

**MINUTES OF THE CITY-COUNTY COUNCIL
AND
SPECIAL SERVICE DISTRICT COUNCILS
OF
INDIANAPOLIS, MARION COUNTY, INDIANA**

**REGULAR MEETINGS
MONDAY, NOVEMBER 10, 1997**

The City-County Council of Indianapolis, Marion County, Indiana and the Indianapolis Police Special Service District Council, Indianapolis Fire Special Service District Council and Indianapolis Solid Waste Collection Special Service District Council convened in regular concurrent sessions in the Council Chamber of the City-County Building at 7:08 p.m. on Monday, November 10, 1997, with Councillor SerVaas presiding.

Councillor Boyd introduced Dr. Charles Marks, pastor of the Witherspoon Community Church, who led the opening prayer. Councillor Boyd invited all present to join him in the Pledge of Allegiance to the Flag.

ROLL CALL

The President instructed the Clerk to take the roll call and requested members to register their presence on the voting machine. The roll call was as follows:

29 PRESENT: Black, Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Dowden, Franklin, Gilmer, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams

A quorum of twenty-nine members being present, the President called the meeting to order.

OFFICIAL COMMUNICATIONS

The President called for the reading of Official Communications. The Clerk read the following:

TO ALL MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA

Ladies And Gentlemen :

You are hereby notified the REGULAR MEETINGS of the City-County Council and Police, Fire and Solid Waste Collection Special Service District Councils will be held in the City-County Building, in the Council

Journal of the City-County Council

Chambers, on Monday, November 10, 1997, at 7:00 p.m., the purpose of such MEETINGS being to conduct any and all business that may properly come before regular meetings of the Councils.

Respectfully,
s/Beurt SerVaas
President, City-County Council

October 28, 1997

TO THE HONORABLE PRESIDENT AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

Pursuant to the laws of the State of Indiana, I caused to be published in the *Court & Commercial Record* on Wednesday, October 29, 1997, and in the *Indianapolis Star* or the *Indianapolis News* on Thursday, October 30, 1997, a copy of a Notice of Public Hearing on Proposal Nos. 679-684, 1997, said hearing to be held on Monday, November 10, 1997, at 7:00 p.m. in the City-County Building.

Respectfully,
s/Suellen Hart
Clerk of the City-County Council

October 29, 1997

TO THE HONORABLE PRESIDENT AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

I have this day approved with my signature and delivered to the Clerk of the City-County Council, Suellen Hart, the following ordinance:

FISCAL ORDINANCE NO. 104, 1997 - approves a transfer of \$635,000 in the 1997 Budget of the Department of Public Works, Maintenance Operations Division (Maintenance Operations General Fund) to provide funds to purchase salt required for keeping roads clear

And on October 31, 1997, I approved with my signature and delivered to the Clerk of the City-County Council, Suellen Hart, the following ordinances and resolutions:

FISCAL ORDINANCE NO. 97, 1997 - approves an increase of \$78,000 in the 1997 Budget of the Prosecuting Attorney (State and Federal Grants Fund) for continuation of an Alternative Sentencing for Drunk Driving study funded by the Governor's Council on Impaired and Dangerous Driving

FISCAL ORDINANCE NO. 98, 1997 - approves an increase of \$716,000 in the 1997 Budget of the Prosecutor's Child Support IV-D Agency (Cumulative Capital Development Fund) to replace the child support computer system financed by fund balances

FISCAL ORDINANCE NO. 99, 1997 - approves an increase of \$100,000 and a transfer of \$100,000 in the 1997 Budget of the Marion County Superior Court (County General Fund) to provide additional funding for jury expenses

FISCAL ORDINANCE NO. 103, 1997 - approves an increase of \$590,000 in the 1997 Budget of the Department of Metropolitan Development, Division of Community and Human Services (Redevelopment General Fund) to acquire land along the Canal for development and eventual sale financed by fund balances

GENERAL ORDINANCE NO. 162, 1997 - amends the Code concerning a cost of living adjustment (COLA) for retired or disabled county police officers

GENERAL ORDINANCE NO. 163, 1997 - substitutes the director of the Department of Capital Asset Management for the director of the Department of Public Works as a member and presiding officer of the Board of Asset Management and Public Works

GENERAL ORDINANCE NO. 164, 1997 - authorizes a traffic signal at 56th Street and Herbert Lord Road (District 5)

November 10, 1997

GENERAL ORDINANCE NO. 165, 1997 - authorizes a multi-way stop at Orange Street and Randolph Street (District 21)

GENERAL ORDINANCE NO. 166, 1997 - authorizes a multi-way stop at Ohio Street and Sheffield Avenue (District 17)

GENERAL ORDINANCE NO. 167, 1997 - authorizes multi-way stops for the intersections located in the Par 10 Neighborhood (District 13)

GENERAL ORDINANCE NO. 168, 1997 - authorizes intersection controls for the Ameriplex Commercial Park (District 19)

GENERAL ORDINANCE NO. 169, 1997 - authorizes a multi-way stop at 51st Street and Primrose Avenue (District 6)

GENERAL ORDINANCE NO. 170, 1997 - authorizes a multi-way stop at 24th Street and Park Avenue (District 22)

GENERAL ORDINANCE NO. 171, 1997 - authorizes a multi-way stop at Petersburg Parkway and Vicksburg Drive (District 1)

GENERAL ORDINANCE NO. 172, 1997 - authorizes intersection controls in the Pine Woods Subdivision (District 1)

GENERAL ORDINANCE NO. 173, 1997 - authorizes a multi-way stop at Grant Avenue and Walnut Street (District 15)

GENERAL ORDINANCE NO. 174, 1997 - authorizes a multi-way stop at Grant Avenue and 9th Street (District 15)

GENERAL ORDINANCE NO. 175, 1997 - authorizes a multi-way stop at Lynn Street and Vermont Street (District 16)

GENERAL ORDINANCE NO. 176, 1997 - authorizes a multi-way stop at 12th Street and Warman Avenue (District 16)

GENERAL ORDINANCE NO. 177, 1997 - authorizes a multi-way stop at 12th Street and Winfield Avenue (District 16)

GENERAL ORDINANCE NO. 178, 1997 - authorizes weight limit restrictions on Jackson Place between Illinois Street and McCrea Street (District 16)

GENERAL ORDINANCE NO. 179, 1997 - authorizes weight limit restrictions on Epler Avenue from Belmont Avenue to Warman Avenue (District 25)

GENERAL ORDINANCE NO. 180, 1997 - authorizes a change in parking restrictions on Broadway Street from 11th Street to the north terminal of Broadway Street (District 22)

GENERAL RESOLUTION NO. 9, 1997 - approves a public purpose grant in the amount of \$12,000 for the Indianapolis Art Centre

SPECIAL ORDINANCE NO. 14, 1997 - a special ordinance for Kingsmill Venture, L.P. amending S.O. No. 9, 1997 authorizing certain changes in the trust indenture with respect to previously-issued \$10,000,000 Variable/Fixed Rate Multi-Family Housing Revenue Bonds, Series 1997A, and \$5,000 Taxable Variable/Fixed Rate Multi-Family Housing Revenue Bonds, Series 1997B (Kingsmill Venture, L.P. Project) (District 1)

SPECIAL RESOLUTION NO. 80, 1997 - recognizes those public safety personnel who assisted critically injured police officer Karen Dague

SPECIAL RESOLUTION NO. 81, 1997 - determines that the lease of warehouse space for the storage of voting machines is needed by the Clerk of the Marion County Circuit Court and the Marion County Election Board

Respectfully,
s/Stephen Goldsmith, Mayor

ADOPTION OF THE AGENDA

The President proposed the adoption of the agenda as distributed. Without objection, the agenda was adopted.

APPROVAL OF THE JOURNAL

The President called for additions or corrections to the Journal of October 27, 1997. There being no additions or corrections, the minutes were approved as distributed.

PRESENTATION OF PETITIONS, MEMORIALS, SPECIAL RESOLUTIONS, AND COUNCIL RESOLUTIONS

PROPOSAL NO. 721, 1997. The proposal, sponsored by Councillors O'Dell Dowden, and Smith, recognizes the public service of retiring Marion County Cooperative Extension Service Director Ned E. Kalb. Councillor O'Dell read the proposal and presented Mr. Kalb with a copy of the document and a Council pin. Councillor Smith stated that Mr. Kalb's retirement will be a great loss to the County, but wished Mr. Kalb well in his future endeavors. Mr. Kalb introduced his daughter, Molly, a sophomore at Purdue University, and stated that he was proud to be a part of the tradition of the Cooperative Extension Service. He added that he is looking forward to new opportunities and thanked the Council for their support. He recognized his successor, Mary Ann Dickinson. Councillor O'Dell moved, seconded by Councillor Smith, for adoption. Proposal No. 721, 1997 was adopted by a unanimous voice vote.

Proposal No. 721, 1997 was retitled SPECIAL RESOLUTION NO. 82, 1997, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 82, 1997

A SPECIAL RESOLUTION recognizing the public service of retiring Marion County Cooperative Extension Service Director Ned E. Kalb.

WHEREAS, Ned E. Kalb served with skill and professionalism as Director of the Marion County Cooperative Extension from 1989 to 1997; and

WHEREAS, Mr. Kalb is a farm boy from Elkhart County, Indiana, where he played basketball for Middlebury High School; and

WHEREAS, he is a graduate of Purdue University and has spent his entire career in Purdue's Cooperative Extension Service beginning as an Assistant Extension Service Agent in Tippecanoe County in 1964; and

WHEREAS, after gaining experience and a Master's Degree he was assigned to several Northern Indiana counties, gained a number of awards and honors for his work, and in 1989 became the Extension Director of Marion County—Indiana's most populated county; and

WHEREAS, while serving in Indianapolis-Marion County, Mr. Kalb and his staff greatly expanded the number of programs and information for the public, and increased the variety and sophistication of the Extension Service's work in this large urban environment; now, therefore:

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

SECTION 1. The Indianapolis City-County Council recognizes the third of a century of outstanding Cooperative Extension Service work by our friend with a very friendly, caring and professional style; the farmer and basketball player from Middlebury, Indiana—Ned E. Kalb.

SECTION 2. The Council wishes Ned well as he joins his wife Dee Ann who is teaching at the International School in the new Central Asian nation of Uzbekistan.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 732, 1997. The proposal, sponsored by Councillors Moores and Dowden, recognizes the public service of Anne Shane. Councillor Moores read the proposal and presented Ms. Shane with a copy of the document and a Council pin. Councillor McClamroch stated that Ms. Shane has brought a tremendous amount of common sense, good judgment, and warmth to the City's administration, and she will be sorely missed. Ms. Shane stated that it has been a pleasure and a privilege to work with the Council. She specifically thanked the President, as her district Councillor, and the Majority and Minority Leaders. Councillor Moores moved, seconded by Councillor McClamroch, for adoption. Proposal No. 732, 1997 was adopted by a unanimous voice vote.

Proposal No. 732, 1997 was retitled SPECIAL RESOLUTION NO. 83, 1997, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 83, 1997

A SPECIAL RESOLUTION recognizing the public service of Anne Shane.

WHEREAS, Anne Shane was Director of the Greater Indianapolis Progress Committee and Chief of Staff in the Indianapolis Mayor's office for most of 1992 through 1997; and

WHEREAS, she is from Evansville, Indiana, and earned degrees at DePauw University and at Indiana University; and

WHEREAS, she was serving as President of the Junior League of Indianapolis when her strong organizational abilities in handling Junior League youth projects caught the attention of city and county officials including the Marion County Prosecutor's Office; and

WHEREAS, for much of the 1990's Anne Shane has demonstrated her well-organized, easy going and results-oriented *persona* in the top levels of the City Administration where in the midst of the rapid swirl of ideas, programs, decisions, and changes, such a steady, organized and warm individual was very much needed and appreciated; now, therefore:

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

SECTION 1. The Indianapolis City-County Council recognizes the outstanding public service work by the Mayor's Chief of Staff, Anne Shane.

SECTION 2. The Council wishes her well as she retires to private life to spend more time with her husband, David, their son at DePauw and daughter at Park-Tudor School, their new home in Williams Creek, their escapes to their Michigan home, and with her art and very competitive golf game.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 722, 1997. The proposal, sponsored by Councillors McClamroch and Hinkle, appoints James E. Logan to the Common Construction Wage Committee for the Wayne Township School District. Councillor McClamroch moved, seconded by Councillor Hinkle, for adoption. Proposal No. 722, 1997 was adopted by a unanimous voice vote.

Proposal No. 722, 1997 was retitled COUNCIL RESOLUTION NO. 68, 1997, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 68, 1997

A COUNCIL RESOLUTION appointing James E. Logan to the Common Construction Wage Committee for the Wayne Township School District.

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

SECTION 1. As a member of the Common Construction Wage Committee approved by the Wayne Township School District, the Council appoints:

James E. Logan

SECTION 2. The person appointed by this resolution shall serve at the pleasure of the Council and until his respective successor is appointed and has qualified.

INTRODUCTION OF GUESTS AND VISITORS

Councillor Talley recognized Reverend Wayne Harris, pastor of Mt. Olive Missionary Baptist Church, and Reverend Lionel Rush, a member of the Concerned Clergy. Councillor Williams wished a fond farewell to Kathleen Johnston, reporter for the Indianapolis Star and News, who will be joining the staff of Channel 13 as an investigative reporter.

INTRODUCTION OF PROPOSALS

PROPOSAL NO. 687, 1997. Introduced by Councillors McClamroch and Boyd. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which establishes a citizens police complaint process, board, and office to replace the current system"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 696, 1997. Introduced by Councillor Schneider. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves a reduction of \$1,599,783 in 1997 Budgets to reflect recalculations of cash flow for funding the 1998 Budgets of various city departments in specified funds"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 697, 1997. Introduced by Councillor Schneider. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves a transfer of \$5,000 in the 1997 Budget of the Office of the Controller (Consolidated County Fund) for the purpose of paying Indianapolis Fleet Services for inspections of taxi cabs"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 698, 1997. Introduced by Councillor Schneider. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$3,600,000 in the

1997 Budget of the Information Services Agency (Information Services Internal Service Fund) to fund capital purchases by departments and agencies paid for by chargebacks to those departments and agencies"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 699, 1997. Introduced by Councillor Hinkle. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which organizes the Department of Metropolitan Development (DMD) in a manner more compatible with the budget and improves DMD's services"; and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 700, 1997. Introduced by Councillor Shambaugh. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$250,000 in the 1997 Budget of the Department of Parks and Recreation (Park General Fund) to begin a public awareness program concerning Greenways projects financed by a grant from the Lilly Endowment"; and the President referred it to the Parks and Recreation Committee.

PROPOSAL NO. 701, 1997. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which creates an application fee to be paid by applicants for sworn positions in the Indianapolis police and fire departments"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 702, 1997. Introduced by Councillors Dowden and Talley. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$6,000 in the 1997 Budget of the Prosecuting Attorney (State and Federal Grants Fund) to fund an evaluation of county-wide domestic violence protocols funded by a S.T.O.P. grant from the Indiana Criminal Justice Institute"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 703, 1997. Introduced by Councillors Dowden and Talley. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$26,253 in the 1997 Budget of the County Sheriff (State and Federal Grants Fund) to fund Child Sex Abuse Intervention and Prevention Programs funded by a grant from the Indiana Criminal Justice Institute"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 704, 1997. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$58,917 in the 1997 Budget of the County Sheriff (State and Federal Grants Fund) to fund a Victim Assistance Program funded by a grant from the Indiana Criminal Justice Institute"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 705, 1997. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$11,554 in the 1997 Budget of the Marion County Justice Agency (State and Federal Grants Fund) to provide funds for drug testing of defendants held in the lock-up funded by a grant from the US Department of Justice"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 706, 1997. Introduced by Councillor Dowden. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$34,154 in the 1997 Budget of the Marion County Justice Agency (State and Federal Grants Fund) to provide

indigent adult groups and individualized counseling on victimization issues funded by a grant from the Indiana Criminal Justice Institute”; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 707, 1997. Introduced by Councillor Dowden. The Clerk read the proposal entitled: “A Proposal for a Fiscal Ordinance which approves an increase of \$15,706 in the 1997 Budget of the Marion County Superior Court (State and Federal Grants Fund) to provide funding for the Drug Treatment Court funded by a grant from the US Department of Justice”; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 708, 1997. Introduced by Councillor Dowden. The Clerk read the proposal entitled: “A Proposal for a Fiscal Ordinance which approves an increase of \$34,000 in the 1997 Budget of the Marion County Superior Court (Supplemental Adult Probation Fees Fund) to pay the cost of offender drug testing for the conditional release office funded by user fees”; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 709, 1997. Introduced by Councillor Dowden. The Clerk read the proposal entitled: “A Proposal for a Fiscal Ordinance which approves an increase of \$100,000 in the 1997 Budget of the Marion County Superior Court (County General Fund) for purposes of paying juror fees financed by fund balances”; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 710, 1997. Introduced by Councillor Dowden. The Clerk read the proposal entitled: “A Proposal for a Fiscal Ordinance which approves an increase of \$13,371 in the 1997 Budget of the Department of Public Safety, Emergency Management Planning Division (Consolidated County Fund) for payment of accrued benefit leave time for a departing Emergency Management employee financed by fund balances”; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 711, 1997. Introduced by Councillor Dowden. The Clerk read the proposal entitled: “A Proposal for a Police Special Service District Fiscal Ordinance which approves an increase of \$2,400,000 in the 1997 Budget of the Department of Public Safety, Police Division (Police Service District Fund) to fund the 27th payroll for the Indianapolis Police Department which will fall on January 2, 1998, financed by fund balances”; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 712, 1997. Introduced by Councillor Dowden. The Clerk read the proposal entitled: “A Proposal for a Fire Special Service District Fiscal Ordinance which approves an increase of \$1,500,000 in the 1997 Budget of the Department of Public Safety, Fire Division (Fire Service District Fund) to fund the 27th payroll for the Indianapolis Fire Department which will fall on January 2, 1998, financed by fund balances”; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 713, 1997. Introduced by Councillor Coughenour. The Clerk read the proposal entitled: “A Proposal for a Solid Waste Collection Special Service District Fiscal Ordinance which approves an increase of \$97,027 in the 1997 Budget of the Department of Public Works, Solid Waste Administration (Solid Waste Collection Service District Fund) to pay weekly employees for the 53rd pay period in 1997 financed by fund balances”; and the President referred it to the Public Works Committee.

PROPOSAL NO. 714, 1997. Introduced by Councillor Coughenour. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$238,008 in the 1997 Budget for the Department of Public Works, Maintenance Operations Division and Administration (Maintenance Operations General Fund - \$234,008; Federal Grants Fund - \$4,000) to pay weekly employees for the 53rd pay period in 1997 and to pay Brownfield's interns to complete pilot program through the end of 1997 financed by fund balances and transfers"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 715, 1997. Introduced by Councillor Brents. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a traffic signal at 29th Street and Riverside Drive (District 16)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 716, 1997. Introduced by Councillor Brents. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a traffic signal at 30th Street, Riverside Drive, and White River Parkway East Drive (Districts 9, 16)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 717, 1997. Introduced by Councillor Massie. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a traffic signal at Bradbury Avenue and Shelby Street (Districts 20, 21)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 718, 1997. Introduced by Councillor O'Dell. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a multi-way stop at Kenmore Road and Lowell Avenue (District 13)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 719, 1997. Introduced by Councillor Massie. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes parking restrictions on Shelby Street, on the east side, from Raymond Street to Tabor Street (Districts 20, 21)"; and the President referred it to the Capital Asset Management Committee.

PROPOSAL NO. 720, 1997. Introduced by Councillor Moores. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which concerns voting limitations by Councillors"; and the President referred it to the Rules and Public Policy Committee.

The President cautioned Councillor Brents to research Proposal Nos. 715 and 716, 1997 and their impact on the traffic flow in the area as development increases. Councillor Gray stated that these proposals also affect a portion of his district and are an attempt to address the traffic flow problems that already exist in that area.

Councillor Boyd stated, for the benefit of the members of the public present through concern over Proposal No. 687, 1997, that the proposal is simply being formally introduced and no discussion will take place until a time appointed by the Committee Chairman. Councillor Dowden stated that he has not yet determined a date for a public hearing on Proposal No. 687, 1997, but that it will be properly advertised.

