case the registration may continue in effect until the conclusion of the administrative or judicial proceedings; or
- (3) The registrant has not paid the registration fee for the following year.

SECTION 166. Sections 961-201 through 961-205, inclusive, of the "Revised Code of the Consolidated City and County," regarding vendor's cart licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 961-201. Vendor's cart licenses authorized.**

(a) The ~~controller~~ license administrator is authorized to issue three (3) types of vendor's cart licenses pursuant to this chapter as follows:

- (1) Franchise zone licenses for retail sales of food, frozen food, flowers and merchandise from carts not located in commercial transaction zones;
- (2) Commercial transaction zone licenses for retail sales of food, frozen foods, flowers and merchandise from carts located in commercial transaction zones; and
- (3) Special event licenses for retail sales of food, frozen foods, flowers and merchandise from carts located at special events.

(b) Each vendor's cart license shall be issued to a specific licensee for a specifically identifiable cart.

(c) The ~~controller~~ license administrator shall designate each cart as either a food cart, a frozen food cart, a flower cart, or a merchandise cart.

(d) The ~~controller~~ license administrator shall report in writing to the council by the fifteenth day of January of each year the number and type of licensed carts in the city on the last day of December of the preceding year.

**Sec. 961-202. Application for license.**

(a) An application for a license provided in this chapter shall be verified by the applicant under penalties of perjury, and shall contain such information as the ~~controller~~ license administrator may prescribe.

(b) An application for a franchise zone license or a commercial transaction zone license shall include the following information:

- (1) The name under which the business is to be conducted;
- (2) The name and address of the applicant and, if a firm, the name and address of each partner, or if a corporation, the names and addresses of its resident agents and officers, and of all persons who own or have an interest in the cart as defined in section 961-103; and
- (3) A physical description of the cart for which the license is desired.

(c) An application for a special event license shall include the following information:

- (1) The name under which the business is to be conducted, and the name, address and telephone number of the person making the application; and
- (2) A physical description of the cart for which the license is desired.

**Sec. 961-203. Prerequisites to issuance of license.**

The ~~controller~~ license administrator may consider the application only if applicable permits required by the Health and Hospital Corporation of Marion County and other regulatory agencies have been secured and are in force.

**Sec. 961-204. Application fee; refund on denial.**

(a) Each application for a license pursuant to this article shall be accompanied by an application fee in an amount ~~as follows:~~ provided in section 131-501 of the code.

~~(1) For a franchise zone license, one hundred fifty dollars (\$150.00); and~~

~~(2) For a commercial transaction zone license, one hundred dollars (\$100.00).~~

(b) In the event the license is granted, the application fee shall be retained by the ~~controller~~ license administrator as the first annual fee. In the event of a denial of the license, fifty dollars (\$50.00) of the application fee shall be retained to defray the administrative expense incurred in investigating and processing the application, and the remainder, if any, shall be refunded to the applicant.

#### **Sec. 961-205. Renewal fee.**

(a) This section shall not apply to special event licenses, which are not renewable.

(b) Any qualified licensee not in violation of this chapter may annually renew the license for an additional year upon payment of an annual fee in an amount ~~as follows:~~ provided in section 131-501 of the code.

~~(1) For a franchise zone license, one hundred dollars (\$100.00); and~~

~~(2) For a commercial transaction zone license, fifty dollars (\$50.00).~~

SECTION 167. Sections 961-208 through 961-214, inclusive, of the "Revised Code of the Consolidated City and County," regarding vendor's cart licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

#### **Sec. 961-208. Issuance and display of insignia.**

(a) This section shall not apply to special event licenses.

(b) At the time the license is issued, the ~~controller~~ license administrator shall furnish an insignia for each cart consisting of a durable sign, not less than two (2) inches wide and three (3) inches long, upon which shall be inscribed "\_\_\_\_\_ Cart Vendor's License, Indianapolis, Indiana, \_\_\_\_\_," filling in the type of license, and the number of the license; the sign shall also identify the franchise zone or commercial transaction zone to which the license is allocated, and the year during which the license shall be in force. Such sign shall be securely fastened in plain view on the outside of the cart. This sign may also indicate any limitations imposed by the ~~controller~~ license administrator on the operation of this cart.

#### **Sec. 961-209. Transferability.**

(a) A license issued pursuant to this chapter shall not be transferable to another licensee.

(b) A license may be permanently transferred to another cart with the permission of the ~~controller~~ license administrator and payment of a transfer fee ~~of twenty-five dollars (\$25.00)~~ provided in section 131-501 of the code.

(c) A license may be temporarily transferred to another cart for a total of not more than fourteen (14) days in any six-month period, if the licensee gives the ~~controller~~ license administrator written notice of the transfer; however, the time limitation provided in this section shall not apply to temporary transfers ~~which~~ that are necessary because of breakdowns or other losses of a cart's use ~~which~~ that are not attributable to the licensee.

#### **Sec. 961-210. Insurance and indemnity.**

(a) Each vendor's cart licensee shall provide a certificate of public liability insurance to the ~~controller~~ license administrator upon a form approved by the corporation counsel, insuring the licensee, and naming the City of Indianapolis, as co-insured, against the following liabilities and in the following amounts

relative to such retail activity:

- (1) Personal injury, \$100,000.00/\$300,000.00; and
- (2) Property damage, \$25,000.00/\$50,000.00.

(b) The licensee shall provide a document, approved by the corporation counsel, in which the licensee agrees to indemnify and hold harmless the city for losses or expenses arising out of the operation of carts.

**Sec. 961-211. Restrictions on operation.**

(a) Each vendor's cart licensee, and his or her agents and employees, shall comply with the ~~following~~ restrictions on cart operation: provided in this section.

~~(a)~~ *Limitations on selling* include the following:

- (1) Only food may be carried on or sold from a licensed food cart, only flowers from a licensed flower cart, only frozen food from a licensed frozen food cart, and only merchandise from a licensed merchandise cart;
- (2) Such retail sales shall not be accomplished by crying out or hawking;
- (3) A device may not be used ~~which that~~ would amplify sound, and in any area not in a commercial transaction zone, attention may not be drawn to such retail sales by any aural means or a light-producing device;
- (4) Such retail sales may not be made to any person in or on any motorized vehicle; and
- (5) Beverages, dispensed in disposable cans, shall have any separable opening tabs removed at the time the cans are sold, unless otherwise requested by the purchaser.

~~(b)~~ *Prohibited locations* include the following:

- (1) No cart may be located in any public park or plaza, without written authorization from the governmental agency with general jurisdiction or control over such park or plaza;
- (2) The operator of a cart may not dispense food on the same side of the street within fifty (50) feet of a primary entry way into a ground level retail food establishment;
- (3) No cart may be located nor any such retail sales be made in that part of a right-of-way utilized for motor vehicle traffic (commonly referred to as a street), a street median strip or an alleyway;
- (4) No cart may be placed nor may such retail sales be made within twenty (20) feet of any posted bus stop, taxi stand, crosswalk, driveway or alleyway, within twenty (20) feet of the point at which the right-of-way lines of two (2) or more streets intersect or within six (6) feet of any building entrance, display window or walk-up window;
- (5) No cart may be parked or located nor may food, frozen food, flowers or merchandise be dispensed in a manner ~~which that~~ would significantly impede or prevent the use of any city property, or ~~which that~~ would endanger the safety or property of the public;
- (6) A cart with a franchise zone license shall be operated only within the franchise zone allocated under section 961-303, or in any area not designated a franchise zone or commercial transaction zone; a cart with a commercial transaction zone license shall be operated only within the designated commercial transaction zone; and a cart with a special event license shall be operated only within the geographic boundaries of the special event; and
- (7) The location of each merchandise vendor's cart not in a commercial transaction zone shall be

approved by the ~~controller~~ license administrator.