SPECIAL ORDERS - PRIORITY BUSINESS

PROPOSAL NO. 723, 1997 and PROPOSAL NOS. 724-731, 1997. Introduced by Councillor Hinkle. Proposal No. 723, 1997 and Proposal Nos. 724-731, 1997 are proposals for Rezoning Ordinances certified by the Metropolitan Development Commission on November 7, 1997 and November 6, 1997, respectively. The President called for any motions for public hearings on any of those zoning maps changes. There being no motions for public hearings, the proposed ordinances, pursuant to IC 36-7-4-608, took effect as if adopted by the City-County Council, were retitled for identification as REZONING ORDINANCE NOS. 206-214, 1997, the original copies of which ordinances are on file with the Metropolitan Development Commission, which were certified as follows:

REZONING ORDINANCE NO. 206, 1997.

97-Z-177

3801 WEST MICHIGAN STREET (approximate address), INDIANAPOLIS.

WAYNE TOWNSHIP, COUNCILMANIC DISTRICT # 16

CANNAN BAPTIST CHURCH requests a rezoning of 8.3 acres, being in the D-6II District, to the SU-1 classification to provide for religious uses.

REZONING ORDINANCE NO. 207, 1997.

97-Z-167

1032-1039 NORTH OLNEY STREET (approximate address), INDIANAPOLIS.

CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 10

METROPOLITAN DEVELOPMENT COMMISSION requests a rezoning of 0.64 acre, being in the D-5 District, to the SU-1 classification to provide for the continued operation of a religious use.

REZONING ORDINANCE NO. 208, 1997.

97-Z-174

5140 EAST SOUTHPORT ROAD (approximate address), INDIANAPOLIS.

FRANKLIN TOWNSHIP, COUNCILMANIC DISTRICT # 23

NILE and MARGERY WEBER, by Raymond Good, requests a rezoning of 3.86 acres, being in the D-A District, to the C-S classification to provide for an integrated center for uses permitted by the C-1, C-3, and C-4 zoning classifications.

REZONING ORDINANCE NO. 209, 1997.

97-Z-175

517-521 and 525 EAST WALNUT STREET and 704 NORTH PARK AVENUE, INDIANAPOLIS.

CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 22, ZONED C-4

THE DEPARTMENT OF METROPOLITAN DEVELOPMENT, by Moira Carlstedt, requests the rezoning of <1 acre, being in the C-4 District to the CBD-2 classification to be in compliance with the central business districts use of the site.

REZONING ORDINANCE NO. 210, 1997.

97-Z-183

6250 GEORGETOWN ROAD (approximate address), INDIANAPOLIS.

PIKE TOWNSHIP, COUNCILMANIC DISTRICT # 1

AGAPE APOSTOLIC FAITH ASSEMBLY, by Louis H. Borgmann, requests a rezoning of 6.87 acres, being in the D-3(FF) Districts, to the SU-1(FF) classifications to provide for a religious use.

REZONING ORDINANCE NO. 211, 1997.

97-Z-191

636 EAST 11th STREET, (approximate address), INDIANAPOLIS.

CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 22, ZONED C-4

THE DEPARTMENT OF METROPOLITAN DEVELOPMENT, by Moira Carlstedt, requests the rezoning of 0.25 acre, being in the C-4 District to the C-2 classification to reduce the intensity of the permitted use of the site.

REZONING ORDINANCE NO. 212, 1997.
97-Z-197

10725 EAST 56th STREET (approximate address), CITY OF LAWRENCE,
LAWRENCE TOWNSHIP, COUNCILMANIC DISTRICT # 5
CORNERSTONE BAPTIST CHURCH requests a rezoning of 1.0 acre, being in the D-A District,
to the SU-1 classification to provide for a religious use.

REZONING ORDINANCE NO. 213, 1997.
97-Z-200

7136 EAST THOMPSON ROAD (approximate address), INDIANAPOLIS.
FRANKLIN TOWNSHIP, COUNCILMANIC DISTRICT # 23
FIRST LANDMARK MISSIONARY BAPTIST CHURCH requests a rezoning of 18.5 acres,
being in the D-A District, to the SU-1 classification to provide for a religious use.

REZONING ORDINANCE NO. 214, 1997.
97-Z-202

2665 EXECUTIVE DRIVE South (approximate address), INDIANAPOLIS.
WAYNE TOWNSHIP, COUNCILMANIC DISTRICT # 19
PDW DEVELOPMENT, by Philip A. Nicely, requests a rezoning of 1.8 acres, being in the C-5
and I-3-S Districts, to the C-5 classification to provide for the construction of a hotel.

SPECIAL ORDERS - PUBLIC HEARING

Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal Nos. 679-684, 1997 on October 29, 1997. He asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 679, 1997. The proposal approves an increase of \$68,090 in the 1997 Budget of the Marion County Superior Court (State and Federal Grants Fund) to fund Child Advocates funded by a grant from the Indiana Criminal Justice Institute. PROPOSAL NO. 680, 1997. The proposal approves an increase of \$117,674 in the 1997 Budget of the Prosecuting Attorney (State and Federal Grants Fund) to provide two full time Child Interviewers and a full and part time Project Safe Families advocate for women through the Family Advocacy Center funded by a grant from the Indiana Criminal Justice Institute. PROPOSAL NO. 681, 1997. The proposal approves an increase of \$156,848 in the 1997 Budget of the Prosecuting Attorney (State and Federal Grants Fund) to provide victim and protective order advocates in court through the Family Advocacy Center funded by a grant from the Indiana Criminal Justice Institute. PROPOSAL NO. 682, 1997. The proposal approves an increase of \$279,318 in the 1997 Budget of the Prosecuting Attorney (State and Federal Grants Fund) to continue the Victim Assistance Program funded by a grant from the Indiana Criminal Justice Institute. PROPOSAL NO. 683, 1997. The proposal approves an increase of \$89,708 in the 1997 Budget of the Prosecuting Attorney (State and Federal Grants Fund) to continue funding for the Centers of Hope at St. Vincent and St. Francis Hospitals funded by a grant from the Indiana Criminal Justice Institute. PROPOSAL NO. 684, 1997. The proposal approves an increase of \$284,171 in the 1997 Budget of the Community Corrections Agency (Home Detention User Fee Fund) to fund salaries, services, home detention equipment, and supplies for the second half of the 1997/1998 fiscal year. By unanimous votes, the Committee reported the proposals to the Council with the recommendation that they do pass.

The President called for public testimony at 7:50 p.m. There being no one present to testify, Councillor Dowden moved, seconded by Councillor Gilmer, for adoption. Proposal Nos. 679-684, 1997 were adopted on the following roll call vote; viz:

25 YEAS: Black, Borst, Boyd, Bradford, Cockrum, Coonrod, Coughenour, Curry, Dowden, Gilmer, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moriarty Adams, O'Dell, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams

0 NAYS:

4 NOT VOTING: Brents, Franklin, Moores, Schneider

Proposal No. 679, 1997 was retitled FISCAL ORDINANCE NO. 105, 1997, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 105, 1997

A FISCAL ORDINANCE amending the City-County Annual Budget for 1997 (City-County Fiscal Ordinance No. 94, 1996) appropriating an additional Sixty-eight Thousand Ninety Dollars (\$68,090) in the State and Federal Grants Fund for purposes of the Marion County Superior Court, Juvenile Division, and reducing the unappropriated and unencumbered balance in the State and Federal Grants Fund.

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

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.02.(cc) of the City-County Annual Budget for 1997 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the Marion County Superior Court, Juvenile Division to fund Child Advocates.

SECTION 2. The sum of Sixty-eight Thousand Ninety Dollars (\$68,090) be, and the same is hereby, appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

<u>MARION COUNTY SUPERIOR COURT</u>	<u>STATE AND FEDERAL GRANTS FUND</u>
3. Other Services and Charges	<u>68,090</u>
TOTAL INCREASE	68,090

SECTION 4. The said additional appropriation is funded by the following reductions:

	<u>STATE AND FEDERAL GRANTS FUND</u>
Unappropriated and Unencumbered	
State and Federal Grants Fund	<u>68,090</u>
TOTAL REDUCTION	68,090

SECTION 5. Except to the extent of matching funds, if any, approved in this ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the auditor are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 6. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 680, 1997 was retitled FISCAL ORDINANCE NO. 106, 1997, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 106, 1997

A FISCAL ORDINANCE amending the City-County Annual Budget for 1997 (City-County Fiscal Ordinance No. 94, 1996) appropriating an additional One Hundred Seventeen Thousand Six Hundred Seventy-four Dollars (\$117,674) in the State and Federal Grants Fund for purposes of the Prosecuting Attorney and reducing the unappropriated and unencumbered balance in the State and Federal Grants Fund.

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

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.02.(v) of the City-County Annual Budget for 1997 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the Prosecuting Attorney to provide two full time Child Interviewers and a full and part time Project Safe Families advocate for women through the Family Advocacy Center

SECTION 2. The sum of One Hundred Seventeen Thousand Six Hundred Seventy-four Dollars (\$117,674) be, and the same is hereby, appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

<u>PROSECUTING ATTORNEY</u>	<u>STATE AND FEDERAL GRANTS FUND</u>
3. Other Services and Charges	<u>117,674</u>
TOTAL INCREASE	117,674

SECTION 4. The said additional appropriation is funded by the following reductions:

	<u>STATE AND FEDERAL GRANTS FUND</u>
Unappropriated and Unencumbered	
State and Federal Grants Fund	<u>117,674</u>
TOTAL REDUCTION	117,674

SECTION 5. Except to the extent of matching funds, if any, approved in this ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the auditor are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 6. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 681, 1997 was retitled FISCAL ORDINANCE NO. 107, 1997, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 107, 1997

A FISCAL ORDINANCE amending the City-County Annual Budget for 1997 (City-County Fiscal Ordinance No. 94, 1996) appropriating an additional One Hundred Fifty-six Thousand Eight Hundred Forty-eight Dollars (\$156,848) in the State and Federal Grants Fund for purposes of the Prosecuting Attorney and reducing the unappropriated and unencumbered balance in the State and Federal Grants Fund.

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

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.02.(v) of the City-County Annual Budget for 1997 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the Prosecuting Attorney to provide victim and protective order advocates in court through the Family Advocacy Center.

SECTION 2. The sum of One Hundred Fifty-six Thousand Eight Hundred Forty-eight Dollars (\$156,848) be, and the same is hereby, appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

<u>PROSECUTING ATTORNEY</u>	<u>STATE AND FEDERAL GRANTS FUND</u>
3. Other Services and Charges	<u>156,848</u>
TOTAL INCREASE	156,848

SECTION 4. The said additional appropriation is funded by the following reductions:

	<u>STATE AND FEDERAL GRANTS FUND</u>
Unappropriated and Unencumbered	
State and Federal Grants Fund	<u>156,848</u>
TOTAL REDUCTION	156,848

SECTION 5. Except to the extent of matching funds, if any, approved in this ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the auditor are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 6. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 682, 1997 was retitled FISCAL ORDINANCE NO. 108, 1997, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 108, 1997

A FISCAL ORDINANCE amending the City-County Annual Budget for 1997 (City-County Fiscal Ordinance No. 94, 1996) appropriating an additional Two Hundred Seventy-nine Thousand Three Hundred Eighteen Dollars (\$279,318) in the State and Federal Grants Fund for purposes of the Prosecuting Attorney and County Auditor and reducing the unappropriated and unencumbered balance in the State and Federal Grants Fund.

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

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.02.(b,v) of the City-County Annual Budget for 1997 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the County Auditor and Prosecuting Attorney to continue the Victim Assistance Program.

SECTION 2. The sum of Two Hundred Seventy-nine Thousand Three Hundred Eighteen Dollars (\$279,318) be, and the same is hereby, appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

<u>COUNTY AUDITOR</u>	<u>STATE AND FEDERAL GRANTS FUND</u>
1. Personal Services - Fringes	53,864
<u>PROSECUTING ATTORNEY</u>	
1. Personal Services	215,454
3. Other Services and Charges	6,500
4. Capital Outlay	<u>3,500</u>
TOTAL INCREASE	279,318

SECTION 4. The said additional appropriation is funded by the following reductions:

	<u>STATE AND FEDERAL GRANTS FUND</u>
Unappropriated and Unencumbered	
State and Federal Grants Fund	<u>279,318</u>
TOTAL REDUCTION	279,318

SECTION 5. Except to the extent of matching funds, if any, approved in this ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the auditor are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 6. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 683, 1997 was retitled FISCAL ORDINANCE NO. 109, 1997, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 109, 1997

A FISCAL ORDINANCE amending the City-County Annual Budget for 1997 (City-County Fiscal Ordinance No. 94, 1996) appropriating an additional Eighty-nine Thousand Seven Hundred Eight Dollars (\$89,708) in the State and Federal Grants Fund for purposes of the Prosecuting Attorney and reducing the unappropriated and unencumbered balance in the State and Federal Grants Fund.

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

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.02.(v) of the City-County Annual Budget for 1997 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the Prosecuting Attorney to continue funding for the Centers of Hope at St. Vincent and St. Francis Hospitals.

SECTION 2. The sum of Eighty-nine Thousand Seven Hundred Eight Dollars (\$89,708) be, and the same is hereby, appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

<u>PROSECUTING ATTORNEY</u>	<u>STATE AND FEDERAL GRANTS FUND</u>
3. Other Services and Charges	<u>89,708</u>
TOTAL INCREASE	89,708

SECTION 4. The said additional appropriation is funded by the following reductions:

	<u>STATE AND FEDERAL GRANTS FUND</u>
Unappropriated and Unencumbered	
State and Federal Grants Fund	<u>89,708</u>
TOTAL REDUCTION	89,708

SECTION 5. Except to the extent of matching funds, if any, approved in this ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the auditor are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 6. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 684, 1997 was retitled FISCAL ORDINANCE NO. 110, 1997, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 110, 1997

A FISCAL ORDINANCE amending the City-County Annual Budget for 1997 (City-County Fiscal Ordinance No. 94, 1996) appropriating an additional Two Hundred Eighty-four Thousand One Hundred Seventy-one Dollars (\$284,171) in the Home Detention User Fee Fund for purposes of the Community Corrections Agency and County Auditor and reducing the unappropriated and unencumbered balance in the Home Detention User Fee Fund.

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

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.02.(b,z) of the City-County Annual Budget for 1997 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the County Auditor and Community Corrections Agency to fund salaries, services, home detention equipment and supplies for the second half of the 1997/1998 fiscal year.

SECTION 2. The sum of Two Hundred Eighty-four Thousand One Hundred Seventy-one Dollars (\$284,171) be, and the same is hereby, appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

<u>COUNTY AUDITOR</u>	<u>HOME DETENTION USER FEE FUND</u>
1. Personal Services - Fringes	40,118
 <u>COMMUNITY CORRECTIONS</u>	
1. Personal Services	157,740
2. Supplies	12,500
3. Other Services and Charges	56,313
4. Capital Outlay	<u>17,500</u>
TOTAL INCREASE	284,171

SECTION 4. The said additional appropriation is funded by the following reductions:

	<u>HOME DETENTION USER FEE FUND</u>
Unappropriated and Unencumbered	
Home Detention User Fee Fund	<u>284,171</u>
TOTAL REDUCTION	284,171

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

SPECIAL ORDERS - UNFINISHED BUSINESS

PROPOSAL NO. 576, 1997. Councillor Schneider reported that the Administration and Finance Committee postponed Proposal No. 576, 1997 on September 16, 1997, and heard the proposal again on October 21, 1997. The proposal, sponsored by Councillors Coughenour and Williams, establishes that the City-County Council is interested in making the purchase of a parcel of land for a flood control project within the Pogue's Run watershed. By a 4-2 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. At the Council meeting on October 27, 1997, Councillor Coughenour asked for consent to postpone the proposal until the Public Works Committee could be briefed on the project. Councillor Coughenour thanked the Council for allowing her committee to hear the proposal, and stated that the briefing cleared up several questions.

Councillor Schneider moved, seconded by Councillor Coughenour, for adoption. Proposal No. 576, 1997 was adopted on the following roll call vote; viz:

26 YEAS: *Black, Boyd, Bradford, Cockrum, Coonrod, Coughenour, Curry, Dowden, Franklin, Gilmer, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams*

0 NAYS:

3 NOT VOTING: *Borst, Brents, Moriarty Adams*

Proposal No. 576, 1997 was retitled GENERAL RESOLUTION NO. 10, 1997, and reads as follows:

CITY-COUNTY GENERAL RESOLUTION NO. 10, 1997

A GENERAL RESOLUTION establishing that the City-County Council of the City of Indianapolis and Marion County, Indiana is interested in making the purchase of specified land.

WHEREAS, the City-County Council of the City of Indianapolis and Marion County, Indiana ("City-County Council") is the fiscal body of the City of Indianapolis pursuant to IC 36-1-10.5-1, et seq.; and

WHEREAS, pursuant to IC 36-1-10.5-5 the City of Indianapolis may purchase land only after the City-County Council passes a resolution to the effect that the City-County Council is interested in making a purchase of specified land; and

WHEREAS, the City of Indianapolis wishes to purchase a particular parcel of real estate located in Marion County, which is described in Exhibit "A", which is attached hereto and incorporated herein ("Real Estate"), for a flood control project within the Pogue's Run watershed; and

WHEREAS, the City-County Council, having considered the acquisition of the Real Estate and being duly advised, finds that the City-County Council has an interest in acquiring the Real Estate; now, therefore:

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

SECTION 1. The City-County Council hereby establishes that the City-County Council has an interest in acquiring the Real Estate.

SECTION 2. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

SPECIAL ORDERS - FINAL ADOPTION

PROPOSAL NO. 612, 1997. Councillor Coughenour reported that the Public Works Committee heard Proposal No. 612, 1997 on November 6, 1997. The proposal provides administrative adjudication of ordinance violations relating to actions harmful to air, land or water. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Coughenour moved, seconded by Councillor Hinkle, for adoption. Proposal No. 612, 1997 was adopted on the following roll call vote; viz:

24 YEAS: *Black, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Franklin, Gilmer, Golc, Gray, Hinkle, Jones, Massie, McClamroch, O'Dell, Schneider, Shambaugh, Short, Smith, Talley, Tilford, Williams*

0 NAYS:

5 NOT VOTING: *Borst, Dowden, Moores, Moriarty Adams, SerVaas*

Proposal No. 612, 1997 was retitled GENERAL ORDINANCE NO. 181, 1997, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 181, 1997

A GENERAL ORDINANCE amending Chapters 103 and 671 of the "Revised Code of the Consolidated City and County" and Chapter 4 of the "Code of the Consolidated City and County" by adding a new Article V to Chapter 103 to provide administrative adjudication of ordinance violations relating to actions harmful to air, land or water and making corresponding amendments to Chapter 671 and Chapter 4.

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

SECTION 1. Chapter 103 of the "Revised Code of the Consolidated City and County" is hereby amended by adding a new Article V, to read as follows:

**ARTICLE V. ADMINISTRATIVE ADJUDICATION
OF ENVIRONMENTAL VIOLATIONS**

Sec. 103-501. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them in this section:

- (a) Code shall mean the Code and/or the Revised Code of Indianapolis and Marion County;
- (b) DPW shall mean the Department of Public Works.
- (c) Environmental Violation shall mean a violation of one or more of the following:
 - (1) A regulation, adopted by the Indianapolis Air Pollution Control Board under the authority of section 4-40, a violation of which constitutes a violation of Chapter 4 pursuant to section 4-42;
 - (2) Section 4-51(A), "Enforcement of Permits; Permit Fees and the Requirement to obtain a Permit";
 - (3) Section 4-70, "Air Pollution";
 - (4) Section 4-71, "Open burning restricted; general prohibitions";
 - (5) Article I, "General," sections 671-1 through 671-21;
 - (6) Article II, "Building Sewers", section 671-22 through 671-31;
 - (7) Article III, "Industrial Discharge Permits," sections 671-41 through 671-100;
 - (8) Article VI, "Wastewater Hauling," sections 671-128 through 671-149.
 - (9) Sections 571-5 through 571-13, "Environmental Public Nuisances".
- (d) Party and Parties shall refer to the city and respondents; and
- (e) Respondent shall mean a person to whom a notice of hearing is issued pursuant to Section 103-504 of this article.

Sec. 103-502. Administrative adjudication provided.

It is hereby declared to be the policy of the city that Environmental Violations may be subject to enforcement in administrative proceedings as provided in this article.

Sec. 103-503. Hearing officers; appointment and term; compensation; qualifications; conduct.

(a) The administrative adjudication of an Environmental Violation under this article shall be presided over by a hearing officer appointed by the mayor, subject to the approval of the city-county council. The mayor may appoint more than one hearing officer as necessary to address in an expeditious manner all Environmental Violations pursuant to this article. Nothing in this section shall automatically prohibit an individual who is an employee of the city or an independent contractor associated with the city from being appointed or serving as a hearing officer.

(b) A person must have a minimum of two (2) years of legal and/or environmental experience to be appointed as a hearing officer.

(c) A hearing officer shall not preside over a hearing or approve a compliance agreement if the hearing officer believes he or she is subject to disqualification, or if by motion of any party it appears that the hearing officer is subject to disqualification, for:

- (1) Bias, prejudice, or personal interest in the outcome of a hearing;
 - (2) Knowledge of a disputed evidentiary fact which might influence the decision;
 - (3) Failure to dispose of any motion or hearing in an orderly and reasonably prompt manner after written request by a party; or
 - (4) Any cause for which a judge of a court may be disqualified.
- (d) Except as to the subjects of hearing schedules and procedures, a hearing officer who:
- (1) Comments publicly on a hearing over which the hearing officer presides; or
 - (2) Communicates directly or indirectly with a party or other individual who has an interest in the outcome of a hearing, without notice and opportunity for all parties to participate in the communication;

is subject to disqualification under this section.

Sec. 103-504. Notice of administrative hearing.

(a) Whenever DPW issues a notice of violation for an Environmental Violation, no later than sixty (60) days after issuance, DPW may either refer the matter to the city prosecutor to file an enforcement action in court, or issue a notice of administrative hearing to the person to whom the notice of violation was sent.

(b) Service of notice of administrative hearing shall be by United States mail to the Respondent's last known address, or by personal service. Service on an artificial person or a person incompetent to receive service shall be made on a person allowed to receive service under the rules governing civil actions in the courts. DPW shall keep a record of the time, date and manner of service.

(c) DPW shall cause a copy of each notice issued pursuant to this section to be delivered to the hearing officer who will preside over the hearing.

- (d) Each notice of administrative hearing shall include the following information:
- (1) A caption for the hearing, which shall include the name of each Party expected to participate in the hearing, and an official file or other reference number;
 - (2) A statement of the date, time and place of the hearing;
 - (3) A statement of the nature of the hearing, including the legal authority under which the hearing is to be held, and a summary of the parties' procedural rights at the hearing;
 - (4) A statement of the date, time and place of each alleged violation as stated on the notice of violation, and the maximum penalty which can be imposed thereupon;

- (5) The name, official title, and mailing address of the hearing officer and a telephone number through which information concerning the hearing may be obtained;
- (6) The name, official title, mailing address and telephone number of the person who has been designated to appear on behalf of the city; and,
- (7) A statement that a party who fails to respond to the notice of the hearing, or to participate in the hearing, may be held in default.

(e) Notice of administrative hearing shall be issued at least twenty (20) days prior to the date of the hearing.

Sec. 103-505. Pre-hearing procedures.

(a) Prior to the hearing, the hearing officer shall give the parties an opportunity to file documents or motions regarding matters such as continuances, discovery, and any other preliminary matters. At the time of filing, a party shall serve a copy of all filed items on each other party.

(b) Motions for continuance shall be filed no later than seven (7) days before the date assigned for the hearing, unless the reason therefor is shown by affidavit to have occurred within the seven (7) day period.

(c) The hearing officer, upon request by any party or upon the hearing officer's own initiative, may issue subpoenas and discovery orders in accordance with the rules of procedure governing subpoenas and discovery in judicial proceedings. The party seeking the subpoena or order shall cause them to be served in accordance with these rules of procedure.

(d) The hearing officer, upon request by any party or upon the hearing officer's own initiative, may direct the parties to negotiate a compliance agreement under Section 103-506 in lieu of conducting a hearing. If the parties are unable to reach a mutually acceptable compliance agreement within a reasonable period of time, the hearing officer may proceed with hearing procedures.

Sec. 103-506. Compliance Agreements.

The Parties may elect to negotiate a compliance agreement which establishes a program and schedule to attain and maintain compliance, penalties and other provisions necessary to ensure compliance. The compliance agreement shall take effect upon approval by the hearing officer.

Sec. 103-507. Hearing procedures.

(a) The hearing officer shall afford all parties the opportunity to participate in the hearing to the extent necessary for full consideration of all relevant facts and issues. A party may present evidence in the form of testimony, affidavits and documentation, engage in argument, and conduct cross-examination. A party may participate in person or by counsel at the party's own expense; if the party is not an individual or is incompetent to participate, then the party shall participate by a duly authorized representative.

(b) The city shall have the burden of proving the Environmental Violation and the burden may be sustained by a preponderance of the evidence.

(c) The hearing officer shall conduct the hearing in an informal manner and without strict adherence to the technical rules of evidence and procedure which govern judicial proceedings. The hearing officer shall rule on the admissibility of any offer of proof, and on other motions, and shall exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds. The testimony of each party and witness shall be made under oath or affirmation.

(d) The hearing officer may take official notice of any section of the Code, and any law or fact that could be judicially noticed in the courts.

(e) The hearing officer shall cause the hearing to be recorded on audio tape at the expense of the city.

Sec. 103-508. Stipulated Penalties.

The decision of the hearing officer or the compliance agreement approved by the hearing officer may require the payment of stipulated penalties if the terms of the decision or compliance agreement are violated. The stipulated penalties shall not exceed the amounts described in Section 4-66 of the Code of Indianapolis and Marion County, Indiana, or Section 671-16 of the Revised Code of the Consolidated City of Indianapolis and Marion County, Indiana for each violation.

Sec. 103-509. Decision.

(a) Upon the conclusion of each hearing or within a maximum of forty-five (45) days after conclusion of each hearing, the hearing officer shall render a decision which shall include a determination whether the respondent violated the ordinance as alleged in the notice of violation, the amount of civil penalty which must be paid for each violation with instructions on when and how payment shall be made, and a statement of the parties' right to petition for review of the decision. The penalties shall not exceed the amounts described in Section 4-66 of the Code of Indianapolis and Marion County, Indiana, or Section 671-16 of the Revised Code of the Consolidated City of Indianapolis and Marion County, Indiana for each violation.

(b) The hearing officer's decision may include an order affirming, modifying or revoking any order issued by DPW with the notice of violation or directing the abatement or cessation of the action described in the notice of violation.

(c) The hearing officer's decision may include a compliance order, establishing a program and schedule to attain and maintain compliance, stipulated penalties, and other provisions necessary to ensure compliance.

(d) The decision shall be based exclusively upon the evidence of record in the hearing and on matters officially noticed therein. The hearing officer's experience and specialized knowledge may be used in the evaluation of the evidence.

(e) The hearing officer shall cause each decision rendered pursuant to this section to be memorialized on a minute sheet or similar written entry into the record. A copy of the minute sheet or similar written entry shall be served upon the parties by United States mail or personal service.

(f) A decision rendered pursuant to this section may be modified by the hearing officer who rendered it, upon the hearing officer's own initiative or by motion of any party. Any motion to modify a decision shall be filed by a party within thirty (30) days after the date of the decision.

Sec. 103-510. Record of the hearing.

The record of each hearing under this article consists of the following:

- (1) The notice of hearing;
- (2) The notice of violation;
- (3) Any documents or motions filed or entered into evidence;
- (4) Any written orders, subpoenas, and decision of the hearing officer;
- (5) Any compliance agreement negotiated by the Parties and approved by the hearing officer or issued by the hearing officer as part of the decision; and
- (6) The audio tape recording of the hearing and a written transcript of same;

and shall constitute the complete and exclusive record for review of a hearing officer's decision.

Sec. 103-511. Written transcript of hearing; preparation and cost.

At the written request of respondent, DPW shall provide a written transcript of the audio tape recording of the hearing. Respondent shall pay DPW the reasonable cost of preparing the written transcript, unless respondent files with the hearing officer under oath and in writing, a statement of

indigency as described in IC 33-19-3-2. Respondent may cause to be prepared, at his own expense, a written transcript which DPW shall review and certify as to accuracy.

Sec. 103-512. Petition for review of decision; time limitation.

(a) A verified petition for review of the decision of a hearing officer, stating the alleged error and any factual or legal basis therefor, may be filed in the circuit or superior court of Marion County within sixty (60) days after the day on which the decision is rendered and recorded into the record by a minute sheet or similar written entry. A party who does not file an appeal within this time period forfeits the right to appeal.

(b) Any party who files a verified petition for review shall within fifteen (15) days thereafter secure from the hearing officer a certified copy of the record of the hearing, and file the same with the clerk of the court.

(c) An extension of time within which to file the record may be granted by the court upon a showing of good cause, which shall include the petitioner's inability to obtain the certified copy of the record within fifteen (15) days.

(d) The failure of a party to file a certified copy of the record or to secure an extension of time therefor shall be cause for dismissal of the petition for review upon motion, of any party of record.

Sec. 103-513. Exemption from Sunset Provision of Section 147-13 of the Revised Code.

This article and all its provisions are exempt from the requirement of Section 147-13 of the Revised Code of the Consolidated City and County that new chapters, or substantial revisions of existing chapters, expire on a specific date within five (5) years of the date of adoption.

SECTION 2. Chapter 4, Articles VI and VII of the "Code of Indianapolis and Marion County, Indiana," is hereby amended by the deletion of the language which is stricken-through and by the addition of the language which is underscored, to read as follows:

Sec. 4-63. Administrative Adjudication.

The administrator may enforce violations of Chapter 4, including its permits and regulations, by following the procedures set forth in Chapter 103, Article V, to assess and recover civil penalties.

Sec. 4-65. Compliance Agreements.

(a) Whenever the administrator issues an order pursuant to section 4-61 of this chapter, the administrator and the person subject to the order may enter into an agreement which establishes a program and schedule to attain and maintain compliance. Upon written approval of the agreement by both parties, the agreement shall be issued as an order pursuant to section 4-61 of this chapter, and the original order shall be vacated. If the parties cannot agree to the terms of an agreement, the terms of the original order shall remain in effect, unless modified by the administrator.

(b) Whenever civil enforcement is taken pursuant to section 4-62 of this chapter, the administrator and the person subject to the action may negotiate an agreement which establishes a program and schedule to attain and maintain compliance, penalties and other provisions necessary to ensure compliance. The agreement shall take effect upon approval by the court.

(c) Whenever administrative adjudication is instituted pursuant to section 4-63 of this chapter, the administrator and the person subject to the action may negotiate an agreement which establishes a program and schedule to attain and maintain compliance, penalties and other provisions necessary to ensure compliance. The agreement shall take effect upon approval by the hearing officer.

Sec. 4-66. Penalties.

(a) Any person found in violation of any provision of this chapter, any regulation adopted by the board or any permit issued by the division a part of the division's program approved or conducted pursuant to an agreement with the Indiana Department of Environmental Management may be fined an amount not to exceed ten thousand dollars (\$10,000) for each violation. Any person found in violation of any other provision of this chapter, any other regulation adopted by the board or any other permit

issued by the division may be fined an amount not to exceed two thousand five hundred dollars (\$2,500) per violation. Each day in violation shall be considered a separate violation.

(b) Notwithstanding section 1-8 of the Code of Indianapolis, and Marion County, Indiana or paragraph (a) of this section, ~~the either a court acting pursuant to section 4-65(b) or a hearing officer acting pursuant to section 4-65(c) may accept an a compliance agreement established under paragraph (b) of section 4-65 of this chapter~~ without finding that a violation occurred or an admission that a violation occurred if the person subject to the penalty agrees to pay the penalty pursuant to such agreement.

(c) A court order, whether issued unilaterally by the court or pursuant to an agreement under ~~paragraph (b) of section 4-65(b) of this chapter, or an order issued as a result of administrative adjudication under Article V, Chapter 103,~~ may require the payment of stipulated penalties in the event the terms of such order are violated. The stipulated penalties shall not exceed the amounts as described in paragraph (a) of this section 4-66 for each violation. Each day in violation shall be considered a separate violation.

(d) Nothing in this section 4-66 or any other section of this chapter shall limit the division's referral of violations to other appropriate agencies for investigation of potential violations of state or federal law.

Sec. 4-79. Penalties for Open Burning.

(a) A person violating open burning provisions of this article may be served by an authorized enforcement person with a notice of violation as provided in Article III, ~~Section Chapter~~ 103 of the Revised Code of the Consolidated City of Indianapolis and Marion County, Enforcement Procedures-Ordinance Violations Bureau. The person upon whom a notice of violation is served may admit liability to the violation as provided in the above sections and pay a civil penalty of fifty dollars (\$50.00).

(b) If, in the opinion of the authorized enforcement person, the violation is so substantial as to warrant a more severe penalty, the authorized enforcement person may issue a notice of violation and notify the administrator, who may initiate administrative adjudication by following the procedures set forth in Article V, Chapter 103 of the Revised Code of the Consolidated City of Indianapolis and Marion County, or who may initiate civil enforcement by submitting a written request to the corporation counsel to file a complaint of ordinance violation and/or to seek an injunction. The administrator shall send notice of the written request to the person subject to the action.

(c) Except as otherwise provided herein, any person found in violation of the open burning provisions of this article shall be fined an amount not to exceed two thousand five hundred dollars (\$2,500.00) for each violation. Each day in violation shall be considered a separate violation.

SECTION 3. Chapter 671, Article I of the "Revised Code of the Consolidated City and County" is hereby amended by the addition of the language which is underscored, to read as follows:

Sec. 671-16. Penalties.

(a) Notwithstanding any other section, any person who violates any provision or discharge limit of this chapter may be fined an amount not to exceed two thousand five hundred dollars (\$2,500.00). A violation of any permit issued under this chapter or special agreement entered into under the authority of this chapter shall constitute a violation of this chapter. Each day's violation shall constitute a separate offense.

(b) Nothing in this chapter shall restrict any right which may be provided by statute or common law to the city to bring other actions, at law or at equity, including injunctive relief. Violations of this chapter may be resolved through administrative adjudication as provided in Article V, Chapter 103.

SECTION 4. Chapter 575 of the "Revised Code of the Consolidated City and County" is hereby amended by deletion of the language that is stricken-through and by the addition of the language underscored, to read as follows:

Sec. 575-8. Failure to abate after notice; court action or administrative adjudication for ordinance violation ~~and/or injunction~~; court action or administrative adjudication for repeat violation.

(a) In addition to or in lieu of the foregoing, if, upon reinspection, it is determined by the authorized employee that abatement has not occurred, the department of public works may initiate a civil court action or administrative adjudication for ordinance violation against the recipient. A court ~~Such~~ 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.

(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 a repeat violation.

Sec. 575-9. Penalty.

(a) Any recipient 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 constitute a separate violation. A previous violation of this chapter on the same property during the current or preceding calendar year may be considered in determining the penalty assessed. Notwithstanding section 103-3 of this Revised 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) for each repeat violation.

(c) The department of public works shall 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. 575-13. Administrative Adjudication.

In addition to or in lieu of the procedures in section 575-7, if upon reinspection it is determined that abatement has not occurred, the department of public works may initiate an administrative adjudication by following the procedures set forth in Chapter 103, Article V.

SECTION 5. The express or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance 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 6. 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 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 7. This ordinance shall be in effect from and after its passage by the Council and compliance with IC 36-3-4-14.

PROPOSAL NO. 646, 1997. Councillor Schneider reported that the Administration and Finance Committee postponed Proposal No. 646, 1997 on October 21, 1997 and heard the proposal again on November 4, 1997. The proposal, sponsored by Councillor Curry, authorizes the director of the department of administration to lease City-owned property, pursuant to IC 36-1-11, for the siting of cellular, PCS, or other wireless communications systems towers and related equipment. By a 5-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended.

Councillor Schneider made the following motion:

Mr. President:

To insert the appropriate code references, I move to amend Section 6 of Proposal No. 646, 1997 to read as follows:

SECTION 6. The Revised Code of the Consolidated City and County be, and is hereby, amended by adding a new section 186-5:

Sec. 186-5. Revenues from wireless communications licenses and leases.

Revenue received under leases or licenses pursuant to IC-36-1-11 for the siting of cellular, digital personal communications systems, or other wireless communications systems towers and related equipment, shall be deposited in an appropriate fund for the benefit of the department owning the site.

Councillor Coonrod seconded the motion.

Councillor Massie stated that he voted against the proposal in Committee and that he is not opposed to the proposal in principal, but that he is opposed because of the possibility that Parks land, that can never be recovered or replaced, may be used for placement of towers.

Councillor Gilmer asked if this proposal makes any difference in the way the process is handled presently. Councillor Schneider stated that it simply streamlines the process by having one agency be responsible for several departments' parcels of land. Councillor Gilmer stated that the administration will still be subject to the zoning process, and neighborhoods can object to use of Parks land during this procedure.

Councillor O'Dell stated that he is opposed to the proposal because no master plan is in place and there is nothing in the proposal to mandate co-location. He added that the neighborhoods are already fighting placement of these towers, and some cases are won by the neighbors while others are lost.

Councillor Coughenour asked if the proposal requires co-location or simply permits it. Councillor Curry stated that the proposal simply allows co-location, and the fear is that too many companies will come into the County offering personal communication services (PCS). Not enough sites will be available, forcing the PCS companies to locate towers too close together. This proposal allows the administration the option of allowing co-location as a means of limiting the number of towers in the County.

Councillor Coughenour asked if the Council has the authority to require that all leases and licenses issued mandate co-location. Mike Yoder, Director of the Department of Administration (DOA), stated that this proposal simply deals with City-owned sites and does not dictate any restrictions on any towers being constructed on private property. He added that the County Administrative Board can require co-location through the lease agreements, and it is their intention to do so. The administration can establish a policy to require co-location on City-owned properties.

Councillor Coughenour asked if an amendment can be made to the proposal to require that any leases entered into by the City mandate co-location. General Counsel, Robert Elrod, stated that

he is hesitant to construct such an amendment on the floor and that it is too complicated a matter to make a hasty attempt. Councillor Coughenour moved, seconded by Councillor Williams, to postpone Proposal No. 646, 1997 until such an amendment can be drafted.

Councillor Gilmer stated that if the neighborhoods are defeating some of these deals through the zoning process, that in itself would be incentive enough for many of these PCS companies to co-locate.

Councillor O'Dell stated that if the City is making locations easily accessible, that could create added problems. He added that further amendments need to be made to determine a distance towers can be located in relation to each other.

Councillor Coughenour stated that a master plan needs to be developed for the use of properties which the City owns. Mr. Yoder stated that the reason this proposal is centralizing the function of handling these leases within one department is so that a plan can be easily developed. He added that the master plan for this type of project is one that will grow and vary according to supply and demand.

Councillor Schneider asked Mr. Yoder if there will be complications if the proposal is postponed. Mr. Yoder stated that he does not feel a postponement is necessary since it is the administration's vision to promote co-location anyway, but that if the Council would feel more comfortable doing so, he is not opposed.

Councillor Williams stated that the problem with centralizing this function with the Administration Board, is that this board does not deal with the neighborhood groups, comprehensive planning, and land use development, and therefore may not be equipped to really handle this function.

Councillor Curry stated that the type of amendment Councillor Coughenour is suggesting would take a very long time and be very complex, making the whole point of the proposal moot. He stated that he would prefer that the proposal be left as it is so that the administration can negotiate each individual site in the most efficient manner.

Councillor Coughenour stated that she will defer to Councillor Curry's opinion, and withdrew her motion to postpone Proposal No. 646, 1997. Councillor Williams withdrew her second.

The President called for a vote on Councillor Schneider's motion to amend. Proposal No. 646, 1997 was amended by a unanimous voice vote.