(ed) *Operational requirements* include the following:

- (1) The licensee, his or her agents and employees shall be required to obey the commands of law enforcement officers or firemen with respect to activity carried out on city property, including, where possible, the removal of the cart and cessation of such retail sales;
- (2) Wheeled carts not located in a commercial transaction zone must be removed from city property when such retail sales are not being conducted;
- (3) No wheeled cart may be permanently or temporarily affixed to any fixed object, and no stand may be permanently or temporarily affixed to any object above ground level, including but not limited to buildings, trees, signs, telephone poles, streetlight poles, traffic signal poles or fire hydrants;
- (4) Carts may be placed and any such retail sales may be made only on sidewalks ~~which that~~ provide at least fourteen (14) feet of width from the curb line to the property line; provided that, a person licensed under this article may petition the ~~controller~~ license administrator to allow operation of a cart on a specified sidewalk having a width of less than fourteen (14) feet; such petition may be approved by the ~~controller~~ license administrator only after the department of public works and the department of ~~metropolitan development~~ code enforcement have approved the petition;
- (5) Each cart is to be operated by no more than three (3) persons, and shall not be left unattended;
- (6) No cart may be used to advertise any product or service ~~which that~~ is not authorized to be sold from that cart; and
- (7) Carts not located in a commercial transaction zone may not make use of any public or private electrical outlet while in operation or while located on city property.

(de) *General requirements* include the following:

- (1) Efforts shall be made by the licensee to protect city property against littering; each cart must have an adequate trash receptacle ~~which that~~ is emptied sufficiently often to allow disposal of litter and waste by the public at any time; the trash receptacle on the cart shall not be emptied into trash receptacles owned by the city; and liquid from a cart may not be discharged on or in a city sewer or drain or elsewhere on city property, nor on private property without the express written consent of the owner thereof;
- (2) Pedestrians shall not be exposed to any undue safety or health hazard nor shall a public nuisance be created;
- (3) Each cart shall be maintained free and clear of dirt, and finishes shall not be chipped, faded or unduly marred;
- (4) Foods ~~which that~~ present a substantial likelihood that liquid matter, particles or part of the food will drop to the street or sidewalk during the process of carrying or eating the food shall be sold in proper containers; and
- (5) All carts licensed to sell food must place a nonporous material on the sidewalk beneath their carts in such a manner as to prevent spillage from the cart, stains or other damage to the area around the carts. Acceptable materials include artificial turf, grass mats, or indoor/outdoor carpeting.

**Sec. 961-212. Restrictions on operation imposed by regulation.**

The ~~controller~~ license administrator may by regulation impose appropriate conditions on the operation of carts by a licensee, his or her agent or employee in order to further the purposes of this chapter, as follows:

- (1) The ~~controller~~ license administrator may by regulation limit the locations at which a cart may be operated or times during which a cart may be operated;
- (2) The ~~controller~~ license administrator may by regulation designate the kind of food, frozen food, flowers and merchandise ~~which that~~ may be sold; the limits on the kind of retail sales ~~which that~~ may be carried out established by the ~~controller~~ license administrator for one (1) license may be different from those established for other licenses; the ~~controller~~ license administrator may make changes in the limits on the kind of retail sales ~~which that~~ may be carried out at the end of the license term; and
- (3) The ~~controller~~ license administrator may by regulation require compliance with other reasonable conditions.

**Sec. 961-213. Inspection.**

Each licensee and employee of a licensee shall comply at all times with all statutes, ordinances and regulations relating to the operation of the carts and shall allow an inspection by persons assigned to such duty by the health and hospital corporation, a department of the state or the ~~controller~~ division of inspections. If, upon inspection, any food, frozen food, flowers or merchandise shall be found unwholesome, stale, diseased, spoiled or otherwise unfit for its intended purpose, the products shall forthwith be condemned and removed by the licensee from the cart or other place where found and destroyed; such products shall be neither sold nor given away.

**Sec. 961-214. Identification cards.**

(a) This section shall not apply to special event licenses.

(b) Each licensee shall file with the ~~controller~~ license administrator the name and address together with two (2) photographs, two (2) inches by two (2) inches, of each employee who will be operating a cart and shall obtain from the ~~controller~~ license administrator an identification card for each employee. The identification card shall show the name and address of the employee, the employee's photograph and the name and address of the holder of the cart license. The identification card shall be carried by the employee during all times the employee operates a cart and shall be exhibited at any time on demand.

SECTION 168. Sections 961-301, 961-302, and 961-303 of the "Revised Code of the Consolidated City and County," regarding vendor cart franchise zones, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 961-301. Franchise zones designated.**

(a) Before July 15 of any year (and within sixty (60) days after other areas may be designated) the ~~controller~~ license administrator shall divide the central city into not less than fifteen (15) nor more than fifty (50) distinct franchise zones and certify to the clerk of the council a map showing the boundaries of each franchise zone. The franchise zones shall not include any geographic areas within commercial transaction zones designated under Article IV of this chapter.

(b) The purposes of establishing such franchise zones are to allow the operation of carts for benefit to the residents of the city as a whole by promoting pedestrian traffic in the downtown, making the downtown visually more attractive and making a product conveniently available to members of the public without creating disadvantages for residents of the city by creating a health or safety hazard or unreasonably impeding pedestrian flow.

(c) The total number of franchise zones ~~which that~~ are established hereunder are based on consideration of the following:

- (1) The effect on pedestrian flow and safety in public areas and sidewalks;
- (2) The effect on promoting pedestrian traffic and making the downtown visually more attractive;

- (3) The effect upon the business of existing licensees and other retail sales of food, frozen food, flowers and merchandise; and
- (4) Whether the public is being adequately served by existing licensees and other retail sale of food, frozen food, flowers or merchandise.

(d) On or before August 15 of the year franchise zones are certified by the ~~controller~~ license administrator, the council may amend such zones. Such franchise zones as amended, or as certified if not so amended, shall be in effect until the next certifications hereunder.

**Sec. 961-302. Designation of additional franchise zones.**

(a) The ~~controller~~ license administrator at any time may designate additional franchise zones located outside the central city by certifying to the clerk of the council a map showing the boundaries of the additional franchise zones.

(b) Unless otherwise provided in this section, such additional franchise zones shall be subject to the same procedures, conditions and restrictions established for franchise zones under section 961-301 and section 961-303 of this article.

(c) A franchise zone licensee may request that the ~~controller~~ license administrator designate an additional franchise zone outside the central city, and allocate the licensee's license to that zone.

(d) If the ~~controller~~ license administrator designates the zone pursuant to the request and if the licensee is otherwise eligible and qualified under this chapter, then the ~~controller~~ license administrator shall allocate the licensee's license to the franchise zone for the balance of that calendar year and the entirety of the next two (2) subsequent calendar years. At the end of the second subsequent calendar year, the zone shall become a nonprotected franchise zone, and a license or licenses shall be allocated to it in the same manner as provided in section 961-303.

(e) The boundaries of a franchise zone designated pursuant to a request under this section shall not be less than two hundred fifty (250) feet in each direction from the site of the licensee's cart.

**Sec. 961-303. Allocation of franchise zone licenses among zones.**

(a) On or before August 1 of each year, a licensee in a nonprotected franchise zone may notify the ~~controller~~ license administrator in writing that the licensee elects to remain in such zone for the next calendar year. If the boundaries of such zone have not been changed substantially during the same calendar year under section 961-301 of the Code, and such licensee is otherwise qualified for renewal of that license, the ~~controller~~ license administrator shall allocate such franchise zone license to such zone as a protected franchise zone.

(b) A franchise zone can only be protected for one (1) consecutive annual drawing.

(c) Between September 1 and September 30 of each year, the ~~controller~~ license administrator shall conduct a public drawing of all franchise zone licenses, whether designated as food carts, frozen food carts, flower carts or merchandise carts, to allocate them among all nonprotected franchise zones for a term beginning January 1 and ending December 31 of the following year. Within a single franchise zone, the ~~controller~~ license administrator may not allocate more than two (2) food cart licenses, one (1) frozen food cart license, one (1) flower cart license, and one (1) merchandise cart license.

(d) At least twenty (20) days prior to the public drawing, the ~~controller~~ license administrator shall give notice of such drawing by mail to each franchise zone licensee and by publication as provided in IC 5-3-1-2(i). Such notice shall state the time, date and place of the drawing, a list of all franchise zones available for selection at such drawing, and a general description of the method by which the drawing shall be conducted.

(e) Each franchise zone licensee, whose license is not assigned to a protected franchise zone, may

participate in the drawing by paying a participation fee of ~~twenty-five dollars (\$25.00)~~ per license provided in section 131-501 of the code before September 1 of the year of a drawing. Such fee shall be nonrefundable. Participating licensees and nonprotected franchise zones shall be drawn at random. Successful participants may, within forty-eight (48) hours after the drawing, trade franchise zones. The remaining licensees shall be drawn and shall be eligible in that order for any franchise zones becoming available before the next drawing, except a zone created pursuant to a request by a licensee under section 961-302. It shall be unlawful for any participant to offer or accept anything of value as consideration for trading franchise zones.

SECTION 169. Sections 961-403 and 961-404 of the "Revised Code of the Consolidated City and County," regarding commercial transaction zone licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 961-403. Establishment of additional commercial transaction zones.**

In addition to the Circle Centre Zone and the Canal Walk Zone, the ~~controller~~ license administrator may establish additional commercial transaction zones, the boundaries of which shall be subject to the approval of the council.

**Sec. 961-404. Commercial transaction zone licenses; management.**

(a) The ~~controller~~ license administrator shall issue commercial transaction zone licenses, subject to the procedures, conditions and restrictions provided for vendor's cart licenses under Article II of this chapter.

(b) In addition to the license required by this chapter, the ~~controller~~ license administrator may condition the licensee's activities on the grant of a license with respect to the real property upon which the licensee's cart would be located.

(c) The ~~controller~~ license administrator may enter into a professional services agreement for the discharge of the duties of the ~~controller~~ license administrator with respect to commercial transaction zone licenses. In any such agreement, the ~~controller~~ license administrator shall retain authority to oversee the activities of licensees, including the responsibility for enforcement of this chapter.

SECTION 170. Article V of Chapter 961 of the "Revised Code of the Consolidated City and County," regarding special event licenses, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**ARTICLE V. SPECIAL EVENTS; LICENSES**

**Sec. 961-501. Designation of special events.**

(a) Each year, the ~~controller~~ license administrator shall designate and authorize the following events as special events under this article:

- (1) The 500-Mile Race Festival;
- ~~(2) Circlefest;~~
- ~~(3) The Indiana Black Expo concert;~~
- ~~(4) The Mid-Summer Fest;~~
- ~~(5) The St. Patrick's Day Parade;~~
- ~~(6) The Circle City Classic Parade; and~~
- ~~(7) The Celebration Circle of Lights;~~

(6) The 2012 National Football League Super Bowl Sunday; and

(8) National Collegiate Athletic Association championship contests.

(b) With respect to each of the special events designated in this section, the ~~controller~~ license administrator shall exercise the duties and authority provided for the ~~controller~~ license administrator in this article.

(c) The ~~controller~~ license administrator may designate and authorize special events other than those listed in this section under the authority and procedures provided in this article.

**Sec. 961-502. Authorization of special events; conditions.**

(a) Prior to its occurrence, a special event must be designated and authorized by the ~~controller~~ license administrator. To determine whether a special event should be authorized, the ~~controller~~ license administrator shall consult with city officials responsible for traffic control, public safety, and right-of-way cleanup and maintenance, and further may request or receive recommendations from any special event sponsor. The ~~controller~~ license administrator may specify reasonable conditions to the approval of a special event.

(b) The authorization shall be issued in writing and shall prescribe the geographic boundaries, conditions, and duration of the special event.

**Sec. 961-503. Special event licenses; fee.**

(a) With the assistance and recommendation of the special event sponsor, the ~~controller~~ license administrator is authorized to issue special event licenses, and may:

- (1) Designate a specific location for each licensee under this article to engage in licensed activities pursuant to this section; and
- (2) Approve a list of the food, frozen food, flowers and merchandise ~~which that~~ licensees under this article are authorized to sell.

(b) The fee for a special event license shall be ~~twenty-five dollars (\$25.00)~~ provided in section 131-501 of the code; however, if authorization of the special event under section 961-502 of the Code is conditioned upon the Indianapolis Fire Department's apparatus or personnel being present at the special event, then the fee for a special event license shall be increased ~~by an additional one hundred dollars (\$100.00)~~ as provided in section 131-501 of the code, which additional amount shall be deposited in the fire service district fund of the city as miscellaneous revenues.

(c) Notwithstanding any other provision of this Code, licensees under this article shall be permitted to engage in licensed activities upon city property within the geographic boundaries during the term of the special event, subject to any applicable conditions or restrictions imposed under this article or sections 961-211 and 961-212.

**Sec. 961-504. Activities of vendor's cart licensees during special events.**

(a) Notwithstanding any other provision of this Code, a franchise zone licensee or commercial transaction zone licensee whose zone is at least in part included within the geographic boundaries of a special event, and who desires to engage in licensed activities during the special event, may do so with the written approval of the ~~controller~~ license administrator, in consultation with the special event sponsor.

(b) Such licensee:

- (1) Shall not be required to obtain a special event license in addition to the franchise zone license or commercial transaction zone license; and
- (2) May engage in licensed activities during the term and within the geographic boundaries of the

special event, subject to any conditions or restrictions imposed by the ~~controller~~ license administrator.

(c) A vendor cart licensee who has not been issued a special event license and who has not received written approval of the ~~controller~~ license administrator as provided in this section, may not engage in activities under the vendor cart license within the geographic boundaries or during the term of a special event.

**Sec. 961-505. Display of license and prices; violations.**

(a) Prior to the commencement of the special event, the ~~controller~~ license administrator shall issue special event licenses to licensees.

(b) Throughout the duration of the special event, each licensee shall display the license on the cart in public view as a means of identification, and post a list of the licensee's prices.

(c) It shall be unlawful for any licensee to fail to display the special event license, or to charge prices in excess of the posted prices, as required by this section. Each day a violation of this section continues shall constitute a separate offense, and shall be punishable as provided by section 103-3 of this Code.

SECTION 171. Sections 961-601 through 961-604, inclusive, of the "Revised Code of the Consolidated City and County," regarding revocation and enforcement of Chapter 961 license provisions, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 961-601. Revocation of license for nonuse.**

(a) This section shall only apply to franchise zone licenses.

(b) The ~~controller~~ license administrator may, following a hearing, revoke any franchise zone license if that cart has not been used for retail sales for the minimum number of days indicated at specified dates, as follows:

- (1) Twenty (20) days by May 1;
- (2) Fifty (50) days by July 1; and
- (3) Eighty (80) days by September 1.

**Sec. 961-602. Revocation of license for violation of requirements.**

The ~~controller~~ license administrator may, after a hearing, revoke a license for a cart or, if appropriate, revoke all of the licenses for carts held by a single licensee, if it is found:

- (1) The application contained a material misstatement;
- (2) The licensee, his or her agent or employee is not currently complying with sections 961-102, 961-211 or 961-305;
- (3) The licensee, his or her agent or employee has been found to have violated a health code or zoning requirement while operating a cart;
- (4) The licensee, his or her agent or employee is in significant violation of any section of, or any regulation promulgated under, this chapter; or
- (5) The licensee, his or her agent or employee has been found to be in violation of section 17-6 of the Code.

**Sec. 961-603. Penalty for violations.**

(a) Any violation of any provision of this chapter shall be subject to the general penalty for violating this Code as contained in section 103-3. Any license issued pursuant to this chapter may be suspended or revoked by the ~~controller~~ license administrator as provided by this article.

(b) Each day a violation of this chapter continues shall constitute a separate offense.

(c) Any three (3) judgments of violations of this chapter, or of regulations promulgated by the ~~controller~~ license administrator under this chapter, within any twelve-month period of time shall be an automatic cause for license revocation of that vendor's cart license for the balance of the current license period with no repayment of licensing fees.

**Sec. 961-604. Appeals to ~~license review board~~ of code enforcement.**

A decision of the ~~controller~~ license administrator made under sections 961-204, 961-304, 961-601 or 961-602 is appealable to the ~~license review board~~ of code enforcement pursuant to section ~~47-68~~ 801-434 of the Code. Other decisions made by the ~~controller~~ license administrator under this chapter are not appealable to the ~~license review board~~ of code enforcement.