Councillor Schneider moved, seconded by Councillor Curry, for adoption. Proposal No. 646, 1997, as amended, was adopted on the following roll call vote; viz:

15 YEAS: Bradford, Cockrum, Coonrod, Coughenour, Curry, Dowden, Franklin, Gilmer, McClamroch, Moriarty Adams, Schneider, SerVaas, Shambaugh, Short, Tilford
14 NAYS: Black, Borst, Boyd, Brents, Golc, Gray, Hinkle, Jones, Massie, Moores, O'Dell, Smith, Talley, Williams

Councillor O'Dell stated that he still has concerns regarding the distance restraints between towers. The President encouraged Councillor O'Dell to pursue such restraints by the drafting of a resolution to require the agency handling these uses to determine an acceptable distance.

Proposal No. 646, 1997, as amended, was retitled GENERAL ORDINANCE NO. 182, 1997, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 182, 1997

A GENERAL ORDINANCE authorizing the director of the department of administration to lease city-owned property, pursuant to IC 36-1-11, for the siting of cellular, PCS, or other wireless communications systems towers and related equipment.

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

SECTION 1. Section 221-12 of Article II of Chapter 221 of the Revised Code of the Consolidated City and County pertaining to the director of the department of administration be and is hereby amended by deleting the stricken-through text and inserting the underlined text as follows:

Sec. 221-12. Duties of the director.

The director 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 an administrator to manage each division subject to the approval of the mayor as provided in IC 36-3-5-5;
- (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 city-county administrative board, the mayor and any other limitations prescribed by law; ~~and~~
- (9) Act as the disposing agent for all city executive departments or divisions for the purpose of leasing real property, pursuant to IC 36-1-11, for the siting of cellular, digital personal communication systems, or other wireless communications systems towers and related equipment; and
- (~~9~~10) Exercise any other powers which may be granted by statute or ordinance or delegated by the mayor.

SECTION 2. Section 281-103 of Article I of Chapter 281 of the Revised Code of the Consolidated City and County pertaining to the city-county administrative board be and hereby is amended by inserting the underlined text as follows:

Sec. 281-103. Powers.

The powers of the board shall be as follows:

(a) The board shall approve the following contracts for any city or county office which does not currently have a board to approve the award of contracts, subject to the authority of the executive:

- (1) Contracts for the lease or purchase of capital equipment or other property if such lease or purchase is required to be bid under IC 36-1-9;
- (2) Contracts, for acquisition of and leases for real estate, including leases, pursuant to IC 36-1-11, for the siting of cellular, digital personal communications systems, or other wireless communications systems towers and related equipment;
- (3) Any contract for public construction which must be bid under IC 36-1-12;
- (4) Any contract by the county auditor or city controller for assistance in the collection of money owed to the city or county.

(b) The board shall act as the "disposing agent" under IC 36-1-11 when a city or county board or office has determined that property shall be disposed of under IC 36-1-11-6.

(c) The board shall review insurance and surety bond coverage for all officers, agents, employees, departments and agencies of city and county government.

- (1) All officers and agencies of city and county government shall furnish complete information to the board respecting all insurance and surety bond coverage.
- (2) The board may hire or contract for the professional insurance advisor, auditor or consultant to assist in compiling records and making recommendations on types, kinds or amounts of coverage.
- (3) The board shall determine, subject to the approval of the mayor and the city-county council and subject to IC 5-4-1, the appropriate kind, amount, coverage, acquisition and consolidation of the insurance and surety bonds of those governmental departments and officials subject to the board.
- (4) The board may designate an ex officio subcommittee composed of the presiding officer of the board, the president of the Indianapolis Professional Firefighters Union local 416, the president of the Indianapolis Fraternal Order of Police local 86, the presidents of AFSCME, locals 725, 1831, 1887 and 3131 or their duly appointed representatives. The ex officio subcommittee shall review and make recommendations to the board as to medical and life insurance for employees and other such related employee benefits.
- (5) In addition, the board may designate any additional ex officio subcommittees as in its judgment will aid the board in effectuating the purposes of subsection (c).

SECTION 3. Section 272-105 of Chapter 272 of the Revised Code of the Consolidated City and County pertaining to the board of asset management and public works be and is hereby amended by inserting the underlined text as follows:

Sec. 272-105. Powers.

The board of asset management and public works shall:

- (1) To review all budgets prepared by the department of public works and department of capital asset management and recommend to the city-county council any revisions the board feels desirable.
- (2) Review all budgets of the metropolitan thoroughfare district and recommend to the city-county council any revisions or adjustments as the board deems desirable.

- (3) Hold any hearings to be held following public notice and make such findings and determinations required by applicable law to be made after such hearing, including but not limited to the issuance of special taxing district bonds.
- (4) Approve the award and amendment of contracts by the department for the purchase or lease of capital equipment, supplies, materials, services, or other property where the contract is required to be bid under IC 36-1-9.
- (5) Approve the award and amendment of public construction contracts required to be bid under IC 36-1-12.
- (6) Approve the acquisition of and leases for real estate.
- (7) Approve the disposal of property by the department of public works and department of capital asset management as specified in IC 36-1-11, excluding leases of real property, pursuant to IC 36-1-11, for the siting of cellular, digital personal communications systems, or other wireless communications systems towers and related equipment.
- (8) Approve the employment of persons engage by contract to render professional or consulting services.
- (9) Accept streets and roads into the public road system after dedication pursuant to the procedure set forth in chapter 28 of the 1975 Code of Indianapolis and Marion County. Hold hearings on appeal from denial of permits or waivers under the jurisdiction of the department of capital asset management.
- (10) Exercise waste collection and disposal powers as described in IC 36-9-31.
- (11) Exercise the powers given to the board of public works in chapters 17 1/2, 19 and 671, articles I, III, IV and VI, of the Code of Indianapolis and Marion County, Indiana.
- (12) Exercise all powers not specifically stated herein formerly granted to the board of public works.
- (13) Contract with any individual or corporation for supplying the city with gas, water, steam, power, heat or electricity, but any such contract shall be submitted to the city-county council for approval. No such contract shall be for a term of longer than twenty-five (25) years. This power shall not interfere with the exclusive power of the board of capital asset management to enter into contracts for the lighting of public streets pursuant to chapter 271.
- (14) Hold hearings on appeal from denial of permits or waivers under the jurisdiction of the department of capital asset management.
- (15) Exercise the powers granted to the board of public works by IC 36-9-18, IC 36-9-19 and IC 36-9-20, IC 36-9-21 and IC 36-9-22, IC 36-9-37, IC 36-9-38 and IC 36-9-39.
- (16) Exercise all powers granted to the transportation board or capital asset management board by IC 36-9-6.5 and IC 36-9-11.1.
- (17) Contract with any individual or corporation for providing streetlights, maintenance for streetlights and lighting for streets, alleys or public places, but any such contract shall be submitted to the city-county council for approval. No such contract shall be for a term of longer than twenty-five (25) years.
- (18) Exercise flood control power as described in IC 36-9-29.1, and drainage power as described in IC 36-9-27.
- (19) Exercise all powers not specifically stated herein formerly granted to the board of transportation or the board of capital asset management.
- (20) Exercise the powers given to the board of public works or transportation or capital asset management in chapters 7, 10 1/2, 28, 29 (except article IV, division 3), 31, and 671, articles II, V, and VII.

(21) Promulgate rules and regulations with respect to contract administration and compliance of public construction pursuant to contracts awarded by the board or department of capital asset management with regard to cost reduction incentives; provided the provisions to amend and promulgate rules and regulations herein granted shall expire on December 31, 1997, unless otherwise extended by the city-county council.

(22) Any other powers granted by statute or ordinance or delegated by the mayor.

SECTION 4. Section 3-203 of Article III of Chapter 3 of the Code of Indianapolis and Marion County, Indiana, pertaining to the board of parks and recreation be and is hereby amended by inserting the underlined text as follows:

Sec. 3-203. Board of parks and recreation.

(a) *Established.* There is hereby established a board of parks and recreation pursuant to IC 36-3-5-6 and 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 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 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 which must be delivered, mailed or sent by telegram 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 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 parks and recreation 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 36-1-9;
- (4) To approve the award and amendment of public construction contracts let by the department which 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 engage by the department by contract to render professional or consulting services;
- (7) To establish a cumulative building and sinking fund pursuant to IC 36-10-4-36;
- (8) To approve the disposal of property by the department as specified in IC 36-1-11, excluding leases of real property, pursuant to IC 36-1-11, for the siting of cellular, digital personal

communications systems, or other wireless communications systems towers and related equipment;

- (9) In addition, the board shall have the powers granted to the board of parks and recreation of a consolidated city by IC 36-10-4, by ordinance or by the mayor.

SECTION 5. Section 3-303 of Article IV of Chapter 3 of the Code of Indianapolis and Marion County, Indiana, pertaining to the board of public safety be and is hereby amended by inserting the underlined text as follows:

Sec. 3-303. Board of public safety.

(a) *Established.* There is hereby established a board of public safety pursuant to IC 36-3-5-6 and IC 36-3-4-23.

(b) *Members.* The board shall be composed of five (5) members; the department director who serves as presiding member 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 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 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 which must be delivered, mailed or sent by telegram 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 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 public safety shall have the following powers:

- (1) To review all budgets prepared by the department and recommend to the director any revisions the board feels desirable;
- (2) 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 36-1-9;
- (3) To approve the award and amendment of public construction contracts let by the department which are required to be bid under IC 36-1-12;
- (4) To approve the acquisition of and leases for real estate by the department;
- (5) To approve the employment of persons engage by the department by contract to render professional or consulting services;
- (6) To approve the disposal of property by the department as specified in IC 36-1-11, excluding leases of real property, pursuant to IC 36-1-11, for the siting of cellular, digital personal communications systems, or other wireless communications systems towers and related equipment;
- (7) To make recommendations and suggestions to the director regarding the fiscal policy and management of the department and assist the director as he requests in the resolution of other issues and problems relating to departmental operations;

- (8) To act as the county civil defense advisory council pursuant to IC 10-4-1-10; and
- (9) Any other powers granted to the board by law or by the mayor or the city-county council.

SECTION 6. The Revised Code of the Consolidated City and County be, and is hereby, amended by adding a new Sec. 186-5:

Sec. 186-5. Revenues from wireless communications licenses and leases.

Revenue received under leases or licenses pursuant to IC-36-1-11 for the siting of cellular, digital personal communications systems, or other wireless communications systems towers and related equipment, shall be deposited in an appropriate fund for the benefit of the department owning the site.

SECTION 7. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 647, 1997. Councillor Schneider reported that the Administration and Finance Committee postponed Proposal No. 647, 1997 on October 21, 1997 and heard the proposal again on November 4, 1997. The proposal, sponsored by Councillor Franklin, amends the Code and the Revised Code concerning licenses and license procedures. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended. Councillor Franklin explained the amendments made to the proposal in Committee. Councillor Schneider moved, seconded by Councillor Franklin, for adoption. Proposal No. 647, 1997, as amended, was adopted on the following roll call vote; viz:

28 YEAS: Black, Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Dowden, Franklin, Gilmer, Golc, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams

0 NAYS:

1 NOT VOTING: Gray

Proposal No. 647, 1997, as amended, was retitled GENERAL ORDINANCE NO. 183, 1997, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 183, 1997

A PROPOSAL FOR A GENERAL ORDINANCE to add a new Chapter 801 to the "Revised Code of the Consolidated City and County," regarding the general provisions for licenses issued by the city controller; to amend and recodify Chapter 17, Articles VII and XXI of the "Code of Indianapolis and Marion County, Indiana," regarding the licensing requirements for fire extinguisher service companies and massage parlors and related enterprises, respectively; to amend Chapters 6 and 12 of the "Code of Indianapolis" and Chapters 836, 895, 831, 931, 955 and 961 of the "Revised Code," regarding licensing requirements for animal exhibitions, kennels, pet shops, stables, pyrotechnics displays, horse-drawn carriages, amusement locations, commercial parking facilities, trash hauling, and sidewalk cafes, respectively; to amend and recodify Chapter 986 as Chapter 987 of the "Revised Code," regarding transient merchant activity and garage sales; to repeal Chapter 6, Art. III, Div. 4 and Chapter 17, Articles I, II, V, VIII and XXVI of the "Code of Indianapolis," and Chapter 903 and Section 951-2 of the "Revised Code," regarding general provisions for licenses issued by the controller, and the licensing of cigarette and tobacco vendors, pyrotechnics displays, special police powers, advertisements on vehicles, and junk dealers and peddlers, respectively; and, to make technical amendments to certain other sections of the "Revised Code."

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

SECTION 1. Title IV of the "Revised Code of the Consolidated City and County" is hereby amended by the addition of a new Chapter 801 regarding general provisions for licenses issued by the controller, to read as follows:

Chapter 801

GENERAL PROVISIONS REGARDING LICENSES

ARTICLE I. PURPOSE; APPLICABILITY AND DEFINITIONS

Sec. 801-101. Purpose of Title IV of the Code.

It is the purpose of Title IV of the Code to license certain businesses for the protection of the public welfare. The provisions of this title should be liberally construed to that end.

Sec. 801-102. Applicability; definitions.

(a) The provisions of this chapter shall apply to all businesses which are required under the following chapters of this title to be licensed by the controller, but shall have no application to businesses which may be franchised or licensed under this title by some authority other than the controller, or to other businesses.

(b) As used in those chapters of Title IV of the Code which provide for licensure by the controller, 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 upon which a person may apply for a license, or register.

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 is conducted, directly or indirectly, in the city.

City controller and *controller* mean the controller of the city appointed under Section 202-201 of the Code.

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 percent (5%) 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 may be issued by the controller 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 the Code.

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 the 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.

ARTICLE II. LICENSE PROCEDURES

Sec. 801-201. Powers of the controller regarding licenses.

The controller hereby is authorized to issue, renew, deny, suspend and revoke licenses, and in furtherance thereof the controller 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 the 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 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, 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 the 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 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 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.

(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.

Sec. 801-204. Approval of application by other agencies.

License applications which relate to any real estate shall be approved by the appropriate city officials to establish compliance with all applicable zoning, building, and fire code requirements.

Sec. 801-205. Approval and filing of bonds.

All bonds which are required to be posted in connection with any license shall be approved by the controller as to the surety thereon, and shall be filed with the controller 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 the Code, as follows:

- (1) For annual licenses which expire on a calendar date stated in the 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 (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 (3) 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;

and,

- (2) For all other licenses, the license fee for the entire term of the license shall be paid.

(b) Whenever a license is not issued at the time of application, the applicant shall pay the fee in advance, and the controller 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 under Title IV of the Code shall be deposited in the general 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 the Code.

(d) Notwithstanding the provisions of Subsection (a) of this section, the controller 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 the Code.

Sec. 801-207. Issuance of license; nature of interest conferred; contents.

(a) The controller 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 the 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 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.

Sec. 801-208. No refund of fee after license is issued.

Refunds of all or any portion of a license fee or any other charges following the approval of a license application, shall not be made for any reason, including the operation of the licensed business for less than the full term of the license, or revocation or suspension of the license.

Sec. 801-209. Term of license.

Unless otherwise provided, the term of a license shall commence as of the date of issuance, and all annual licenses shall expire at 12:01 o'clock a.m. on the first day of January of the next following calendar year.

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 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 hearing, and the time limitations in which to do so; and,
- (2) The right to appeal the decision to the license review board, 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 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 are due if the license is to be renewed. The term of a license which 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 the controller may renew automatically and without application for renewal, the licensee or registrant thereof shall give written notice to the controller if the licensed or registered business ceases to operate.

Sec. 801-213. Notification by controller; manner of service.

(a) Whenever the controller is authorized or required to give notice under Title IV of the Code, the controller 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 set 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.

ARTICLE III. LICENSE REQUIREMENTS AND CONDITIONS

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 the Code, unless a valid license has been obtained therefor from the controller 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 the 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.

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 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 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 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.

Sec. 801-304. Licensee responsible for acts of officers, agents and employees.

Whenever an officer, director, manager or other agent or employee of a licensee commits an act or omission in violation of the provisions of the Code, the act or omission shall be deemed to be that of the

licensee, and the licensee shall be subject to the same penalties and enforcement actions as if the act or omission had been committed personally by the licensee.

Sec. 801-305. Inspection of licensed businesses.

(a) The controller may have licensed businesses inspected by the controller's employees or the employees of other departments 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 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.

Sec. 801-306. Change of business location.

During the term of a license which designates a specific location for a business, the licensee may make written application to the controller to conduct the business at a location other than the location when the license was issued. The controller 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 transfer the licensee's license to another person for the remainder of the license term. The controller 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 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 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.

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.

ARTICLE IV. LICENSE ENFORCEMENT AND REVIEW

**DIVISION 1. PENALTIES FOR VIOLATIONS; SUSPENSION
AND REVOCATION OF LICENSES**

Sec. 801-411. Penalties for violation of ordinance or regulation.

(a) Except where otherwise expressly provided, a person who violates any provision of Title IV of the Code shall be subject to the penalties and procedures provided in Section 103-3 of the Code.

(b) A violation of a regulation adopted under Section 801-201 of this chapter shall constitute a violation of the Code, and a person who violates such a regulation shall be subject to the penalties and procedures provided in Section 103-3 of the Code.

Sec. 801-412. Suspension and revocation of licenses.

(a) In addition to any other reasons provided in Title IV of the Code, the controller 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 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 shall not suspend or revoke a license under this section without first holding a controller's hearing to investigate and examine the qualifications and conduct of the licensee. The controller 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 decision, and a license revocation shall become effective on the date the controller's decision is issued.

Sec. 801-413. Emergency suspension by the controller.

(a) Notwithstanding the provisions of Section 801-402 of this chapter, if the controller:

- (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 reflects on the licensee's fitness to hold a license;

and,

- (2) Finds that an emergency exists;

then the controller temporarily may suspend the license of that licensee without a hearing. The controller shall notify the licensee of the emergency temporary suspension. The notice shall also inform the licensee of a controller'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 hearing scheduled under Subsection (a) of this section, the controller shall set a controller's hearing to be held within the two (2) business days following the controller'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 fails for any reason to timely schedule and conduct a controller's hearing as required by this section, the emergency temporary suspension of the license shall terminate; however, the controller may proceed to suspend or revoke the license under the procedures of Section 801-402 of this chapter.

Sec. 801-414. Emergency suspension by the mayor.

In the event of an emergency affecting the public welfare, the mayor may issue an order temporarily to suspend one or more licenses of particular businesses, or temporarily to suspend any provision of Title IV of the Code. Such an order shall be made public as quickly and as broadly as possible, and shall remain in effect during the pendency of the emergency until rescinded by further order of the mayor.

Sec. 801-415. Licensure following revocation.

A license which has been revoked shall not be renewed or reissued, and a new license shall not be issued for any business to be conducted by or for the same licensee on any premises within six (6) months after the revocation if the same licensee is shown to have a financial interest in the business.

DIVISION 2. CONTROLLER'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 hearing as provided in this chapter, the affected applicant or licensee must submit a written request therefor to the controller within ten (10) days following the issuance of the notice of the controller's decision. The request shall be delivered to the controller 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 receives a proper request for a hearing from an applicant or licensee, or otherwise determines a need for a controller's hearing, the controller 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 knows has a complaint or relevant information regarding the applicant or licensee and wishes to present that complaint or information at a controller'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 could result therefrom;
- (4) Identification of any written materials which have been received by the controller 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 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 may require that testimony be given under oath.

Sec. 801-424. Decision of the controller.

Following a hearing, the controller shall cause written notice of the controller'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, and the time limitations in which to do so.

Sec. 801-425. Costs.

If after a controller'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 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 hearing, if the controller 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 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 BOARD

Sec. 801-431. Composition.

There is hereby created the license review board, which shall be composed of three (3) members. With respect to the matters presented, the board 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.

Members of the board shall receive no compensation for their services as such.

Sec. 801-433. Chairperson; meetings; quorum.

- (a) The members of the board annually shall elect a chairperson, who may be re-elected.
- (b) The board shall meet annually by January 31 of each year in order to elect a chairperson. The chairperson of the board shall call additional meetings of the board as required to hear appeals, and otherwise as needed.

(c) Two (2) members shall constitute a quorum. To pass a motion or determination, a quorum of the board 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 not to issue or renew a license, or to suspend or revoke a license, the applicant or licensee shall first appeal the controller's decision to the license review board.