SECTION 172. Sections 961-701 through 961-704, inclusive, of the "Revised Code of the Consolidated City and County," regarding sidewalk cafe registrations, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 961-701. Purpose; definitions.**

(a) It is the purpose of this article to benefit the residents of the city as a whole by promoting pedestrian traffic in commercial areas, enhancing the attractiveness of the downtown and other areas of concentrated development, and making beverages and food conveniently available for members of the public, without creating a health or safety hazard or inconveniencing pedestrians.

(b) As used in this article, the following terms shall have the meanings ascribed to them in this section.

*Abutting retail business property* means any real property used for retail business, which abuts (but is not located in) the public sidewalk area.

*Applicant* means a person, corporation, partnership, limited partnership, association or any other entity with the power to sue and be sued who has submitted a registration application under this article.

*Cafe activity* means the retail sale of beverages or food or the provision of a place for the consumption of beverages or food.

*Cafe area* means the area used for cafe activity and shall include the entire sidewalk sales area and any part of the abutting retail business property used directly for cafe activity.

*Effective walkway width* means that portion of the sidewalk in the public sidewalk area that is reasonably available for use by the pedestrian stream moving through the area, including use by persons using mobility aid devices.

*Public sidewalk area* means a sidewalk area located in the public right-of-way or in an area in which the public has an easement for sidewalk purposes, or both.

*Sidewalk sales area* means the portion of the public sidewalk area ~~which~~ that has been registered with the ~~controller~~ license administrator for cafe activity.

**Sec. 961-702. Registration required.**

(a) It shall be unlawful for a person to engage in cafe activity on a sidewalk in the public right-of-way without first being registered therefor with the ~~controller~~ license administrator as provided in this article.

However, retail sales of beverages or food may occur:

- (1) From carts or stands operated pursuant to a license issued under this chapter except in a sidewalk sales area relative to which a registration has been granted under this section; or
- (2) On a temporary basis if written permission is granted by the appropriate governmental units and such writing is filed with and approved by the ~~controller~~ license administrator.

(b) A registrant under this article shall not be required to do the following:

- (1) Obtain a transient merchant activity license;
- (2) Comply with the requirements of Section 645-511 et seq. of this Code, to the extent that they are inconsistent with the carrying out of cafe activity; or
- (3) Obtain an encroachment license for a sidewalk cafe or an awning or canopy ~~which that~~ which that does not extend beyond the sidewalk sales area and ~~which that~~ which that is used in connection with cafe activity.

(c) The annual fee for registration of a sidewalk cafe shall be ~~one hundred sixty-nine dollars (\$169.00)~~ provided in section 131-501 of the code.

#### **Sec. 961-703. Requirements for registration.**

(a) The ~~controller~~ license administrator is authorized to approve a registration application of an applicant to use a sidewalk sales area situated immediately next to the abutting retail business property owned or leased by the applicant, for the sole purpose of engaging in cafe activity. The sidewalk sales area ~~which that~~ which that the applicant utilizes for cafe activity shall be located in the city. A person who desires to register to use a sidewalk sales area for cafe activity shall complete a registration form provided by the ~~controller~~ license administrator, and file the form with the ~~controller~~ license administrator.

(b) The applicant shall submit a scale drawing or site plan with the registration application. The scale drawing or site plan shall show the appearance and location of:

- (1) All items to be placed within the sidewalk sales area, including, but not limited to, tables, chairs, barriers, signs, awnings, umbrellas, planters, and trash receptacles; and
- (2) All items existing on or in the public sidewalk area within ten (10) feet of the proposed sidewalk sales area at the time the registration form is submitted to the ~~controller~~ license administrator, including, but not limited to, parking meters, utility poles, sidewalk grate, sidewalk elevator, building standpipe, fire hydrant, or access ramp.

~~The department of metropolitan development shall review the scale drawing or site plan shall be reviewed for consistency with the requirements and objectives of this article and submit a report of the review to the controller.~~

(c) The ~~controller~~ license administrator shall approve the registration and issue a certificate of registration to each applicant qualified under section 801-202 of the Code and the provisions of this chapter, if the requirements listed in this subsection are met.

- (1) The effective walkway width of the public sidewalk area shall be no less than six (6) feet; provided, however, that the ~~controller~~ license administrator may approve an otherwise qualified registration application if the effective walkway width of the public sidewalk area is no less than five (5) feet and the applicant demonstrates that accessibility is not materially impeded to the satisfaction of the department of public works in conjunction with the coordinator of the office of disability affairs.
- (2) The sidewalk sales area shall meet these requirements:
  - a. The sidewalk sales area must be located next to abutting retail business property, and the

- perimeter of the sidewalk sales area that is intended to seat more than six (6) persons on furniture provided by the registrant shall be marked by a fence or other such structure that complies with the standards of the regional center;
- b. The dimensions of the sidewalk sales area to be used for cafe activity shall be approved by the director of the department of public works under the following process:
1. The department shall conduct a pedestrian traffic count on a representative day or days for the public sidewalk area situated immediately next to the abutting retail business property owned or leased by the applicant;
  2. The department shall calculate the effective walkway width of the sidewalk after removing from consideration the sidewalk sales area proposed to be used by the registrant; and
  3. The department shall review the proposed sidewalk sales area to ensure the placement of the sidewalk sales area does not materially impede accessibility.

The director of the department of public works shall, in light of such pedestrian count and effective walkway width information, determine if the effective walkway width will safely and comfortably accommodate pedestrian traffic at that location for a significant number of hours each week; however, in no event shall the director approve dimensions of a sidewalk sales area that would result in the effective walkway width being reduced to less than five (5) feet; and

- c. No part of the sidewalk sales area is located within:
1. Fifteen (15) feet of any bus loading zone;
  2. Ten (10) feet of any sidewalk elevator;
  3. Six (6) feet of any sidewalk grate, unless the registrant demonstrates that the purpose of the sidewalk grate is not frustrated by a sidewalk sales area within six (6) feet of the sidewalk grate;
  4. Six (6) feet of any building standpipe or building hydrant, unless the fire marshal or the fire marshal's designee determines upon inspection that access to the standpipe or hydrant is not impeded by a sidewalk sales area that is within six (6) feet of the standpipe or hydrant; or
  5. Five (5) feet of any taxi stand area, crosswalk, driveway, alleyway, or access ramp; and
- d. No item may be placed in the sidewalk sales area unless the item is in the place shown in the scale drawing or site plan submitted with the registration application.
- (3) The applicant shall be actively engaged in a retail business involving the sale of beverages or food in the abutting retail business property. The beverages or food sold in the cafe area will also be sold in the abutting retail business property. The floor area of the abutting retail business property must exceed the area of the sidewalk sales area.
- (4) The director of the department of public works shall have determined on which days and during what hours the sidewalk sales area may be used for cafe activity.
- (5) Applicable permits required by the Health and Hospital Corporation of Marion County and other regulatory agencies shall have been secured and are in force.
- (6) The applicant shall have provided a certificate of public liability insurance to the ~~controller~~ license administrator, approved as to form by the corporation counsel, insuring the person and naming the City of Indianapolis as co-insured. The required amounts of personal injury and property damage insurance requirements shall be established by the corporation counsel, and shall be

maintained by the registrant throughout the term of the registration.

- (7) The applicant shall have provided a document, approved as to form by the corporation counsel, in which the registrant agrees to indemnify and hold harmless the city for losses, damages, claims or expenses arising out of the use of the sidewalk sales area for cafe activity.

**Sec. 961-704. Restrictions on cafe activity.**

- (a) Use of the cafe area for cafe activity under this article shall be subject to the following conditions:
  - (1) The registrant shall be required to obey the commands of law enforcement officers, firefighters and all other public authorities acting pursuant to law with respect to activity carried out in the sidewalk sales area, including the temporary removal of furniture and equipment and temporary cessation of cafe activity;
  - (2) When cafe activity is not being conducted or when the abutting retail business property is not open, the registrant shall remove from the sidewalk sales area, or otherwise secure, all furniture, equipment and goods ~~which~~ that are susceptible to movement by the elements or by unauthorized persons;
  - (3) All items associated with the sidewalk sales area must be susceptible of being removed within seven (7) calendar days from the date that notification by the ~~controller~~ license administrator or the department of public safety that such removal is necessary is deposited in the mail or otherwise delivered to the registrant;
  - (4) Provision shall be made to assure the sidewalk will not be littered, including placement of adequate trash receptacles and periodic picking up of litter in the sidewalk sales area and the area twenty (20) feet from the perimeter of the sidewalk sales area;
  - (5) Sales of beverages or food shall not be accomplished by crying out or hawking;
  - (6) Pedestrians shall not be exposed to any undue safety or health hazard nor shall a public nuisance be created, and, notwithstanding section 431-106 of the Code, the registrant shall keep the public sidewalk area in front of or adjacent to the sidewalk sales area and abutting retail business property cleared of snow and ice at all times;
  - (7) Sales of beverages or food may not be made to a person in or on any motorized vehicle;
  - (8) Beverages or food sold in the sidewalk sales area shall be provided only for consumption in the sidewalk sales area or in the abutting retail business property;
  - (9) The ~~controller~~ license administrator may, by written notice to the registrant, forbid the use of the sidewalk sales area during the time and within the geographic boundaries of a special event designated under Article V of this chapter, or require that the registrant meet the additional requirements imposed on all vendors by the special event sponsor;
  - (10) The requirements set forth in section 961-703 of this article continue to be met and the cafe activity is carried out in accordance with the site plan; and
  - (11) If the fence or other such structure required by subsection 961-703(c)(2)(a) of the Code includes a gate, including any means of entering or exiting the sidewalk sales area from the public sidewalk area, the gate shall not be allowed to remain open except when a person is entering or exiting the sidewalk sales area through the gate.

(b) A registrant's failure to comply with the conditions set forth in subsection (a) shall be grounds for enforcement proceedings under Chapter 801, Article IV of the Code.

SECTION 173. Sections 961-707 and 961-708 of the "Revised Code of the Consolidated City and County," regarding sidewalk café registrations, hereby are amended by the deletion of the language that is stricken-

through, and by the addition of the language that is underscored, to read as follows:

**Sec. 961-707. Renewal of registration.**

(a) Prior to the time a registration under this article is renewed:

- (1) The registrant shall submit no later than November 1 an application for renewal of registration on a form provided by the ~~controller~~ license administrator together with the fee required by section 961-702 of the Code;
- (2) The department of public works may review the pedestrian traffic flow and if appropriate, modify the sidewalk sales area or the days and hours the area may be used; and
- (3) ~~The department of metropolitan development may review the site plan to assure that any changed conditions comply with the objectives of this article; and~~
- (4) The ~~controller~~ license administrator may review the operation of the sidewalk cafe to assure that any changed conditions comply with the objectives of this article and to determine if its continued operation is in the best interests of the city.

(b) If, after the renewal application is submitted and the reviews provided in subsection (a) of this section are completed, it is determined that there are no changed conditions ~~which that~~ which that would not allow pedestrian traffic flow standards to be met, no changes in the detailed site plan, and no change of circumstances such that the continued operation of the sidewalk cafe would not be in the best interests of the city, then registrations shall be renewed by the ~~controller~~ license administrator, unless at the time of renewal the registration:

- (1) Has been revoked or suspended; or
- (2) Is the subject of administrative or judicial proceedings ~~which that~~ which that have the potential to result in the revocation or suspension of the registration, in which case the registration may continue in effect until the conclusion of the administrative or judicial proceedings.

**Sec. 961-708. Enforcement.**

Inspections may be made and action to enforce the provisions of this article may be taken by the division of ~~compliance inspections~~ inspections of the department of ~~metropolitan development code enforcement~~, the office of finance and management, or by any law enforcement agency. The division of ~~compliance inspections~~ inspections shall be responsible for making periodic inspections of cafe activity carried out in sidewalk sales areas.

SECTION 174. Sections 987-102 through 987-107, inclusive, of the "Revised Code of the Consolidated City and County," regarding powers and duties of the controller, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 987-102. License required; fee; exempt activities.**

(a) It shall be unlawful for a person to engage in transient merchant activity in the city without first having obtained a license therefor from the ~~controller~~ license administrator. The annual fee for registration of transient merchant activity shall be ~~twenty dollars (\$20.00)~~ provided in section 131-501 of the code.

(b) Notwithstanding the provisions of subsection (a) of this section, a person is not required to obtain a license under this article if the person's transient merchant activity consists solely of the following:

- (1) Transient merchant activity ~~which that~~ which that is authorized by a license obtained under this article by another person;
- (2) The operation of a licensed vendor cart, registered sidewalk cafe, or other activity authorized

under Chapter 961 of the Code;

- (3) The operation of a food vending vehicle ~~which~~ that meets the requirements of section 611-501 et seq. of the Code;
- (4) The sale of goods to benefit a charitable cause, organized and conducted by an organization that is exempt from the Indiana gross retail tax under IC 2.5-5-26, provided that:
  - a. The sale of goods occurs for no more than thirty (30) days in a calendar year;
  - b. No more than two (2) persons engage in the sale of goods at any one (1) outdoor sales location; and
  - c. Each person who engages in the sale of goods has in his or her possession a card or letter ~~which~~ that identifies that person as being authorized by the organization to engage in such sales;
- (5) A garage sale, as provided under Article II of this chapter;
- (6) An auction of goods ~~which~~ that originate primarily on the property where the auction occurs, and ~~which~~ that were not moved to the property from another location for the purpose of sale at the auction, conducted by an auctioneer licensed under IC 25-6.1;
- (7) The sale of goods on commercial property ~~which~~ that occurs during the regular hours of operation of the business located on the property; or
- (8) The sale of newspapers.

(c) If the transient merchant activity described in subsections (b)(4) and (b)(7) of this section occurs on private property, it shall not be exempt from the license requirement unless the person engaged in the transient merchant activity has written consent, dated and signed by the property owner, to use the property.

**Sec. 987-103. License information required.**

(a) A person who wishes to engage in transient merchant activity shall file a verified license application form with the ~~controller~~ license administrator. In addition to the information required by section 801-203 of the Code, the form shall include the following information:

- (1) The name and address of each person expected to engage in the transient merchant activity;
- (2) A description of the goods or services ~~which~~ that will be displayed, offered, or sold;
- (3) Whether the outdoor sales location where the transient merchant activity will occur is or is not public right-of-way; and
- (4) If the outdoor sales location is not public right-of-way, written proof that the owner or lessee of the location has authorized the applicant to use the location for transient merchant activity.

(b) It shall be unlawful for an applicant under this article to provide false information on the license application form.

**Sec. 987-104. Issuance of license; term.**

(a) The ~~controller~~ license administrator shall issue a license to each qualified applicant under this article, if:

- (1) Applicable zoning ordinances do not prohibit transient merchant activity at the proposed outdoor sales location; and

- (2) In the opinion of the ~~controller~~ license administrator, the transient merchant activity does not pose a threat to the public health, safety or welfare, and would not significantly inconvenience nearby residents or other members of the public.

(b) A license issued under this article shall be valid for a term of one (1) year from the date of issuance. A licensee who wishes to continue transient merchant activity after the expiration of the license shall file a new license application form with the ~~controller~~ license administrator.

**Sec. 987-105. Transfer prohibited.**

A license issued under this article may not be transferred by the licensee or the ~~controller~~ license administrator to any other person.

**Sec. 987-106. Restrictions on transient merchant activity.**

(a) It shall be unlawful to engage in transient merchant activity in such a manner as to:

- (1) Impede the flow of pedestrian or vehicular traffic, or obstruct or hinder the view of pedestrians or motorists, on any street, alley, sidewalk or right-of-way;
- (2) Create an unsafe condition or situation; or
- (3) Generate litter by the licensee or the licensee's customers, ~~which~~ that is not promptly removed by the licensee.

(b) Transient merchant activity shall not take place within the travel portion of any street or alley, or upon any median thereof, while such street or alley is open to vehicular traffic.

(c) In addition to the restrictions stated in subsection (a) of this section, the ~~controller~~ license administrator may impose other reasonable restrictions on transient merchant activity by stating the restrictions on the license.

**Sec. 987-107. Enforcement and penalties.**

(a) It shall be the duty of each law enforcement officer of the city or county to determine that persons engaged in transient merchant activity are licensed with the ~~controller~~ license administrator, and otherwise in compliance with the provisions of this article.