(b) The applicant or licensee shall deliver a written notice of appeal to the controller, 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 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 shall notify the chairperson of the license review board who shall schedule a hearing and notify the applicant or licensee and the controller of the hearing date, time, and place at least twenty (20) days prior to the hearing.

(b) All hearings shall be conducted by the 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 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 discretion. The controller or some person appointed by the controller may present evidence at the hearing which supports the controller's decision.

Sec. 801-436. Notification of board's determination.

Within thirty (30) working days following the close of a license review board hearing, the board shall make a written determination which either affirms or vacates the controller's decision, and which includes the date of the determination and a statement of the reasons therefor. The board's determination shall be delivered to the applicant or licensee, and a certified copy shall be delivered to the controller who shall keep all board determinations on file in the controller's office.

SECTION 2. Articles I and II of Chapter 17 of the "Code of Indianapolis and Marion County, Indiana" (Sections 17-1 through 17-83, inclusive), regarding the general provisions for licenses issued by the controller, are hereby REPEALED.

SECTION 3. The provisions of Chapter 801 of the "Revised Code of the Consolidated City and County" shall be applicable to all city licenses, permits and similar extensions of privileges issued by the controller, whether issued under the Revised Code, the "Code of Indianapolis and Marion County, Indiana" or otherwise. The provision of any ordinance which refers to Section 17-9 of the Code shall be treated as if that ordinance provisions referred to Section 801-411 of the Revised Code.

SECTION 4. Division 4 of Article III of Chapter 6 of the "Code of Indianapolis and Marion County, Indiana" (Sections 6-110 through 6-129, inclusive), regarding animal exhibition permits, is hereby REPEALED.

SECTION 5. Section 6-2 of the "Code of Indianapolis and Marion County, Indiana," regarding definitions used in Chapter 6, is hereby amended by the deletion of the language which is stricken-through and by the addition of the language which is underscored, to read as follows:

Sec. 6-2. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

Animal shall mean any living, nonhuman vertebrate creature.

~~*Animal exhibition* shall mean any display of or contest involving animals which contest or display is primarily for the purpose of attracting persons to a commercial establishment to purchase items other than the animals on display or involved in the contest.~~

At large shall mean an animal which is not confined without means of escape in a pen, corral, yard, cage, house, vehicle or other secure enclosure, unless the animal is otherwise under control of a competent human being.

Crime prevention animal shall mean an animal means a dog which is trained and used primarily by its owner or keeper for the protection of persons or property, or both.

~~Domestic animals shall mean~~ cattle, horses, ponies, mules, swine, sheep, goats, dogs, cats and poultry.

~~Exotic animal shall mean any animal whose normal native habitat is not indigenous to the continental United States, excluding Alaska, except tropical fish, fur bearing animals commercially bred for the furrier trade and birds defined under federal regulations.~~

~~Exposed to rabies shall mean~~ an animal has been exposed to rabies if it has been bitten by or been in contact with any animal known or reasonable suspected to have been infected with rabies.

~~Kennel shall mean~~ a facility operated commercially and principally for the purpose of boarding, housing, grooming, breeding or training dogs or cats, or both. A kennel, ~~for~~ purposes of this chapter, kennel shall not include a facility in or adjoining a private residence where dogs or cats are kept for the hobby of the householder owner, lessee or other occupant of the property using them the animals for hunting, practice tracking, exhibiting in shows or field or obedience trials or for the guarding or protecting of the householder's property, and an occasional sale of puppies pups or kittens by the owner, lessee or other occupant of such the property shall not make ~~that~~ such property a kennel for the purposes of this chapter.

~~Own shall mean~~ to keep, harbor or have custody, charge or control of an animal. ~~For the purposes of this chapter, an "owner" of an animal shall, and owner means and includes any a person who owns the an animal; however, veterinarians and operators of kennels, pet shops and stables, as those terms are defined in Chapter 836 of the Code, who temporarily keeping keep animals owned by, or held for sale to, other persons shall not be deemed, for purposes of this chapter, to own or be owners of such animals, but rather to be "keepers" of animals.~~

~~Person shall mean~~ any individual, corporation, partnership or other association or organization, excluding police, federal or state armed forces and other such governmental agencies, and excluding any individual, partnership, corporation or other association or organization which is registered as a research facility with the United States Secretary of Agriculture ~~pursuant to~~ under Public Law 89-544 (7 USC section 2131 et seq.), commonly known as the "Laboratory Animal Welfare Act."

~~Pet shall mean~~ an animal obtained or kept by its owner solely for purposes of enjoyment, companionship, safety or other noncommercial purposes.

~~Pet shop shall mean a facility operated commercially and principally for the purpose of selling animals which in the hands of their immediate purchasers will be pets.~~

~~Safety board shall mean~~ the board of public safety of the department of public safety of the city.

~~Spayed female shall mean a female animal that is or has been rendered physically incapable of conceiving offspring by surgery performed by a veterinarian.~~

~~Veterinarian shall mean~~ a person licensed to practice veterinary medicine in the state.

~~Wild animal shall mean any nondomestic animal living in a state of nature and whose native habitat is indigenous to any area of the continental United States, excluding Alaska, except, however, fur bearing animals commercially bred for the furrier trade.~~

SECTION 6. Section 836-5 of the "Revised Code of the Consolidated City and County," regarding the requirements for kennels, pet shops and stables, is hereby amended by the deletion of the language which is stricken-through and by the addition of the language which 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 ~~within~~ 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 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 ~~chapter~~ 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 ~~within~~ in the city shall:
- (1) File a monthly notice of sale with the ~~city~~ controller within ten (10) days of the last day of any month in which the kennel or pet shop has sold one (1) or more dogs or cats; the notice of sale shall include the name, address and telephone number of the purchaser, as well as the age, sex and breed of the dog or cat sold; ~~and,~~
 - (2) At the time of purchase, notify the purchaser of all state and local laws which require an animal kept in the city to be vaccinated or licensed;
- (23) Supply the purchaser with an application for animal license, the form of which is prescribed by the controller;
- (34) Retain the name, address and telephone number of the owner and the license number 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,~~
- (45) Not sell animals which 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, and by the animal control division as provided in Article V of Chapter 6 of the Code.

SECTION 7. Chapter 895 of the "Revised Code of the Consolidated City and County," regarding horse-drawn carriages and businesses, is hereby amended by the deletion of the language which is stricken-through and by the addition of the language which is underscored, to read as follows:

Chapter 895

HORSE-DRAWN CARRIAGES AND BUSINESSES

Sec. 895-1. Horse-drawn carriage business; registration required.

It shall be unlawful for a person to operate ~~any~~ 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 horse-drawn carriage business first is registered with the controller as provided in this chapter.

Sec. 895-2. Registration information required.

(a) Registrations of horse-drawn carriage businesses shall be made with the controller on forms provided by the controller. In addition to other information required by this chapter, the registration shall contain the following information:

- (1) The name and business address of the registrant, and if a corporation or partnership the name and address of any person ~~owning directly or indirectly five (5) percent or more of the ownership~~ who has a financial interest in such business;
- (2) ~~A financial statement of the registrant;~~
- (32) The number of carriages to be operated ~~pursuant to~~ under the registration, and the seating capacity, manufacturer, and scale drawing or photograph of each carriage;
- (43) 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;

- (5) ~~A route and operations schedule for the business which complies with section 895-3; and,~~
- (4) The site or sites off-street to be used to store, stable, and load carriages and horses; and,
- (65) A schedule of rates and charges to be made to passengers which rates shall not be changed without ten (10) days prior written notice to the controller.

(b) The information on the registration form shall be verified under oath and include a written agreement by the registrant to operate the business, if registered, strictly in accordance with ~~s~~Section 895-45 of the 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. ~~Carriage route and operations schedule~~ Restrictions on hours of operation, streets.

(a) ~~It shall be unlawful for a Hhorse-drawn carriage businesses shall to operate only upon routes and pursuant to schedules approved as provided in this section. The route and operations schedule filed with the controller shall contain the following:~~

- (1) ~~A map of the routes on which the carriages will operate;~~
- (2) ~~A schedule of hours of operations, which shall not include between the hours of 6:00 a.m. to and 9:00 a.m., or 3:00 p.m. to and 6:00 p.m., except on Saturdays, Sundays and city holidays;~~
- (3) ~~The location of the site or sites to be used for off-street storage, stabling and loading of carriages and horses;~~
- (4) ~~The location of any curbside areas to be designated as "stands" for regular pickup and discharge of passengers, including in the case of established passenger and material loading zones written permission of the permit holder to use such zone or zones, or an application for designation of such a zone pursuant to section 29-331 of this Code, none of which shall be on Monument Circle.~~

(b) ~~The controller shall refer all route and operation schedules to consult the directors of the city departments of capital asset management; and public safety and metropolitan development with respect to which public streets would be unsafe or inappropriate for use by horse-drawn carriages. The director of capital asset management may reject any route and operation schedule that is an unsafe or inappropriate use of the public streets. The director of the department of public safety may reject any route and operation schedule that~~ Upon a finding that the operation of a horse-drawn carriage business would present a hazard to the public safety on the certain city streets or ways or would otherwise jeopardize the public welfare, the controller shall by regulation prohibit the operation of horse-drawn carriages upon those streets. The director of the department of metropolitan development may reject any route and operation schedule that is inconsistent with the zoning ordinances of the county.

(c) ~~The controller, on the recommendation of the director of public safety, may issue temporary permits to holders of a valid horse-drawn carriage business registration for operation on other routes for special purposes for periods not to exceed ten (10) days.~~

(d) ~~Any route and operation schedule approval shall~~ The operation of horse-drawn carriage businesses upon any public street and at any time may be subject to the right of prohibited by the director of the city department of public safety to prohibit the use of any route at certain times, 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.

Sec. 895-4. Designation of holding areas.

(a) The director of the city department of public safety, upon consultation with the director of the city department of capital asset management, may from time to time designate certain areas of the public right-of-way as holding areas for horse-drawn carriages, and the days and hours when such

holding areas may be used exclusively by horse-drawn carriages. Such designations shall be made in consideration of the following:

- (1) Public safety issues, including the flow of pedestrian and motor vehicle traffic;
- (2) The suitability of such areas as places for horse-drawn carriages to pick up or discharge passengers, or to stop or stand when not carrying passengers; and,
- (3) The reasonable interests of adjacent residents and businesses.

(b) The city department of capital asset management shall cause appropriate signs to be placed at each end of holding areas designated under this section, indicating the days and hours when such holding areas may be used exclusively by horse-drawn carriages. When so posted, it shall be unlawful for a person to park, stop or leave standing a motor vehicle in such a holding area.

(c) No more than one carriage owned or operated by the same registrant may stop or stand at the same time in a holding area designated under this section.

Sec. 895-45. Operation of horse-drawn carriage business.

Horse-drawn carriage businesses shall be operated only in accordance with the following provisions.

(a) A copy of the horse-drawn carriage certificate of registration shall be displayed in all carriages used in such business. The controller shall issue one copy for each carriage identified in the registration.

(b) Each carriage used in such business shall be registered ~~pursuant to~~ under this chapter.

(c) Each carriage shall be operated by a coachman registered ~~pursuant to~~ under this chapter, who shall carry an identification card or be wearing some type of visible identification, and have the certificate of registration on his or her person at all times when operating such carriage.

(d) When carrying persons for hire or by contract, the carriage shall be operated only upon the routes streets and during the hours approved ~~pursuant to~~ under ~~s~~Section 895-3, ~~or in accordance with a special ten-day permit issued by the controller of the Code.~~

(e) Horse-drawn carriages shall pick up and discharge passengers only upon the curb lane, while lawfully parked at the curb.

~~(f) Except while picking up or discharging passengers, horse drawn carriages shall park only in "stands" designated in the approved route application or designated horse carriage stands approved by ordinance and so marked.~~

~~(g)~~ Horse-drawn carriages, when in motion, shall be operated only in the curb-most traffic lane on any public street, and the ~~driver~~ coachman shall obey all applicable state and local traffic and parking laws, ordinances and regulations.

~~(h)~~ No horse-drawn carriage shall be operated on a public street unless a valid bond or public liability insurance policy as specified in ~~s~~Section 895-~~56~~ of the Code is on file with the controller.

~~(i) The driver of any horse drawn carriage shall carry an identification card or be wearing some type of visible identification.~~

~~(j) It shall be the duty of the driver of a carriage to inform any person hiring the carriage of all the rates and charges before any service is rendered, which shall be the same as those on file with the controller.~~

~~(k)~~ Drivers 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. It shall be the responsibility of the registrant to provide rate cards to all ~~drivers~~ coachmen and affix same to the carriages.

(hi) 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 of Indiana. A copy of such examination shall be submitted to the controller to be placed on file.

(mj) Occupancy of a horse-drawn carriage shall not exceed the rated seating capacity of the carriage.

(nk) No passenger shall be allowed to ride on any part of the carriage while in motion except seated inside the carriage.

(ol) ~~Drivers~~ 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 ~~any~~ a person for the purpose of soliciting patronage.

(pm) ~~Drivers~~ Coachmen are prohibited from smoking while carrying passengers.

(qn) All horses ~~will have rubber compound type~~ must be shod with horse shoes on the front two (2) feet and that are either a rubber compound shoe, or a steel shoe with borium cork shoe on the two (2) rear feet to keep the animal from slipping on the pavement or Drill-Tek on the street-gripping surfaces, or other type of shoe approved for use the director of the city department of capital asset management.

(ro) Each ~~animal horse~~ pulling a carriage on the city streets shall be equipped with manure-catching devices to ~~hold manure until the operator is able to place it in a standard wire-tie plastic bag which he shall carry with him for permanent disposal when he returns to his base of operations~~ prevent manure from falling to the street surface.

(sp) Each carriage shall be equipped with a chemical to be poured over horse urine ~~by drivers~~ 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. 895-56. 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 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 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 ~~any~~ a person ~~resulting which results~~ from or ~~arising~~ 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 ~~his~~ 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 registrant, one 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 ~~pursuant to~~ under ~~s~~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 person, three hundred thousand dollars (\$300,000.00) for total liability for death or personal injury arising out of any one event or casualty, and fifty thousand dollars (\$50,000.00) for property damage.

(c) Any bond posted ~~pursuant to~~ under this section shall be accompanied by good and sufficient sureties approved by the controller.

(d) The controller 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.

Sec. 895-67. Certificate of registration; limitation on number of carriages in the downtown area.

(a) Upon receipt of a completed registration form ~~pursuant to under~~ Section 895-2 of the Code, ~~approval of the route and operations schedule pursuant to section 895-3, and the filing of a bond or insurance as required by~~ Section 895-56 of the Code, the controller shall issue a horse-drawn carriage business certificate of registration to the registrant unless the number of carriages approved for existing registrations equals or exceeds the number established in Subsection (b) of this section.

(b) 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. At no time shall the holders of horse-drawn carriage business registrations be authorized to operate more than twenty (20) carriages in aggregate in the area of the city bounded by Harding Street on the west and I-65 and I-70 on the north, east and south, and no one registrant shall be authorized to operate more than eight (8) carriages in such area.

(c) If there are registrants for more registrations than may be issued under Subsection (b) of this section, the controller shall select registrations by random until the maximum is reached.

Sec. 895-78. Horse-drawn carriages; registration required.

(a) No horse-drawn carriage shall be operated upon the streets of the city for the purpose of transporting persons for hire or by contract unless the carriage first is registered with the controller.

(b) Only carriages constructed and equipped as follows may be registered:

(1) Carriages will have no less than one and one-fourth (1¼) inch spoked wheels with a rubber covering thick enough to protect the streets from damage and to keep noise to a minimum;

(2) All carriages will be equipped with ~~brakes, taillights, brakelights~~ and turn signals on the rear of the vehicle;

(3) Carriages will be equipped with front lights on both sides that will emit light to the front and side that will be visible from distance of five hundred (500) feet;

~~(4) Each carriage will be equipped with a device to catch horse manure from falling to the pavement;~~

~~(5) Each carriage will be equipped with a chemical to be poured over horse urine by drivers so as to break down and eliminate accumulated agents and odor;~~

(64) Each carriage will be equipped with a slow-moving vehicle sign approved by the State of Indiana and attached to the rear of the vehicle; and,

~~(75) No carriage shall be larger in capacity than to transport six (6) passengers and shall be equipped with seat belts for all passengers.~~

(c) Upon approval of a registration and after inspection determines that the carriage complies with the requirements of this section, the controller shall issue a certificate of registration for such carriage.

Sec. 895-89. Coachmen; registration required.

(a) No person shall drive a horse-drawn carriage carrying persons, for hire or by contract, ~~unless he~~ without first is being registered with the controller ~~pursuant to under~~ this section.

(b) The registration of a coachman shall be made under oath to the controller and shall verify or establish that the coachman is:

(1) Able to speak, read and write the English language;

(2) ~~†The holder of a public passenger chauffeur's~~ valid motor vehicle operator's license issued by the ~~State of Indiana~~;

(3) Free of defective vision, defective hearing, and any other infirmities that would render ~~him~~ the coachman unfit for safe operation of a public vehicle; and,

(4) Free of alcohol or drug addiction.

(c) The coachman shall produce written evidence of experience in driving a horse-drawn carriage, or successful completion of a course in such driving given by a source approved by the controller, or both, and shall, if requested, demonstrate his or her ability.

(d) The controller may require the coachman by test or otherwise to demonstrate his or her knowledge of the requirements of this chapter.

(e) The controller shall investigate the character of the coachman prior to issuing a certificate of registration.

(ef) Upon approval of the coachman's registration, the controller shall issue a certificate of registration therefor.

Sec. 895-910. Registration term; renewal.

(a) All registrations of horse-drawn carriage businesses, carriages and coachmen ~~pursuant to~~ under this chapter shall be valid for a period of one (1) year, ~~expiring on~~ with an expiration date of June 30.

(b) If the controller finds that the registrant remains qualified and has operated as required by this chapter, the controller shall renew the registration automatically and without application for renewal by the registrant, unless at the time of renewal the registration:

(1) ~~has~~ is been revoked or suspended; or,

(2) ~~is~~ is the subject of administrative or judicial proceedings which 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.

SECTION 8. Article VII of Chapter 17 of the "Code of Indianapolis and Marion County, Indiana," regarding licensing of fire extinguisher service companies, is hereby amended and recodified as Chapter 886 of the "Revised Code of the Consolidated City and County" by the deletion of the language which is stricken-through and by the addition of the language which is underscored, to read as follows:

Chapter 886

**ARTICLE VII. LICENSING OF FIRE EXTINGUISHING
EXTINGUISHER SERVICE COMPANIES**

Sec. ~~17-219~~ 886-1. Purpose of ~~this article~~.

The purpose of this ~~article~~ chapter is to regulate the sale, ~~leasing~~ lease and ~~servicing~~ service of portable fire extinguishers in the interest of safeguarding lives and property.

Sec. ~~17-220~~ 886-2. Activities exempt from the application of this ~~article~~ chapter.

The activity of filling or charging a portable fire extinguisher prior to its initial sale by its manufacturer shall not be subject to this ~~article~~ chapter. In addition, the licensing ~~and registration~~ provisions of this ~~article~~ chapter shall not apply to ~~any~~ a firm which services only its own portable fire extinguishers for use only by its own employees by maintaining its own fire extinguisher servicing facilities adequate for the purpose and utilizing its own personnel specially trained for such servicing.

Sec. ~~17-221~~ 886-3. Administration of this ~~article~~ chapter.

The administration of this ~~division~~ chapter is vested in the fire prevention bureaus of the city fire department and the township fire departments located in the county, and the ~~city~~ county controller of ~~Marion County~~, which shall have the power to ~~issue~~ promulgate the proper rules and regulations to administer this ~~division~~ chapter.

Sec. 17-222 886-4. Licensing of persons servicing fire extinguishers; license required.

(a) ~~No~~ It shall be unlawful for a person shall to engage in the business of servicing portable fire extinguishers within Marion in the County unless licensed by without first having obtained a license therefor from the city controller.

(b) ~~Each~~ It shall be unlawful for an employee, other than an apprentice of a firm engaged in the business of servicing portable fire extinguishers, who services to service portable extinguishers must have in the county without first having obtained a license issued by therefor from the city controller.