(b) A law enforcement officer who issues a complaint and summons ticket form to a person for a violation of this article, and who has reason to believe the violation will continue after issuance of the ticket, may take possession of any tangible goods being offered for sale. Such goods may be retained by the city until the ~~controller~~ license administrator issues the person a license under this article or the enforcement action is concluded, whichever occurs first.

(c) A person who violates any provision of this article shall be punishable as provided in section 103-3 of the Code; provided, however, the fine imposed for such violation shall not be less than two hundred dollars (\$200.00), and each day that an offense continues shall constitute a separate violation.

SECTION 175. Section 996-14 of the "Revised Code of the Consolidated City and County," regarding the definition of jitney, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 996-14. Jitney.**

(a) As used in this chapter, *jitney* means a public vehicle for hire ~~which~~ that transports passengers for a flat fare displayed on the exterior of the jitney in a format prescribed by the ~~controller~~ license administrator, designed to be readable by potential customers. This provision shall not be construed to prohibit jitney fares lower than the fares so displayed.

(b) As used in this chapter, *jitney* includes, but is not limited to, public vehicles for hire ~~which~~ that:

- (1) Have a published schedule;
- (2) Have an origin and destination, and defined times of departure and arrival; and
- (3) Operate within a defined corridor between the origin and destination.

SECTION 176. Sections 996-23 through 996-29, inclusive, of the "Revised Code of the Consolidated City and County," regarding public vehicles for hire operator's licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 996-23. Application.**

Each applicant for a license to operate a public vehicle for hire shall provide to the ~~controller~~ license administrator the following information concerning the applicant, on an application form provided by the ~~controller~~ license administrator, signed and sworn to by the applicant:

- (1) Full name;
- (2) Residence address;
- (3) Office address;
- (4) Place of residence for the five (5) years immediately preceding the date of the filing of the application, including an address or addresses in Marion County or the seven (7) contiguous counties for a cumulative total of at least twelve (12) months;
- (5) Age, race, sex, height, weight, and color of eyes and hair;
- (6) Place of birth;
- (7) Length of residence in the City of Indianapolis;
- (8) Last previous employment;
- (9) Whether the applicant is a citizen of the United States;
- (10) The date of judgment, court and description of each conviction for a violation of law by the applicant;
- (11) The date of filing, court and description of each charge pending against the applicant alleging a violation of law;
- (12) All governmental entities from which the applicant has been previously licensed to operate any type of public vehicle for hire, and each date and cause for which any such license was ever revoked or suspended; and
- (13) Such additional information as the ~~controller~~ license administrator deems necessary.

**Sec. 996-24. Attachments to the application.**

Each application shall be accompanied by:

- (1) Two (2) recent photographs of the applicant in a format prescribed by the ~~controller~~ license administrator, designed to be easily attachable to the license;

- (2) A complete set of the applicant's fingerprints in a format prescribed by the ~~controller~~ license administrator;
- (3) A copy of the applicant's Indiana driving record certified within ten (10) days prior to submission of the application;
- (4) A copy of the applicant's limited criminal history from the Indiana State Police and from the Indianapolis metropolitan police department, as provided by IC 5-2-5-5; and
- (5) Such additional items as the ~~controller~~ license administrator deems necessary.

**Sec. 996-25. Fee.**

The biannual fee for a license to operate a public vehicle for hire shall be ~~twenty dollars (\$20.00)~~ provided in section 131-501 of the code.

**Sec. 996-26. Investigation of applicant.**

The ~~controller~~ license administrator shall investigate an applicant for a license to operate a public vehicle for hire. The investigation shall include:

- (1) Investigation of the facts giving rise to any violation of law and any charges alleging a violation of law pending against the applicant; and
- (2) Such additional investigation as the ~~controller~~ license administrator deems necessary.

**Sec. 996-27. Examination of applicant.**

(a) Each applicant for a license to operate a public vehicle for hire shall be examined by the ~~controller~~ license administrator to guarantee quality service to customers, as to:

- (1) The applicant's qualifications;
- (2) The applicant's knowledge of the provisions of this chapter and such other ordinances, statutes and regulations as the ~~controller~~ license administrator deems relevant;
- (3) The applicant's knowledge of the geography of Marion County and the surrounding counties;
- (4) The applicant's ability to communicate in English with customers; and
- (5) The applicant's skill in operating a motor vehicle (including a driving test accompanied by an inspector in such circumstances as the ~~controller~~ license administrator determines to be necessary to protect the public).

(b) Each new applicant for a license to operate a public vehicle for hire shall complete a comprehensive training program administered by the ~~controller~~ license administrator or an authorized agent thereof.

**Sec. 996-28. Pending charges of violation of law.**

If charges are pending in any court charging the applicant with a violation of law, the ~~controller~~ license administrator shall suspend processing of the application until those charges are resolved, unless the applicant requests the ~~controller~~ license administrator to proceed with the processing of the application. In the event that an applicant requests the ~~controller~~ license administrator to proceed, the ~~controller~~ license administrator shall conduct a hearing to determine whether the applicant committed the alleged violation of law and whether that violation of law disqualifies the applicant from receiving a license. Evidence may be submitted telephonically or by any other reasonable electronic means from remote locations. The applicant must appear at the hearing, testify, and otherwise fully cooperate with the ~~controller's~~ license administrator's investigation. In the event that the application is denied, the applicant

shall reimburse the ~~controller~~ license administrator for any expenses incurred as a result of the request for a hearing.

**Sec. 996-29. Issuance of license.**

Upon completion of the investigation and any examination of the applicant, and a determination by the ~~controller~~ license administrator that the applicant is eligible pursuant to section 996-22 and qualified pursuant to section 996-27 for a license to operate a public vehicle for hire, the ~~controller~~ license administrator shall issue to the applicant a license to operate a public vehicle for hire, in a format prescribed by the ~~controller~~ license administrator, which license shall contain the photograph and signature of the licensee, the date of issuance and expiration of the license, and such additional information as the ~~controller~~ license administrator deems necessary.

SECTION 177. Sections 996-32 and 996-33 of the "Revised Code of the Consolidated City and County," regarding public vehicles for hire operator's licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 996-32. Renewal.**

The biannual renewal of a license to operate a public vehicle for hire shall be granted upon the same terms and conditions as the original license. Pending action by the ~~controller~~ license administrator on the application for renewal, the applicant shall be permitted to operate a public vehicle for hire under the license issued for the previous licensing period, unless the ~~controller~~ license administrator enters an order to the contrary.

**Sec. 996-33. Post-licensure inspection of operator.**

At least two (2) times each year on a schedule or at such unannounced times as determined by the ~~controller~~ license administrator, the ~~controller~~ division of inspections shall inspect each licensed operator for compliance with section 996-124 and other requirements of this chapter.

SECTION 178. Sections 996-43 through 996-49, inclusive, of the "Revised Code of the Consolidated City and County," regarding general requirements for public vehicles for hire licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 996-43. Eligibility; required number of taxicabs per applicant.**

(a) To be eligible to apply for a public vehicle for hire license, a person:

(1) Must be the owner of the vehicle;

(2) Must have a central office located in Marion County ~~which that~~ shall be kept open twenty-four (24) hours each day for the purpose of receiving calls and dispatching public vehicles for hire within the city; and

(3) Must not have been convicted of a felony within the period of five (5) years immediately preceding the date of the filing of the application.

(b) No person shall be eligible to apply for, or have the ~~controller~~ license administrator renew, public vehicle for hire licenses for taxicabs unless the number of taxicabs ~~which that~~ are owned by that person, and ~~which that~~ are licensed or will be licensed if the application is approved, is twenty (20) or more; however, this limitation shall not apply to a person who has maintained at least one (1) valid public vehicle for hire license for at least one (1) eligible taxicab continuously since July 1, 2002.