(c) ~~Each person servicing portable fire extinguishers as an apprentice must have an apprentice permit issued by the city controller.~~

(d) ~~Each~~ Each firm performing hydrostatic testing of portable fire extinguishers manufactured in accordance with the specifications of NFPA the National Fire Prevention Association shall do so in accordance with the procedures specified by such for compressed gas cylinders, and shall be required to have a hydrostatic testing certificate authorizing such testing, issued by the city controller's office. Persons Each person qualified to do this work perform such hydrostatic testing shall be given that present a hydrostatic testing certificate to the controller, who then shall note the person's authority on their licenses his or her fire extinguisher service license.

(e) ~~No~~ It shall be unlawful for a person shall to service or sell portable fire extinguishers contrary to the provisions of this article chapter or the rules and regulations formulated and administered under the authority of this article chapter.

Sec. 17-223 886-5. Portable fire extinguishers which may be sold or leased.

No portable fire extinguisher shall be sold or leased for commercial usage in the county unless it is approved, labeled and listed by a testing laboratory which is approved by the bureau and qualified to test portable fire extinguishers.

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 bears such person's name and license number, the date of the service, and any additional information which the controller by regulation may require. Failure to comply with the provisions of this section shall constitute a violation of the Code.

Sec. 17-224 886-7. Powers and duties of the controller and fire prevention bureaus under this article chapter.

(a) ~~The controller and the fire prevention bureaus shall exercise the following functions, powers and duties pursuant to this article:~~

- (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 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. 17-225 886-8. Fees.

The original and annual renewal fee for any license, ~~apprentice permit, certificate of registration or hydrostatic testing certificate~~ issued pursuant to under the provisions of this article chapter and the rules and regulations formulated and administered under the authority of this article chapter shall be twenty-five dollars (\$25.00).

~~Secs. 17-226-17-243. Reserved.~~

SECTION 9. Division 1 of Article V of Chapter 12 of the "Code of Indianapolis and Marion County, Indiana," regarding pyrotechnics displays, is hereby amended by the deletion of the language which is stricken-through and by the addition of the language which is underscored, to read as follows:

DIVISION 1. PYROTECHNICS DISPLAYS

~~Sec. 12-101. Possession of pyrotechnics, display permit~~ Certificate of insurance required.

~~(a) No person, other than a federally licensed pyrotechnician, shall have, keep, store, use, manufacture, sell, handle or transport any pyrotechnics; provided, however, nothing in this division shall be held to apply to the possession or use of signaling devices for current daily consumption by law enforcement, public safety, railroads, vessels and others requiring them.~~

~~(b) A bureau may, upon due application of an applicant licensed pursuant to section 17-244 of this Code, issue a display permit to a properly qualified person for giving a pyrotechnic display of fireworks in public parks or other open places. Such permit shall impose such restrictions as, in the opinion of the fire prevention chief, may be necessary to properly safeguard life and property in each case.~~

(a) It shall be unlawful for a person to conduct a pyrotechnics display in the city, as permitted by the state fire prevention and building safety commission, without first having filed a certificate of insurance as provided by this section.

(b) The certificate of insurance shall be filed with the fire prevention bureau in whose jurisdiction the pyrotechnics display will occur, and name such bureau and township and the city as additional insured parties. The insurance shall be conditioned for the payment of any and all loss or damage caused to a person, persons or property resulting from or arising out of the operation of the pyrotechnics display, including but not limited to the acts of the holder of the state permit and the holder's agents, employees, or subcontractors.

(c) The limits of liability coverage upon such policy shall in no instance be less than one hundred thousand dollars (\$100,000.00) for damages caused to a person or persons, and one hundred thousand dollars (\$100,000.00) for damage to property.

(d) The holder of the state permit shall maintain the insurance in full force and effect throughout the entire term of the state permit.

~~Sec. 12-102. Permitting of operator of pyrotechnics displays.~~

~~(a) No person shall give or operate a pyrotechnic display in the city without first obtaining an annual license from the controller, a permit from the bureau and a permit from the state fire marshal.~~

~~(b) Each bureau shall collect an additional twenty five dollars (\$25.00) for each display.~~

~~(c) The person in actual charge of the firing of the fireworks in a display shall be at least eighteen (18) years of age, and qualified and competent for the task. The operator shall have the city license and the permit in his or her possession when engaged in conducting a display and shall exhibit it on request of any authorized person. Each person assisting the licensed operator shall be at least eighteen (18) years of age.~~

~~Sec. 12-103. Appeal from denial.~~

~~Whenever a bureau shall reject or refuse to grant a permit authorized by this division, the person may appeal from the decision in writing as provided in section 12-45.~~

~~Sec. 12-104. Permit period.~~

~~Each permit granted under the provisions of this division shall be for such period as the fire prevention chief may determine, not to exceed one (1) day.~~

Sec. 12-105. Display of permit required.

~~A permit issued pursuant to this division shall at all times be kept on the premises designated in the permit, and shall at all times be subject to inspection by any one duly authorized by the fire or police department.~~

Sec. 12-106. Transferability.

~~A permit issued pursuant to this division shall not be transferable.~~

Secs. 12-107-102--12-110. Reserved.

SECTION 10. Article VIII of Chapter 17 of the "Code of Indianapolis and Marion County, Indiana" (Sections 17-244 through 17-276, inclusive), regarding pyrotechnics display licenses, is hereby REPEALED.

SECTION 11. Article XXI of Chapter 17 of the "Code of Indianapolis and Marion County, Indiana," regarding massage parlors, bathhouses, and related enterprises, is hereby amended and recodified as Chapter 911 of the "Revised Code of the Consolidated City and County" by the deletion of the language which is stricken-through and by the addition of the language which is underscored, to read as follows:

Chapter 911

**ARTICLE XXI. BATHHOUSES, MASSAGE PARLORS, BATHHOUSES
AND RELATED ENTERPRISES**

Sec. 17-725 911-1. Definitions.

~~Whenever As used in this article chapter, the following words or phrases shall be defined as herein stated: terms shall have the meanings ascribed to them in this section.~~

(a) *Bathhouse* means any building, room, place or establishment, other than a regularly licensed hospital, dispensary, hotel, rooming house or public lodging house, where members of the public are provided with baths, regardless of whether steam, vapor, water, sauna or otherwise.

Body painting model means a person who allows any part of his or her body to be painted with any paint, dye, tint, spray or other material while such person is serving as an employee or receiving other compensation by or through any body painting studio as defined herein.

Body painting studio means any shop, establishment, place of business or other operation that employs or otherwise compensates persons for serving as models for the painting of any part of the human body with any paint, dye, tint, spray or other material.

Escort means and includes a person who is employed, advertised or promoted by, associated with, or otherwise compensated by or through, an escort service for serving as an escort, host or hostess, and who is not licensed as a massage therapist or nude model.

Escort service means any shop, establishment, place of business, business association, or other operation that promotes, advertises, employs or otherwise compensates persons to serve as escorts, and that is not licensed as a massage parlor, nude modeling studio, body painting studio, taxicab, or limousine.

Massage means any method of treating the superficial soft parts of the body for remedial or hygienic purposes, consisting of rubbing, stroking, kneading or tapping with the hands or instruments.

(b) *Massage parlor* means any building, room, place or establishment, other than:

(1) A massage therapy school certified by the state;

(2) a regularly licensed hospital or dispensary; or,

(3) A facility wherein each person who administers a massage is exempt from the license requirement under Subsection (c) of Section 911-2 of the Code;

where nonmedical and nonsurgical manipulative exercises are practiced upon the human body with or without the use of mechanical or bath devices, by anyone not a physician, osteopath, chiropractor, podiatrist or physical therapist duly registered with and licensed by the State of Indiana.

~~(c) *Massage* means any method of treating the superficial soft parts of the body for remedial or hygienic purposes, consisting of rubbing, stroking, kneading or tapping with the hands or instruments.~~

~~(d) *Massage school* means any bathhouse or massage parlor, defined in subsections (a) and (b) above, where the act of massage as defined in subsection (c) above is either taught or practiced.~~

Massage therapist means a person who practices, administers or teaches all or any of the subjects or methods of treatment defined herein as massage therapy.

~~(e) *Massage therapy* means the act of body massage, either by mechanical or electrical apparatus or otherwise, for the purpose of reducing or contouring the body by the use of oil rub, salt, hot and cold packs, cold showers and cabinet baths.~~

~~(f) *Massage therapist* means any person who practices, administers or teaches all or any of the subjects or methods of treatment defined in subsection (e) above as massage therapy.~~

~~(g) *Massage therapy clinic* means any shop, establishment or place of business where any or all of the methods of massage therapy are administered or used.~~

~~(h) *Massage therapy school* means any duly registered massage therapy establishment where a tuition is charged for the instruction of massage therapy techniques.~~

~~(i) *Private health club* means a facility for exercise and physical training which is operated for, and open only to, members of a private club and their invited guests.~~

~~(j) *Private club* means an organization or association maintaining clubrooms or other recreation or social facilities used primarily for purposes other than a bathhouse or massage parlor, membership in which is limited to persons paying regular dues or assessments.~~

Nude model means a person who engages in nude modeling for a nude modeling studio.

Nude modeling means the posing by a human male or female with his or her sexual and/or genital areas not covered by a fully opaque covering, while such person is an employee or receiving other compensation by or through any nude modeling studio, as defined in this section, and shall not include any activity which involves the touching of another person; however, nude modeling at or on behalf of any properly accredited institution of higher education shall not fall within this definition.

Nude modeling studio means any shop, establishment, place of business or other operation that employs or otherwise compensates persons for serving as models for purposes of nude modeling. However, any properly accredited institution of higher learning shall not fall with this definition.

Person employed means and includes a massage therapist, body painting model, escort or nude model who performs any function at an establishment required to be licensed under this chapter, either:

(1) As an employee or independent contractor; or

(2) Otherwise, with the knowledge and consent:

of the owner or operator of the establishment.

~~(k) *Sexual and/or genital area* means and includes the sexual or genital area of any person and shall include the human male or female genitals, pubic area, anus or perineum of any person, or the and human female vulva or breast of a female.~~

~~(l) *Escort service* means any shop, establishment, place of business or other operation that employs or otherwise compensates persons to serve as escorts, hosts or hostesses.~~

(m) ~~Body painting studio means any shop, establishment, place of business or other operation that employs or otherwise compensates persons for serving as models for the painting of any part of the human body with any paint, dye, tint, spray or other material.~~

(n) ~~Nude modeling studio means any shop, establishment, place of business or other operation that employs or otherwise compensates persons for serving as models for purposes of nude modeling. However, any properly accredited institution of higher learning shall not fall within this definition.~~

(o) ~~Nude modeling means the posing by any person with his or her sexual and/or genital areas exposed, while such person is an employee or receiving other compensation by or through any nude modeling studio, as defined herein. However, nude modeling at or on behalf of any properly accredited institution of higher learning shall not fall within this definition.~~

(p) ~~Nude model means any person who engages in nude modeling for a nude modeling studio.~~

(q) ~~Body painting model means any person who allows any part of his or her body to be painted with any paint, dye, tint, spray or other material while such person is serving as an employee or receiving other compensation by or through any body painting studio as defined herein.~~

(r) ~~Escort means any person who is employed or otherwise compensated by or through any escort service for serving as an escort, host or hostess.~~

Sec. 17-726 911-2. License required; exemption.

(a) It is unlawful for ~~any a~~ person or firm to operate, conduct or maintain a ~~massage school, massage parlor, massage therapy clinic, bathhouse, escort service, body painting studio or nude modeling studio~~ in the city without first having obtained a license to ~~operate such massage school, massage parlor, massage therapy clinic, bathhouse, escort service, body painting studio or nude modeling studio~~ issued by therefor from the city controller.

(b) ~~It shall be unlawful for any person or firm licensed to operate a massage school, massage parlor, massage therapy clinic, bathhouse, escort service, body painting studio or nude modeling studio to employ or permit any person to perform a massage unless such person is licensed as a massage therapist by the city controller.~~

(eb) It shall be unlawful for any a person employed in the city to be employed paid:

(1) ~~a~~As a massage therapist, escort, body painting model, or nude model; or,

(2) ~~t~~To perform massages for a fee;

unless such person is licensed as a massage therapist by first obtains a license therefor from the city controller.

(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.

Sec. 17-727 911-3. 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 school, massage parlor, massage therapy clinic, bathhouse, escort service, body painting studio or nude modeling studio~~ under this chapter shall be made with the controller on forms provided by the controller, and shall contain the following information and should be individually signed by the applicant:

- (1) The Name of the applicant, and all aliases and business names used by the licensee to conduct the business;
- (2) The Resident residence address of the applicant, and former applicant's residence addresses for the past three (3) years;
- (3) The Bbusiness address of the applicant;
- (4) The Nnumber 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 connected with 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, or officers, directors or stockholders, have ever been previously engaged in operating a massage school, massage parlor, massage therapy clinic, 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 article chapter;
- (9) An agreement by the operator permitting inspection; and.
- (10) The Ttype of license being applied for by 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 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.

(ba) Along with the operator's application for a license, there shall be filed a verified application by each individual who is person employed in the establishment who is required by this article chapter to be licensed. The application should 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 article chapter; and.
- (6) Nature of work performed.

(eb) Along with the aforesaid applications for licenses there shall be a certificate from a duly licensed medical practitioner, on a form prescribed by the Health and Hospital Corporation of Marion County, certifying that said applicant is free from 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, 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. and that said

examination has been made within thirty (30) days prior to the application for the license or permit herein sought.

(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 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 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. 17-728 911-6. License fees.

(a) The annual license fee for each person who operates, conducts or maintains or is employed by a massage parlor, massage therapy clinic, bathhouse, escort service, body painting studio or nude modeling studio, or any combination thereof, shall be determined in accordance with the following scale:

(a) Class A licenses shall be required for all private health clubs; the fee for said license to be fifty dollars (\$50.00) annually.

(b) Class B licenses shall be required for all other owners of the above mentioned businesses; the fee for said license to be two hundred fifty dollars (\$250.00) annually.

(c) Class C licenses shall be required. The annual license fee for each persons employed as a massage therapists, escorts, body painting models and/or nude models for a nude modeling studio; the fee for said license to shall be twenty-five dollars (\$25.00) annually for each such person.

Sec. 17-729 911-7. Operation.

(a) No massage school, massage parlor, massage therapy clinic, bathhouse, escort service, body painting studio or nude modeling studio shall be operated or conducted, in living quarters, or with a separate opening to, living quarters. There must be a separate opening to living quarters and a separate entrance to the place of business. No and no one should shall use the building quarters such business premises for a place of habitation. No massage parlor, bathhouse, escort service, body painting studio or nude modeling studio shall have a separate entrance or opening to living quarters, and the entrances to such business premises must be separate from the entrances to any places of habitation.

(b) All licensed operators or permit holders under this article shall show their licenses or permits in a visible location in their establishment.

(c) All licenses or permit holders shall be subject to all other city ordinances, county ordinances and State of Indiana statutes and to regulations of various administrative bodies of the city, county and state. Violation of such regulations, ordinances or statutes shall be grounds for revocation of licenses or permits.

(d) No person shall be employed by any licensee under this article chapter or allowed to be within view of any of the services rendered by a massage parlor, massage therapy clinic, bathhouse,

escort service, body painting studio or nude modeling studio ~~who has not reached~~ shall be under the age of twenty-one (21) years.

~~(e) No person holding a license under this article shall administer to a person of the opposite sex, any massage, alcohol rub or similar treatment, fomentation, bath or electric or magnetic treatment, except upon the signed order of a licensed physician, osteopath, chiropractor, podiatrist or registered physical therapist. A person shall neither cause nor permit in or about his place of business, or in connection with his business, any agent, employee, servant or other individual to administer any such treatment to any individual of the opposite sex.~~

~~(fc) All employees of establishments~~ Each person employed in an establishment licensed under this article ~~chapter, including masseurs, masseuses, therapists, escorts and body painting models, but not including~~ except nude models while actually engaged in nude modeling, shall wear clean, ~~nonttransparent~~ outer garments with a fully opaque covering of such person's ~~the~~ sexual and/or genital areas.

~~(gd) The sexual and/or genital areas of patrons of establishments required to be licensed under this article chapter must be covered with towels, clothes or undergarments when in the presence of an employee, masseur, masseuse, massage therapist, escort, body painting model, or nude model, or other patron.~~

~~(he) No person in any establishment licensed under this article chapter, and no escort, shall place his or her hand upon, or touch with any part of his or her body, or fondle in any manner, or massage a sexual and/or genital area of any other person.~~

~~(if) No employee of person employed in an establishment licensed under this article chapter shall perform, offer or agree to perform, any act which shall require the touching of the patron's genitals.~~

~~(jg) Every massage school, massage parlor, massage therapy clinic, bathhouse, escort service, body painting studio or nude modeling studio shall be open for inspection during all business hours and at other reasonable times by police officers, health and fire inspectors, and duly authorized representatives of the city upon the showing of proper credentials by such persons.~~

~~(kh) Any bathhouse, massage parlor, massage therapy clinic, massage therapy school, escort service, body painting studio or nude modeling studio, or any combination thereof, is prohibited from installing or maintaining any lock or similar device on the inside of any door of said such business which cannot be operated by key or knob from the exterior of said such door.~~

~~(l) Any establishment licensed under this article as a private health club shall maintain a current list of members, as the case may be, and a roster of those receiving massage therapy by dates, which lists and rosters shall be available to anyone inspecting the establishment pursuant to subsection (j).~~

~~(m) No person holding a license under this article shall paint the body of a person of the opposite sex. A person shall neither cause nor permit in or about his place of business or in connection with his business, any agent, employee, servant or other individual to administer any such treatment to any individual of the opposite sex.~~

Sec. 17-730. Issuance or rejection of application; qualifications.

~~(a) The controller, before issuing any license provided for herein, shall investigate the character of the applicant, and the officers, directors and managers of the business if it is a corporation. No license shall be issued if he shall find:~~

- ~~(1) That any of the persons named in the application or any employee thereof are not persons of good moral character;~~
- ~~(2) That any of said persons have previously been connected with any massage school, massage parlor, massage therapy clinic, bathhouse, escort service, body painting studio or nude modeling studio where the license therefor has heretofore been revoked, or where any of the provisions of the law applicable to massage schools, massage parlors, massage therapy clinics, bathhouses, escort services, body painting studios or nude modeling studios have been violated;~~

- (3) ~~That the premises sought to be so licensed fail to comply in any manner with the ordinances and laws applicable thereto.~~

~~(b) All applicants for licenses to engage in the practice of massage therapy must submit a certificate of affidavit of their respective qualifications as to schooling, training and experience, and where and how obtained.~~

~~Sec. 17-731. Complaints.~~

~~All complaints of alleged violations of the provisions of this article shall be made in writing to the controller. Upon learning of violations of the provisions of this article and/or related ordinances or laws, the controller shall utilize the enforcement remedies provided in section 17-49. After a hearing thereon, if the controller should determine that said license shall be revoked, no refund of license or permit fee shall be due.~~

Sec. 911-8. Enforcement and penalties.

A person who violates any provision of this chapter 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.

~~Secs. 17-732-17-761. Reserved.~~

SECTION 12. Chapter 831 of the "Revised Code of the Consolidated City and County," regarding amusement machines and locations, is hereby amended by the deletion of the language which is stricken-through and by the addition of the language which is underscored, to read as follows:

Chapter 831

AMUSEMENT MACHINE LOCATIONS AND MACHINES

Sec. 831-1. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

Amusement location means any public room or area in the city which contains ~~containing~~ five (5) or more amusement machines.

Amusement machine means a currency-operated machine or device 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.

Parent, guardian or custodian means and includes a person who has legal custody of the child and is the child'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 child;

but shall not include an exhibitor, or owner or operator of an amusement location with respect to a child 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 consists of impelling balls by means of sticks or cues.

~~Master vendor means a person, corporation or entity who sells, leases or rents any amusement machine, whether on his own behalf or for another, within the city.~~

~~Exhibitor means any a person owning or conducting who owns or operates a place of business in the city and operating or exhibiting at such place of business one (1) where four (4) or more fewer amusement machines are located.~~

Sec. 831-2. Registration required; violations.