**Sec. 996-44. Application.**

(a) Each applicant for a license for a public vehicle for hire shall provide to the ~~controller~~ license administrator the following information concerning the applicant and the vehicle, on an application form

provided by the ~~controller~~ license administrator, signed and sworn to by the applicant (or, if the applicant is not an individual, signed and sworn to by one (1) of the individuals about whom information is required by this section):

- (1) The vehicle's seating capacity, name of manufacturer, model year, horsepower, vehicle identification number, certificate of title number, color and state license number;
- (2) The logo (if any) and color scheme ~~which~~ that will be used on the vehicle;
- (3) The applicant's full name;
- (4) The applicant's central office address;
- (5) The names of all persons other than the applicant who have a financial interest in the vehicle;
- (6) All governmental entities from which the applicant has previously obtained a license for any public vehicle for hire, and each date and cause for which any such license was ever revoked or suspended; and
- (7) Such additional information as the ~~controller~~ license administrator deems necessary.

(b) As used in this section, *financial interest* in a motor vehicle means any portion of any of the legal rights of ownership or any such financial interest in any partnership, corporation or other legal entity having any such financial interest in a motor vehicle. As used in this section, *financial interest* in a motor vehicle includes, but is not limited to, that interest held by stockholders and officers of corporations or similar business entities having a financial interest in a motor vehicle.

#### **Sec. 996-45. Attachments to the application.**

Each application shall be accompanied by:

- (1) A public liability insurance policy or certificate of self- insurance for the vehicle;
- (2) A certificate of existence from the Indiana secretary of state, if the applicant is a corporation; and
- (3) Such additional items as the ~~controller~~ license administrator deems necessary.

#### **Sec. 996-46. Public liability insurance.**

(a) All vehicles licensed under this article must be covered by a public liability insurance policy ~~which~~ that will indemnify anyone injured by anyone operating the vehicle. The public liability insurance shall be in an amount not less than one hundred thousand dollars (\$100,000.00) combined limit coverage for personal injury and property damage. The policy shall contain the same substantive provisions as required of common carriers under the forms prescribed by the federal highway administration at 49 C.F.R. § 387.39. The policy shall remain in effect continuously until terminated. The policy shall provide that cancellation may be effected only by the insurer providing forty-five (45) days' prior written notice to the ~~controller~~ license administrator; provided, in the event of cancellation for nonpayment of premium, the cancellation may be effective on ten (10) days' prior written notice, such ten (10) days being measured from the ~~controller's~~ license administrator's receipt of the notice.

(b) The insurance requirements of this section may be satisfied by a certificate of self-insurance, in an equivalent amount, issued by the bureau of motor vehicles of the State of Indiana.

#### **Sec. 996-47. Fees.**

(a) The annual fee for each public vehicle for hire license shall be ~~one hundred dollars (\$100.00)~~ provided in section 131-501 of the code.

(b) In addition, the fee for an inspection of a taxicab beyond the past six (6) model years shall be

sixty-five dollars (\$65.00) for an initial inspection of the taxicab and, if the initial inspection reveals that the taxicab does not comply with the motor vehicle equipment requirements of IC 9-19 and section 996-123 of the Code, thirty-five dollars (\$35.00) for any subsequent inspection provided in section 131-502 of the code.

**Sec. 996-48. Investigation of applicant.**

The ~~controller~~ license administrator shall investigate an applicant for a public vehicle for hire license. The investigation shall include:

- (1) Investigation of the facts giving rise to any violation of law and any charges alleging a violation of law pending against the applicant or any person having a financial interest in the vehicle; and
- (2) Such additional investigation as the ~~controller~~ license administrator deems necessary.

**Sec. 996-49. Pre-licensure inspection of vehicle.**

The ~~controller~~ division of inspections shall inspect the vehicle for compliance with the motor vehicle equipment requirements of IC 9-19 and section 996-123 of the Code.

SECTION 179. Sections 996-52, 996-53, and 996-54 of the "Revised Code of the Consolidated City and County," regarding general requirements for public vehicles for hire licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 996-52. Renewal.**

The renewal of a license for a public vehicle for hire shall be granted upon the same terms and conditions as the original license. Pending action by the ~~controller~~ license administrator on the application for renewal, the applicant shall be permitted to operate a public vehicle for hire under the license issued for the previous year, unless the ~~controller~~ license administrator enters an order to the contrary.

**Sec. 996-53. Post-licensure inspection of vehicle.**

At least two (2) times each year, on a schedule or at such unannounced times as determined by the ~~controller~~ license administrator, the ~~controller~~ division of inspections shall inspect each licensed public vehicle for hire for compliance with the motor vehicle equipment requirements of IC 9-19 and section 996-123.

**Sec. 996-54. Removal from service.**

If a licensed public vehicle for hire is inspected pursuant to section 996-53 and found not to comply with the motor vehicle requirements of IC 9-19 or section 996-123, any monthly taxicab certificate shall be immediately removed from the vehicle and canceled. The ~~controller~~ division of inspections shall thereafter reinspect the vehicle upon the request of the licensee.

SECTION 180. Sections 996-72 through 996-77, inclusive, of the "Revised Code of the Consolidated City and County," regarding taxicab licenses, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 996-72. Eligibility.**

To be eligible for a taxicab license, a public vehicle for hire must:

- (1) Meet the general licensure requirements for public vehicles for hire;
- (2) Be either:

- a. Of the current or past six (6) model years; or
  - b. Beyond the past six (6) years but not more than ten (10) model years and inspected and approved annually by the city garage and the ~~controller~~ license administrator as remaining fit for quality service both mechanically and aesthetically;
- (3) Be equipped with a certified taximeter;
- (4) Have a permanently affixed top light clearly identifying the vehicle as a taxicab;
- (5) Have a color scheme ~~which that~~ is the same for all taxicabs owned by the same person, and ~~which that~~ is either:
- a. Not similar to that in use by any taxicab licensed to another licensee; or
  - b. Similar to that of a taxicab licensed to a licensee who has consented to such use of the color scheme; and
- (6) Have affixed to both sides and the rear of the vehicle the ~~controller's~~ license administrator's license number for the taxicab in a format prescribed by the ~~controller~~ license administrator, designed to be readable by potential customers.

**Sec. 996-73. Pre-licensure inspection of taximeter.**

The ~~controller~~ license administrator, with the assistance of the inspector of weights and measures of the department of code enforcement, shall inspect the taximeter of each vehicle to be licensed as a taxicab to establish whether the taximeter is operating properly.

**Sec. 996-74. Post-licensure inspection of taximeters.**

At least two (2) and not more than five (5) times each year, on a schedule or at such unannounced times as determined by the ~~controller~~ license administrator, the ~~controller~~ license administrator, with the assistance of the inspector of weights and measures of the department of code enforcement, shall inspect the taximeter of each licensed taxicab to establish whether the taximeter is operating properly.

**Sec. 996-75. Taximeter certification.**

If a taximeter is inspected pursuant to this article and found to be operating properly, the inspector shall attach to the taximeter a seal in a format prescribed by the ~~controller~~ license administrator, and shall provide the owner with a numbered taximeter certificate containing the following information:

- (1) The signature of the inspector;
- (2) A statement that the meter has passed inspection;
- (3) The date of the inspection;
- (4) The state license plate number of the taxicab;
- (5) The number of the certificate of title of the taxicab;
- (6) The ~~controller's~~ license administrator's license number for the taxicab;
- (7) The name of the owner of the taxicab; and
- (8) Such additional information as the ~~controller~~ license administrator deems necessary.

**Sec. 996-76. Removal from service.**

If a taximeter is inspected and found to be operating improperly, any monthly taxicab certificate shall be immediately removed from the vehicle and canceled. The ~~controller~~ division of inspections shall thereafter reinspect the taximeter upon the request of the licensee.

**Sec. 996-77. Monthly taxicab certificate.**

(a) Each calendar month the ~~controller~~ license administrator shall issue a taxicab certificate to the owner for each licensed taxicab so long as such vehicle remains eligible for licensure. The certificate shall expire on the fifth day of the following month, unless sooner canceled by the ~~controller~~ license administrator. The certificate shall be placed on the licensed vehicle at a location specified by the ~~controller~~ license administrator. The certificate shall have a format and color prescribed by the ~~controller~~ license administrator, and shall contain the name of the licensee, the city license number of the taxicab, the signature of the ~~controller~~ license administrator, and such additional information as the ~~controller~~ license administrator deems necessary.

(b) It shall be unlawful to own or operate a licensed taxicab ~~which that~~ does not bear a current taxicab certificate. A person's first violation of this section in a twelve (12) month period shall be subject to the enforcement procedures provided in Chapter 103, Article III, of the Code, and each second and subsequent violation in a twelve (12) month period is subject to the enforcement procedures and penalties provided in section 103-3 of the Code.

SECTION 181. Sections 996-83, 996-84, and 996-85 of the "Revised Code of the Consolidated City and County," regarding maximum fares for public vehicles for hire, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 996-83. Filing.**

Every holder of a public vehicle for hire license shall file with the ~~controller~~ license administrator a fare schedule, which shall be open to the public, showing all rates and charges ~~which that~~ the licensee has established and requires as payment for any of its services.

**Sec. 996-84. Fare charges.**

A fare schedule on file with the ~~controller~~ license administrator may be changed only upon ten (10) days written notice to the ~~controller~~ license administrator. With the exception of fares authorized under section 996-86(8), (9) and (10), fares in the schedules may not be changed more than once each calendar quarter.

**Sec. 996-85. Airport fares.**

(a) All licensees under this article shall comply with such rules as the Indianapolis Airport Authority may adopt regulating taxicab service for trips originating at the Indianapolis International Airport, including rules establishing or regulating fares, vehicle size and luggage compartments, provided such rules are adopted pursuant to this section.

(b) At least thirty (30) days prior to the adoption of any rules specified in subsection (a) of this section, the Indianapolis Airport Authority shall provide notice of the proposed rules by certified or registered mail to the office of the ~~city controller~~ license administrator and to the clerk of the city-county council.

(c) Rules adopted pursuant to subsection (a) of this section shall not be effective sooner than sixty (60) days after notice of their adoption is received via registered or certified mail by both the office of the ~~city controller~~ license administrator and the clerk of the city-county council.

SECTION 182. Section 996-102 of the "Revised Code of the Consolidated City and County," regarding taxicab operation regulations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 996-102. Fare advertisement.**

The fare schedule in use by a taxicab at any given time shall be displayed on the exterior of the taxicab in a format prescribed by the ~~controller~~ license administrator, designed to be readable by potential passengers. The fare schedule so advertised shall not exceed the fare schedule for that taxicab as filed with the ~~controller~~ license administrator. This provision shall not be construed to prohibit taxicab fares lower than the fares so displayed.

SECTION 183. Section 996-104 of the "Revised Code of the Consolidated City and County," regarding taxicab operation regulations, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 996-104. Taximeter security.**

All taximeters shall be in an enclosed case permanently attached to a taxicab, and no person other than the ~~controller~~ license administrator or the ~~inspector authorized by the controller division of inspections~~ shall remove or tamper with the case, the taximeter or the seal placed on any taximeter by the ~~controller~~ license administrator, unless the current taximeter and monthly taxicab certificates are first surrendered to the ~~controller~~ license administrator.

SECTION 184. Section 996-122 of the "Revised Code of the Consolidated City and County," regarding the public vehicles for hire dispatching log, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 996-122. Dispatching log.**

Each owner or operator of a public vehicle for hire ~~which that~~ is licensed under this chapter shall maintain, at a location in the city, a record of all customer service transactions including the date and time of the agreement to provide service, the dates, times and locations where the customer is picked up and dropped off, the name of the operator, and the amount of the fare. Dispatching logs shall be retained for at least one (1) year by the owner or operator and shall be open to inspection on demand by the ~~controller~~ division of inspections and any law enforcement agency having jurisdiction over the geographical area where the record is located.

SECTION 185. Section 996-126 of the "Revised Code of the Consolidated City and County," regarding public vehicles for hire display of licenses and fare schedules, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 996-126. Display of licenses and fare schedules.**

(a) Every public vehicle for hire shall display in plain view of passengers the public vehicle for hire license for that vehicle, the license for the operator of that vehicle and the fare schedule for that vehicle as filed with the ~~controller~~ license administrator.

(b) It shall be unlawful to own or operate a public vehicle for hire ~~which that~~ does not display the licenses and fare schedule as required by this section. A person's first violation of this section in a twelve (12) month period shall be subject to the enforcement procedures provided in Chapter 103, Article III, of the Code, and each second and subsequent violation in a twelve (12) month period is subject to the enforcement procedures and penalties provided in section 103-3 of the Code.

SECTION 186. Sections 996-133, 996-134, and 996-135 of the "Revised Code of the Consolidated City and County," regarding miscellaneous public vehicles for hire regulations, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 996-133. Complaints.**

(a) Any person knowing of the misconduct of any licensee under this article may present a complaint to any police officer of the city or to the ~~controller~~ license administrator. The ~~controller~~ license administrator shall investigate the complaint with the assistance of the Indianapolis metropolitan police

department, if the ~~controller~~ license administrator deems such assistance necessary. ~~The~~ Such department shall file with the ~~controller~~ license administrator a report of the facts relating to such conduct. The ~~controller~~ license administrator shall then notify the licensee in writing that charges have been filed against him or her, setting a time for a hearing on such charges as provided in chapter 801, article IV, of the Code.

(b) If additional complaints or violations of this chapter are observed against a licensee within a twelve (12) month period and after a hearing by the ~~controller~~ license administrator found to have merit, the ~~controller~~ license administrator shall impose not less than a one (1) week suspension, and if determined to be beneficial by the ~~controller~~ license administrator, require the operator to successfully complete the forty (40) hour training program pursuant to section 996-27 during the suspension.

**Sec. 996-134. Compliance with law.**

Persons licensed to operate a public vehicle for hire shall comply with all laws of the State of Indiana, provisions of this Code, and such other rules and regulations as are issued by the ~~controller~~ license administrator.

**Sec. 996-135. Location of central office; tax situs.**

The ~~controller~~ license administrator shall revoke a taxicab license if the central office of the owner or the tax situs of the vehicle is removed from Marion County.

SECTION 187. Sections 996-137 and 996-138 of the "Revised Code of the Consolidated City and County," regarding miscellaneous public vehicles for hire regulations, hereby are amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 996-137. No property rights.**

Nothing in this chapter shall be interpreted to grant any property rights of any kind to any licensee or any other person. All rights and restrictions created by the express language of this chapter may be expanded, reduced or eliminated at any time by ordinance or by regulation of the ~~controller~~ license administrator or other officer.

**Sec. 996-138. Limitations on operator's number of hours; operator's log.**

(a) It shall be unlawful for a person to operate a public vehicle for hire in the city for a cumulative total of more than:

- (1) Twelve (12) hours in any period of twenty-four (24) consecutive hours; or,
- (2) Twenty (20) hours in any period of forty-eight (48) consecutive hours.

For purposes of this section, a person shall be deemed to be operating a public vehicle for hire at all times the vehicle is in service, and regardless of whether or not the vehicle is being driven.

(b) Each operator of a public vehicle for hire shall maintain at a location in the city, and on a form provided by the ~~controller~~ license administrator, a record of each day or portion of a day in which he or she operates a public vehicle for hire, including the operator's name and signature, the date, and the times when the vehicle was placed in service and taken out of service. Operator logs shall be retained for at least one (1) year by the operator or owner, and shall be open to inspection on demand by the ~~controller~~ division of inspections and any law enforcement agency having jurisdiction over the geographical area where the record is located.

(c) A person's first violation of this section in a twelve (12) month period shall be subject to the enforcement procedures provided in Chapter 103, Article III, of the Code, and each second and subsequent violation in a twelve (12) month period is subject to the enforcement procedures and penalties provided in section 103-3 of the Code.

SECTION 188. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance, or any regulation, does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 189. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 190. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14, or January 1, 2010, whichever last occurs.

The foregoing was passed by the City-County Council this \_\_\_\_ day of \_\_\_\_\_, 2009, at \_\_\_\_ p.m.

ATTEST:

\_\_\_\_\_  
Bob Cockrum  
President, City-County Council

\_\_\_\_\_  
Melissa Thompson  
Clerk, City-County Council

Presented by me to the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2009, at 10:00 a.m.

\_\_\_\_\_  
Melissa Thompson  
Clerk, City-County Council

Approved and signed by me this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Gregory Ballard, Mayor