~~(a) It shall be unlawful for a person to allow any own or operate an amusement machine to be operated in any public place location in the city unless the amusement machine location first is registered with the city controller. The registrant under this chapter shall be the operator or business owner of the amusement location.~~

~~(b) It shall be unlawful for any person, corporation or entity to act as a master vendor without first being registered as a master vendor with the city controller. A master vendor's registration shall not be transferable.~~

~~(c) It shall be unlawful to allow a child under sixteen (16) years of age who is subject to the compulsory school attendance laws of the State of Indiana and who is not accompanied by a 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 child's school is in session.~~

~~(d) It shall be unlawful to allow a person who has not reached the age of eighteen (18) years to be present in an amusement location after the hours established by state statute or city ordinance for juvenile curfew unless accompanied by a parent, guardian, or custodian, or an adult specified by the child's parent, guardian or custodian.~~

~~(e) It shall be unlawful to operate an amusement location unless a sign is conspicuously posted inside the location which provides that no child under sixteen (16) may be present in an amusement location from 7:00 a.m. to 3:30 p.m. on a day when the child's school is in session unless accompanied by a parent, guardian or custodian, and that no child under eighteen (18) may be present in an amusement location in violation of the curfew established by state or local law.~~

~~(f) It shall be unlawful for an exhibitor or his employee to allow a child under sixteen (16) years of age who is subject to the compulsory school attendance laws of the State of Indiana and who is not accompanied by a parent, guardian, or custodian to operate an amusement machine between the hours of 7:00 a.m. and 3:30 p.m. on a day when such child's school is in session.~~

~~(g) It shall be unlawful for an exhibitor or his employee to allow a person who has not reached the age of eighteen (18) years to operate an amusement machine after the hours established by state statute or city ordinance for juvenile curfew unless accompanied by a parent, guardian or custodian, or an adult specified by the child's parent, guardian or custodian.~~

~~(h) It shall be unlawful for an exhibitor to have amusement machines on his premises unless a sign is conspicuously posted near any amusement machines which provides that no child under sixteen (16) years of age may operate an amusement machine from 7:00 a.m. to 3:30 p.m. on a day when the child's school is in session unless accompanied by a parent, guardian, or custodian, and that no child under eighteen (18) who is in violation of the curfew established by state or local law may operate an amusement machine.~~

Sec. 831-3. Registration information required; investigation of applicant; report of changed information.

~~(a) The registration of an amusement machine or a master vendor location shall be filed with the office of the controller on a form provided by that office, contain the following information, and be verified and signed individually under penalties of perjury for false information on the application by the registrant:~~

- ~~(1) The Nname of the registrant and, if a partnership or corporation, the state in which organized;~~
- ~~(2) The Rresidence address of registrant;~~

- (3) ~~The~~ business address of registrant; and,
- (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 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 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 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.

~~(b) The registration of an amusement machine or master vendor shall be made in such form and contain such additional information as the city controller may prescribe. Persons registering as a master vendor shall provide the controller with evidence that all state and local taxes that are owing have been remitted.~~

~~(c) When an amusement machine or master vendor is registered pursuant to this chapter, the controller shall issue a certificate of registration therefor.~~

Sec. 831-4. Registration term and renewal; insignia; condition of machines certificate of registration.

(a) Registrations of amusement ~~machines and master vendors~~ locations shall be valid for the period of one year, from July first to June thirtieth, and shall be renewed automatically by the controller and without application for renewal by the registrant, unless at the time of renewal the registration:

- (1) ~~has~~ is been revoked or suspended; or,
- (2) ~~is~~ is the subject of administrative or judicial proceedings which 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.

~~(b) Each person, upon registering an amusement machine with the controller, shall be given one (1) metal or plastic insignia for each amusement machine so registered, which shall be securely attached thereto, and each amusement machine shall be kept in good operating condition at all times. When an amusement location is registered, the controller 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 ~~city~~ controller 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 administrator of the division of buildings of the~~ Health and Hospital Corporation of Marion County. If the controller 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 shall have the power to suspend the amusement ~~machine~~ location registration ~~for each machine at the location~~ until such unsanitary condition is rectified.

(b) No registrant under this chapter, ~~or his employee,~~ 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 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 ~~of the amusement machines~~ by the controller.

(c) No registrant under this chapter, or ~~his~~ 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 ~~of the amusement machines~~ by the controller.

(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 child 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 child'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 child's school is in session.

(f) It shall be unlawful for a person to allow a child under eighteen (18) years of age to be present in an amusement location after the hours established by state statute or city ordinance for juvenile curfew unless such child is accompanied by the child's parent, guardian or custodian, or an adult specified by the child'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 provides that no child 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 child's school is in session unless accompanied by the child's parent, guardian or custodian, and that no child under eighteen (18) years of age may be present in an amusement location in violation of the curfew established by state statute or city ordinance.

Section 831-6. Operation of amusement machines by exhibitors; violations.

~~(da)~~ No exhibitor or ~~his~~ exhibitor's employee shall permit persons to congregate in a disturbing manner on the premises of ~~his~~ the exhibitor's place of business.

~~(eb)~~ No exhibitor or ~~his~~ exhibitor's employee shall violate any state statute or city ordinance, or allow any other person to commit such violation on the premises of the exhibitor's place of business.

(c) It shall be unlawful for an exhibitor or the exhibitor's employee to allow a child 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 child's parent, guardian or custodian to operate an amusement machine in the exhibitor's place of business between the hours of 7:00 a.m. and 3:30 p.m. on a day when such child's school is in session.

(d) It shall be unlawful for an exhibitor or the exhibitor's employee to allow a child under eighteen (18) years of age to operate an amusement machine in the exhibitor's place of business after the hours established by state statute or city ordinance for juvenile curfew unless such child is accompanied by the child's parent, guardian or custodian, or an adult specified by the child's parent, guardian or custodian.

(e) It shall be unlawful for an exhibitor to have amusement machines in his or her place of business unless a sign is conspicuously posted near any amusement machines which provides that no child under sixteen (16) years of age may operate an amusement machine between the hours of 7:00 a.m. and 3:30 p.m. on a day when the child's school is in session unless accompanied by the child's parent, guardian or custodian, and that no child under eighteen (18) years of age who is in violation of the curfew established by state statute or city ordinance may operate an amusement machine.

Sec. 831-6. Investigation; rejection and notification.

~~(a) The controller, before issuing a certificate of registration, shall investigate the character of the registrant or registrants, and the officers or general manager of the business. Each registrant shall have an owner, manager or resident agent who shall be a resident of Marion County, Indiana. The registration may be denied if the controller shall find that any of the persons named in the registration have previously 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, or if the amusement location or billiard or pool room does not comply in every way with the ordinances and laws applicable thereto.~~

~~(b) All employees of a registrant under this chapter shall be eighteen (18) years of age or older. If a registration is denied, the registrant shall be notified in writing of the reasons for rejection.~~

Sec. 831-7. Inspections; report of violations.

It shall be the duty of every law enforcement officer, and all persons designated by the chief of police, county sheriff and ~~city~~ controller, 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 police or county sheriff for proper action and also to the ~~city~~ controller, who thereupon may recommend proceedings to revoke the registration.

Sec. 831-8. Enforcement and Penalties.

~~Any A person who violates a any provision of this chapter shall be punishable as provided in Section 103-3 of the Code; provided, however, the by a fine imposed for such violation shall of not be less than two hundred dollars (\$200.00), and each day that an offense continues shall constitute a separate violation. The fines assessed for violation of this chapter shall be deposited with the law enforcement agency that caused the violation to be filed, if any.~~

SECTION 13. Chapter 955 of the "Revised Code of the Consolidated City and County" is hereby amended by the deletion of the language which is stricken-through and by the addition of the language which is underscored, to read as follows:

Chapter 955

SCAVENGER TRUCKS WASTE, RUBBISH AND TRASH HAULING

Sec. 955-1. Activities exempted from this chapter.

~~This chapter shall not apply to persons hauling waste, rubbish, trash or other discarded materials from their own property unless such hauling is by rear loader, front loader, roll-off, roll-off compactor, or transfer type commercial vehicles.~~

Sec. 955-21. Registration required; exception.

(a) It shall be unlawful for any a person to haul waste, rubbish, trash or other discarded material in the city without first being registered therefor with the controller.

(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. 955-32. Registration information required.

~~A registration required by this chapter shall be made on a form provided by the controller and shall be subject to the approval of the director of the city department of public works, or his 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 identification information as may be required by the controller. ~~The registrant shall submit with the form an inspection fee for the benefit of the department of public works to defray the cost of inspecting the vehicles pursuant to section 955-6 of this Code. The amount of the inspection fee shall be established by regulation of the board of public works.~~~~

Sec. 955-3. Inspection of vehicles prior to registration.

Vehicles to be used by a registrant to haul waste, rubbish, trash or other discarded materials shall be subject to inspection, if required, by the director of the city department of public works, or the director's designated representative, before a certificate of registration may be issued under this chapter.

Sec. 955-4. Liability insurance.

Before a certificate of registration may be issued under this chapter, the registrant shall file with the controller 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. 955-45. Certificate of registration.

Upon the submission of the registration form 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 his the director's designated representative, and the payment of the inspection fee, the controller shall issue a certificate of registration to the registrant.

Sec. 955-56. 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 and without application for renewal by the registrant, unless at the time of renewal the registration:

- (1) hHas been revoked or suspended; or,
- (2) iIs the subject of administrative or judicial proceedings which 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. 955-6. Inspection of vehicles prior to registration.

Vehicles subject to this chapter shall be subject to inspection, if required, by the director of the department of public works, or his designated representative, prior to the issuance of a certificate of registration.

Sec. 955-7. Liability insurance.

Before a certificate of registration may be issued pursuant to this chapter, the registrant shall file certification of liability insurance in the minimum amount of 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 for vehicles under two ton capacity; and liability insurance in the minimum amount of 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 for vehicles with a two ton capacity.

Sec. 955-87. Display of name and number on vehicle.

Any person issued a certificate of registration A registrant under this chapter shall boldly display on the back and sides driver's side door of each registered vehicle used to haul waste, rubbish, trash or other discarded materials the name of the registrant and an identification number issued by the city department of public works in letters not less than four (4) inches in height.

Sec. 955-98. Rules and regulations.

The city board of public works may promulgate rules and regulations ~~supplementing to supplement~~ the provisions of this chapter, ~~pursuant to~~ under the procedures in ~~Section 261-25 of this the Code.~~ A violation of such duly promulgated rules and regulations shall constitute a violation of ~~this the Code.~~

Sec. 955-109. Enforcement and Penalties.

~~Any A~~ person who violates a any provision of this chapter shall be punishable as provided in Section 103-3 of the Code; provided, however, the by a fine imposed for such violation shall of not be less than two hundred dollars (\$200.00), and each day that an offense continues shall constitute a separate violation.

SECTION 14. The term of each scavenger truck registration or registration to haul waste, rubbish or other discarded material, issued by the controller under Chapter 955 of the "Revised Code of the Consolidated City and County," and in full force and effect on the effective date of this ordinance, shall not expire on December 31, 1997 as stated on the certificate of registration, but shall be extended for a period of six (6) months, to and including June 30, 1998. During the six-month period, each such registration shall continue to be subject to suspension or revocation as provided in Title IV of the Code; and unless the registration is renewed automatically, it shall expire on June 30, 1998.

SECTION 15. Chapter 931 of the "Revised Code of the Consolidated City and County," regarding commercial parking facilities, is hereby amended by the deletion of the language which is stricken-through and by the addition of the language which is underscored, to read as follows:

Chapter 931

COMMERCIAL PARKING FACILITIES

ARTICLE I. GENERAL PROVISIONS

Sec. 931-1101. 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 ~~any~~ a lot or building which is used on a regular basis to provide space for the parking of more than five (5) motor vehicles. Any combination of one or more lots or buildings which 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 is provided solely for one or more of the following uses:

- (1) By an employer for use of the employer's employees use;
- (2) By a landlord for use of the landlord's tenants; use; or,
- (3) By a merchant or professional, selling goods or services, for use of the merchant or professional's exclusive customers use; 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 permits means the division of the city department of metropolitan development which is responsible for the enforcement of land use requirements and the promotion of responsible development through inspections and the issuance of permits.

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.

Vehicle capacity means the number of motor vehicles which can be parked in a commercial parking facility as is determined by the following formula:

$$\frac{\text{number of square feet of area available for use by motor vehicles as aisles and parking places in the commercial parking facility}}{350} = \text{vehicle capacity.}$$

Any fractional remainder shall be disregarded under this formula.

Sec. 931-2. Claim checks to be issued for attendant parking.

Where attendant parking is accomplished with regard to a motor vehicle, a registrant under this chapter shall furnish the owner or operator of such motor vehicle a distinctive claim check which shall have printed thereon the full name and address of the commercial parking facility and a number corresponding to a coupon placed upon the vehicle. The registrant shall not deliver any such motor vehicle without the proper claim check being presented or without satisfactory proof of ownership of the motor vehicle. This section shall not apply to owners whose motor vehicles are parked on a weekly or monthly fee basis.

Sec. 931-3102. Maintenance.

(a) Any A registrant under this chapter shall keep the surrounding sidewalks and driveways leading into a commercial parking facility reasonably free from dirt, water, ice, sleet and snow and in a safe condition for the travel of pedestrians.

(b) Any A registrant under this chapter shall keep the commercial parking facility reasonably free of weeds, dirt, trash and debris.

Sec. 931-4103. Prohibited uses on premises.

(a) Any It shall be unlawful for a registrant under this chapter shall not to permit the dismantling or wrecking of any motor vehicle, or the storage of any junk motor vehicle, at the commercial parking facility.

(b) Any registrant under this chapter shall not permit the placing of literature or handbills in or upon a motor vehicle parked in the commercial parking facility.

Sec. 931-5. Unauthorized use or removal of motor vehicle.

It shall be unlawful for any registrant under this chapter to make or permit any private use to be made of, or move or cause to be moved through or upon the streets or alleys in the city, any motor vehicle parked in a commercial parking facility, unless the use has first been authorized by the owner or operator of the motor vehicle; however, a registrant may move a motor vehicle parked in a commercial parking facility at the end of the regular business day if the following information is conspicuously posted at the commercial parking facility:

- (1) ~~A statement indicating that it is the practice of the registrant to move motor vehicles from the commercial parking facility to another location;~~
- (2) ~~The time of day when such removal of motor vehicles occurs; and,~~
- (3) ~~The location to which such motor vehicles are moved.~~

Sec. 931-~~6104~~. Notification of claims for damage or loss.

Every registrant under this chapter shall notify, within five (5) days, the city police department of every claim the asserted value of which is one five hundred dollars (\$100.00) (\$500.00) or more, by reason of the loss, theft or conversion of any motor vehicle, or personal property contained therein, while such vehicle was parked at the commercial parking facility.

Sec. 931-~~7105~~. Notification to police of unclaimed vehicles.

Every registrant under this chapter shall immediately give written notice to the city police department of the license number, make, and name of the owner, if known to ~~him~~ the registrant, of every motor vehicle which is left unclaimed in the commercial parking facility for a period of ~~thirty~~ (30) forty-five (45) consecutive days.

Sec. ~~931-8~~. Duty to permit inspection.

~~Every registrant under this chapter shall permit inspections of the commercial parking facility by the division of neighborhood services at any reasonable time.~~

ARTICLE II. REGISTRATIONS

Sec. 931-~~24201~~. Registration required.

It shall be unlawful for any a person to operate a commercial parking facility ~~within~~ in the city without first being registered therefor with the controller.

Sec. 931-~~22202~~. Registration information required; plot plan.

(a) A registration required by this article shall be made to the city controller ~~only~~ upon ~~written~~ a registration form approved first by the division of ~~neighborhood services~~ permits. The form shall include the following information and any other ~~pertinent~~ information which the division of ~~neighborhood services~~ permits shall require:

- (1) The name and address of: ~~a. All persons which who~~ who have a fee or leasehold interest in the real estate property on which the commercial parking facility is to be located; ~~and,~~
- (2) ~~b. The name and address of the person who proposes to operate the commercial parking facility; in the case of if the registrant is a firm, the name and address of each partner shall be given, and in the case of if the registrant is a corporation, the name and address of the resident agent and president shall be given;~~
- (23) 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 was constructed or placed in operation after July 1, 1971.

(3) A plot plan showing:

- a. The dimensions of the tract of real estate on which the commercial parking facility is to be located;
- b. The exterior dimensions of the building and the number of floors used for storage and parking of motor vehicles, if storage and parking of motor vehicles is within a building;
- c. The size and location of each parking space and aisles on any commercial parking facility lot; provided, however, in the case of any commercial parking facility building exclusively with attendant parking, information about the size and location of parking spaces shall not be required;
- d. The size and location of each parking space and aisles in any commercial parking facility building; provided, however, separate drawings are not required in the case of floors which have parking spaces substantially identical in size and location; provided, however, in the case of any commercial parking facility building exclusively with attendant parking, information about the size and location of parking spaces shall not be required;
- e. The location and size of entrances and exits;
- f. The location and size of the motor vehicle reservoir area;
- g. The location, message and size of outdoor signs;
- h. The location of barriers;
- i. The location and nature of the drainage system for any commercial parking facility lot constructed or placed in operation after July 1, 1971; and,
- j. The size, location and description of all yard areas and architectural screens for any commercial parking facility lot constructed or placed in operation after July 1, 1971.

The plot plan need not be submitted with the registration form if a plot plan accurately reflecting this information is on file in the division of neighborhood services and is identified in the form.

- (4) The number of square feet of area available for use by motor vehicles as aisles and parking spaces in the commercial parking facility.
- (5) A description of the nature of the ground surface or in the case where parking of motor vehicles is within a building, the nature of the floor surface of the commercial parking facility.
- (6) A description of the barriers, wheel guards or bumper guards used in the commercial parking facility.

(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 accurately reflects the information required by this subsection is on file in the division of permits, and is identified in the form.

Sec. 931-~~23~~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 city controller 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, ~~in the sum of twenty five thousand dollars (\$25,000.00), approved as to form by the corporation counsel.~~ 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 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 ~~any~~ 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 ~~s~~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 such bond or policy of insurance may be furnished to cover two (2) or more commercial parking facilities, if it is in the amount ~~of at least twenty five thousand dollars (\$25,000.00)~~ 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 under this section shall be accompanied by good and sufficient sureties approved by the controller.

Sec. 931-24204. Investigation by division of ~~neighborhood services permits.~~

Prior to the approval or renewal of a registration under this article, the division of ~~neighborhood services permits~~ shall ~~determine if investigate whether~~ the commercial parking facility ~~complies is in compliance~~ with all of the provisions of this chapter, ~~other applicable provisions of this Code and other city ordinances, applicable provisions of zoning ordinances and restrictions and applicable provisions of state statutes and regulations.~~ If all such provisions are met and proper application has been made, ~~the division of neighborhood services shall so indicate, without undue delay, by preparing and delivering a certificate thereof, and report its findings~~ to the controller.

Sec. 931-25205. 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 shall issue a certificate of registration ~~required by this article to the registrant, upon delivery of the certificate from the division of neighborhood services pursuant to this division, if he finds that:~~

- (1) ~~If the registrant is a person or partnership, the person or each of the partners have not, within the past three (3) years, had any license issued by the city to operate a business revoked because of his conduct of the business or because of his violation of any law or regulation while conducting such business;~~
- (2) ~~If the registrant is a corporation, it must be organized and controlled by the laws of the state or be authorized and qualified by its laws to engage in business in the state; and,~~
- (3) ~~The registrant has posted and maintained with the controller either an indemnity bond or a policy of liability insurance as required by this article.~~

Sec. 931-26. Contents of registration certificate.

All certificates of registration issued pursuant to this article shall include the name of the registrant and any other name under which the commercial parking facility is to be operated, the address of the commercial parking facility, and the date of the issuance and expiration of the registration.

Sec. 931-27206. Registration term; renewals.

(a) All registrations ~~pursuant to~~ issued under this article shall be valid for a period of one (1) year.

~~(b) Upon certification by the division of neighborhood services that the registrant~~ Prior to the time a registration under this chapter is renewed, the division of permits shall inspect the commercial parking facility. If it is determined by the division of permits that the commercial parking facility is in compliance with the provisions of this chapter, the controller shall renew the registration automatically and without application for renewal by the registrant, unless at the time of renewal the registration:

- (1) ~~h~~Has been revoked or suspended; or,
- (2) ~~i~~s the subject of administrative or judicial proceedings which 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. 931-~~28~~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 ~~neighborhood services~~ permits.

Sec. 931-~~29~~29. Display.

~~A registrant under this article shall display his certificate of registration at a conspicuous place at the commercial parking facility.~~

Sec. 931-~~30~~30. Duplicate certificate.

~~The controller shall provide a duplicate certificate of registration for any commercial parking facility, if the original certificate has been lost, stolen, destroyed or defaced.~~

Sec. 931-~~31~~208. Transferability as to premises or persons.

(a) ~~Any~~ A registration ~~pursuant to~~ 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 ~~pursuant to~~ under this article may not be transferred by the registrant or the controller to any other person.

Sec. 931-~~32~~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 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.

~~(ab)~~ All provisions of this chapter are applicable in full to temporary commercial parking facilities unless modified or exempted by this section.

~~(bc)~~ The registration of a temporary commercial parking facility shall be made with the controller, shall meet the applicable requirements of this article for registration forms, and shall be submitted to the controller at least ~~thirty (30)~~ 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.

~~(ed)~~ The following additional exemptions or modifications of this chapter shall be effective with respect to temporary commercial parking facilities:

- (1) ~~The motor vehicle reservoir required by this chapter shall be required, except that~~ Conspicuous outlining of motor vehicle reservoir areas with pavement paint shall not be ~~applicable required;~~
 - (2) The provisions of this chapter ~~relating~~ which relate to drainage and surfacing shall not apply;
 - (3) ~~The provisions of this chapter relating to surfacing shall not apply;~~
 - (4) The provisions of this chapter ~~relating~~ which relate to wheel guards shall ~~be invoked~~ apply at the discretion of the division of ~~neighborhood services permits;~~ and,
 - (5) The provisions of this chapter ~~relating~~ which relate to signs ~~required shall be~~ are modified to permit temporary signs, and ~~furthermore~~ the "first hour" rate shall be ~~required to be~~ posted on the sign unless hourly rates are charged.
- (d) ~~Temporary registrations for some specific time or purpose shall be dated on or as of the date of issuance of the certificate of registration.~~

Sec. 931-~~332~~10. Revocation.

(a) The controller shall revoke any commercial parking facility registration issued ~~pursuant to~~ under this article, upon delivery by the division of ~~neighborhood services permits~~ 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 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; ~~or~~
- (3) ~~Has knowingly violated or knowingly permitted or countenanced the violation of any provisions of this chapter or of any other provision of this Code or other municipal ordinance applicable to commercial parking facilities; or~~
- (4) ~~Has knowingly violated or knowingly permitted or countenanced the violation of any provisions of a zoning ordinance or variance condition applicable to the real estate on which the commercial parking facility is located; or~~
- (5) ~~Has knowingly violated or knowingly permitted or countenanced the violation of any provision of any state statute or regulation applicable to a commercial parking facility; or~~
- (6) ~~Has knowingly violated or knowingly permitted or countenanced the violation of any provision of any penal law or ordinance regarding theft, larceny or conversion of a motor vehicle or any personal property stored therein, or the operation of a motor vehicle without the owner's consent.~~

(b) The controller may revoke any commercial parking facility registration if, upon investigation and after a hearing, ~~he~~ the controller finds the registrant has failed, after having been notified in writing and given a period of ~~twenty (20)~~ ten (10) days to do so, to properly maintain a bond or insurance policy as required by this article.

(c) ~~The certificate for a registration revoked pursuant to this section shall be promptly surrendered to the controller.~~

ARTICLE III. PREMISES REQUIREMENTS

Sec. 931-~~513~~01. Parking spaces and aisles when attendant parking does not occur.

Where attendant parking is not accomplished with regard to a motor vehicle, the part of the commercial parking facility used for the parking of vehicles shall have conspicuously marked parking spaces which shall open directly upon an aisle of such width and design as to provide safe and efficient means of vehicular access to such parking space. Motor vehicles shall not be parked in such aisles.

Sec. 931-~~52302~~. 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 meets the approval of the division of ~~neighborhood services~~ permits. 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 ~~neighborhood services~~ permits 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 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 ~~neighborhood services~~ permits, upon written request by the registrant, shall have the power to modify or waive this subsection where it is deemed by the division of ~~neighborhood services~~ permits to be unnecessary and unreasonably burdensome.

Sec. 931-~~53303~~. 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, 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. ~~The motor vehicle reservoir area shall contain, in the case of In commercial parking facilities with a vehicle capacity of six (6) through fifty (50) motor vehicles, 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 (9) foot by twenty (20) foot spaces. and in the case of In all other commercial parking facilities, the motor vehicle reservoir area shall consist of four (4), nine (9) foot by twenty (20) 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 ~~neighborhood services~~ permits may, in writing, allow the use of a commercial parking facility which has a motor vehicle reservoir area which does not conform to the requirements of this subsection.

Sec. 931-~~54304~~. Lighting.

Lighting devices used to illuminate a commercial parking facility shall be so located, shielded and directed that they do not glare onto or interfere with street traffic or adjacent property uses.

Sec. 931-~~55305~~. Rate signs required.

(a) At each commercial parking facility at which a fee is charged other than by parking meters, a permanent sign shall be maintained at a place which is visible from each entrance. Such sign shall show ~~the following, at a minimum, information:~~

(1) ~~The~~ "all day" rate; and

(2) ~~The~~ "first hour" rate.

(b) ~~The in~~ figures and lettering showing the "all day" rate and the "first hour" rate as required by subsection (a) shall be of equal size and not less than four (4) inches in height.

(eb) All signs required by this section shall comply with all applicable zoning ordinances and restrictions, ~~in addition to the requirements of this section.~~

Sec. 931-56. Drainage.

~~Any commercial parking facility constructed or placed in operation after July 1, 1971, shall be constructed with a drainage system adequate to prevent the free flow of water onto properties adjacent to the commercial parking facility or surrounding sidewalks or streets from the real estate on which the commercial parking facility is located.~~

Sec. 931-57306. 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 ~~following~~ landscape requirements of this section. Any commercial parking facility that ~~has been~~ was constructed ~~before~~ or is 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, ~~or~~ 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, ~~or~~ parole covenant or commitment shall be controlling.

(ab) Yard requirements include the following:

- (1) Ten (10) ~~per cent~~ 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. ~~The division of neighborhood services, upon request by the registrant and upon receiving a suitable alternative plan which meets the general objectives of this subsection, shall have the power to modify or waive, in writing, any landscape requirements which are deemed by the division to be unfeasible or unreasonably burdensome.~~
- (2) Part of the yard area requirement shall be met by providing and maintaining a yard (buffer yard) 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 is less than thirty (30) feet in width and located within the ~~square formed~~ geographic area bounded by nNorth, eEast, sSouth and wWest sStreets.
- (3) An architectural screen may be permitted in lieu of the buffer yard, upon approval of the division of ~~neighborhood services~~ permits 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.

(bc) 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 buffer yard, one of the required trees shall be planted and maintained in the buffer yard for each fifty (50) linear feet of buffer yard.

(d) The division of ~~neighborhood services~~ permits, upon request by the registrant and upon receiving a suitable alternative plan which meets the general objectives of this ~~subsection~~ section, shall have the power to modify or waive, in writing, any landscape requirements which are deemed by the division of permits to be unfeasible or unreasonably burdensome.

Sec. 931-58. Attendant booth.

- (a) ~~Attendant booths located at commercial parking facilities shall comply with the following:~~
- (+) ~~All requirements stated in chapter 12 of the Code;~~

~~(2) All building regulations of the Code; and,~~

~~(3) All applicable zoning requirements.~~

~~(b) Before constructing any new or altering any existing attendant booth at a commercial parking facility, complete plans for the proposed work shall be filed and approved as required by chapter 536 of this Code.~~

SECTION 16. Article VII of Chapter 961 of the "Revised Code of the Consolidated City and County," regarding sidewalk cafes, is hereby amended by the deletion of the language which is stricken-through and by the addition of the language which is underscored, to read as follows:

ARTICLE VII. CAFE ACTIVITY IN SIDEWALK SALES AREAS

Sec. 961-701. Purpose; Ddefinitions.

(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.

~~Beverage means any liquid, hot or cold, intended for use in whole or in part for human consumption.~~

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.

~~Food means any raw, cooked or processed edible substance intended for use in whole or in part for human consumption.~~

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 has been registered with the controller for cafe activity.

Sec. 961-702. Registration required.

(a) It shall be unlawful for ~~any a~~ person to engage in cafe activity on a sidewalk in the public right-of-way without first being registered therefor with the controller as provided in accordance with 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) ~~o~~On a temporary basis if written permission is granted by the appropriate governmental units and such writing is filed with and approved by the ~~city~~ controller.

(b) A ~~registration~~ registrant under this article shall ~~obviate the requirement~~ not be required to do the following:

- (1) ~~To obtain a transient merchant's registration, activity license;~~
- (2) ~~To comply with the requirements of Chapter 28, Article IV, Division 4 of this Code, to the extent that they are inconsistent with the carrying out of cafe activity, and; or,~~
- (3) ~~To obtain an encroachment license for an awning or canopy which does not extend beyond the sidewalk sales area and which is used in connection with cafe activity.~~

~~(e) It is the objective of this article to benefit the residents of the City of Indianapolis 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 the members of the public, without creating a health or safety hazard or inconveniencing pedestrians.~~

Sec. 961-703. Requirements for registration.

(a) The ~~city~~ controller is authorized to approve a registration of a person to use a sidewalk sales area situated immediately next to the abutting retail business property owned or leased by the person, for the sole purpose of engaging in cafe activity. The sidewalk sales area which the person utilizes for cafe activity shall be located in the ~~consolidated~~ city. Such a registration shall not be approved for sidewalk sales areas within the geographic area bounded by Court Street on the south, Pierson Street on the west, Wabash Street on the north, and Scioto Street on the east. A person ~~desiring who desires~~ to register to use a sidewalk sales area for cafe activity shall complete a registration form ~~of provided by~~ the ~~city~~ controller, and file the form with the controller.

(b) ~~Except as provided in subsection (c), the city~~ The controller shall approve the registration and issue a certificate of registration to each registrant qualified under Section 801-202 of the Code and the provisions of this chapter, if the following requirements listed in this subsection are met:

- (1) The public sidewalk area immediately next to the abutting retail business property of the registrant is shall be of the following width (measured from the curb edge to the property line):
 - a. At least fourteen (14) feet if the sidewalk is located within the geographic area bounded by the center lines of North Street, East Street, South Street and West Street; or,
 - b. At least twelve (12) feet if the sidewalk is located outside the geographic area described above in Section (1)a. of this subsection.
- (2) The sidewalk sales area shall meet these requirements:
 - a. The sidewalk sales area must be located next to abutting retail business property;
 - b. ~~The width (measured perpendicularly to the property line) of the sidewalk sales area must not exceed:~~
 - (i) ~~Six (6) feet (irrespective of what is stated under (iii), (iv), (v) and (vi), below) for sidewalks on the east and west sides of Meridian Street, between Maryland Street and Court Street and between Wabash Street and New York Street; the north and south sides of Market Street between Delaware Street and Scioto Street, and between Pierson Street and Capitol Avenue; the north and south sides of Washington Street between Illinois Street and Pennsylvania Street; the east and west sides of Illinois Street between Washington Street and Ohio Street; the north and south sides of Ohio Street between Illinois Street and Pennsylvania Street; and the east and west sides of Pennsylvania Street between Washington Street and Ohio Street;~~
 - (ii) ~~Six (6) feet where the public sidewalk area immediately next to the abutting retail business property of the applicant is at least twelve (12) feet but less than fourteen (14) feet in width;~~
 - (iii) ~~Eight (8) feet where the public sidewalk area immediately next to the abutting retail business property of the applicant is at least fourteen (14) feet but less than sixteen (16) feet in width;~~

- ~~(iv) Nine (9) feet where the public sidewalk area immediately next to the abutting retail business is at least sixteen (16) feet but less than twenty (20) feet in width;~~
- ~~(v) One half (2) of the sidewalk width where the public sidewalk area immediately next to the abutting retail business property of the applicant is more than twenty (20) feet but less than twenty six (26) feet in width; or~~
- ~~(vi) two thirds (2/3) of the sidewalk width where the public sidewalk area immediately next to the abutting retail business property of the applicant is more than twenty six (26) feet in width, and~~

b. The dimensions of the sidewalk sales area to be used for cafe activity shall be approved by the director of the city department of capital asset management under the following process:

- (i) The city department of capital asset management shall conduct a pedestrian traffic count on a representative day or days in the spring, summer or fall for the public sidewalk area situated immediately next to the abutting retail business property owned or leased by the applicant;
- (ii) The city department of capital asset management 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,
- (iii) The director of the city department of capital asset management 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 twelve (12) feet of the point at which the right-of-way lines of two (2) or more streets intersect, fifteen (15) feet of any bus loading zone ~~or trolley loading zone~~, ten (10) feet of any sidewalk elevator, six (6) feet of any building standpipe, building hydrant or sidewalk grate, or five (5) feet of any taxi stand area, cross-walk, driveway, or alleyway.

(3) The applicant ~~is~~ 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 proposed cafe activity is allowed by the applicable zoning regulations.~~

~~(5) The director of the city department of capital asset management has approved the dimensions of the area which may be used as a sidewalk sales area for cafe activity and during what shall have determined on which days and during what hours the sidewalk sales area may be so used for cafe activity. This determination shall be made by the following process:~~

- ~~a. The department of capital asset management shall conduct a pedestrian traffic count on a representative day or days in the spring, summer or fall for the public sidewalk area situated immediately next to the abutting retail business property owned or leased by the applicant.~~
- ~~b. The department of capital asset management shall calculate the effective walkway width of the sidewalk after removing from consideration the sidewalk sales area proposed to be used by the registrant.~~
- ~~e. The director of the department of capital asset management 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. If it will, the director shall determine during what days of the week and what hours of the day the pedestrian flow will be safely and comfortably accommodated. However, in no event shall the director allow use of a sidewalk sales area for cafe activity that would result in the effective walkway width being reduced to less than five (5) feet.~~

- (65) Applicable permits required by the ~~h~~Health and ~~h~~Hospital ~~e~~Corporation of Marion County and other regulatory agencies shall have been secured and are in force.
- (76) The ~~registrant has~~ applicant shall have provided a certificate of public liability insurance to the controller, 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.
- (87) The ~~registrant has~~ applicant shall have provided a document, approved as to form by the corporation counsel, in which ~~he~~ 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.
- (98) A detailed scale drawing or site plan showing, which shows the use appearance and location of all furniture, fixtures, and equipment (including, but not limited to, tables, barriers, chairs, signs, awnings, trash receptacles and umbrellas) in the cafe area, the color and design of such furniture and equipment and the movement of people in the cafe area shall have been approved by the city department of metropolitan development for consistency with the requirements of this section, section 961-704 and the objectives of this article.
- (10) ~~General licensure requirements set forth in Chapter 17 of this Code have been met.~~

Sec. 961-704. Restrictions on cafe activity.

(a) Use of the cafe area for cafe activity ~~pursuant to~~ under this article shall be subject to the following conditions:

- (1) The registrant (~~including agents and employees of the registrant~~) shall be required to obey the commands of law enforcement officers, firemen 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) ~~All furniture, equipment and goods shall be taken from the sidewalk sales area w~~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 are susceptible to movement by the elements or by unauthorized persons;
- (3) All furniture, equipment and goods must be susceptible of being removed from the sidewalk sales area within a reasonable period of time at any time with the manpower normally available to the ~~licensee~~, 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;
- (7) ~~A device may not be used which would amplify or direct sound. Attention may not be drawn to such retail sales by a light producing device.~~
- (8) ~~All signs must comply with applicable zoning restrictions and the detailed site plan approved by the department of metropolitan development.~~

- (97) Sales of beverages or food may not be made to ~~any a~~ person in or on any motorized vehicle;
- (108) 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;
- (11) ~~Beverages, dispensed in disposable cans, shall have any separable opening tabs removed at the time the cans are sold.~~
- (129) The controller 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 ~~a~~Article V of this chapter, or require that the registrant meet the additional requirements imposed on all vendors by the special event sponsor; and.
- (1310) The requirements set forth in ~~s~~Section 961-703 of this article continue to be met and the cafe activity is carried out in accordance with the ~~detailed~~ site plan.
 - (b) ~~Use of the cafe area for cafe activity shall comply with all laws and regulations including those pertaining to health, zoning and use of the right-of-way. The fact that a registration has been approved shall not prevent enforcement of such laws or regulations even if the enforcement action has the effect of restricting or preventing the use of the registration.~~

Sec. 961-705. Certain modifications or variances permitted.

The city metropolitan development commission may, with the prior approval of the director of the city department of capital asset management, modify or vary any of the requirements of ~~s~~Section 961-703(b)(1), (2), and (3) and ~~s~~Section 961-704(a)(2) and (3) of this article on a showing that the requirement imposes a special hardship on the registrant and the modification or variance of the requirement will not interfere with the achievement of the objective purpose of the article as set forth in ~~s~~Section 961-702(e) 961-701 of this article.

Sec. 961-706. Registration term; transferability; revocation.

(a) A registration, ~~unless issued for a lesser determinate period, under this article~~ shall be valid for a period of one (1) year from the date of issuance, unless a shorter period of time is indicated on the certificate of registration.

(b) A registration under this article may neither be transferred to another person nor used by the registrant for another location.

(c) ~~The approval of a registration shall be at the sufferance of the city and shall not vest any rights in the registrant to continue the use of a sidewalk sales area. Notwithstanding any other provision of the code, the registration to use the sidewalk sales area may be revoked at any time by the controller, when it is in the best interest of the city to do so, by giving a written notice at least five (5) days before the date when such registration is revoked. The registration to use the sidewalk sales area shall be revoked by the controller if the registrant does not comply with requirements of this article, or laws or regulations pertaining to health, licensure, use of right of way or zoning in the cafe area. The city controller may cause the cafe activity conducted in the sidewalk sales area to be immediately terminated if the insurance required by section 961-703 is not maintained in full force and effect during the term of the registration.~~

Sec. 961-707. Renewal of registration.

(a) ~~Before~~ Prior to the time a registration under this article is renewed;

(1) ~~¶The city department of capital asset management shall have an opportunity again to conduct a pedestrian count, calculate the effective walkway width, and determine whether this width is sufficient to safely and comfortably accommodate~~ may review the pedestrian traffic flow in light of any changed conditions. If the director determines that a renewal of a registration would not allow this pedestrian flow standard to be met, the director shall, and if appropriate, modify the dimensions of the area which may be used as a sidewalk sales area for cafe activity or shall modify the days and hours the area may be so used, or shall modify both. This process shall be completed prior to the time of renewal;

(2) ~~(b) Before a registration is renewed, the city department of metropolitan development shall have the opportunity again to review the detailed site plan in light of to assure that any changed conditions. If it is determined that a change in the detailed site plan is clearly needed to meet comply with the objectives of this article, then the registration shall not be renewed unless such site plan requirements are met. This review must be accomplished prior to the time of renewal; and.~~

(3) The controller may review the operation of the sidewalk cafe to determine if its continued operation is in the best interests of the city.

(eb) If, after the reviews provided in sSubsections (a) ~~and (b) herein, of this section~~ it is determined that there are no changed conditions which would not allow pedestrian traffic flow standards to be met, ~~and 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 automatically by the controller and without application for renewal by the registrant, unless at the time of renewal the registration:

(1) ~~has~~ is be revoked or suspended; or,

(2) ~~is~~ is the subject of administrative or judicial proceedings which 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 ~~neighborhood services permits of the city department of metropolitan development,~~ the office of the city controller, or by any law enforcement agency. The division of ~~development services permits~~ shall be responsible for making periodic inspections of cafe activity carried out in sidewalk sales areas.

SECTION 17. Title IV of the "Revised Code of the Consolidated City and County" is hereby amended by the addition of a new Chapter 987 regarding transient merchant activity and garage sales, to read as follows:

Chapter 987

TRANSIENT MERCHANT ACTIVITY AND GARAGE SALES

ARTICLE I. TRANSIENT MERCHANT ACTIVITY

Sec. 987-101. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them in this section.

Outdoor sales location means and includes any area outside a permanent building or structure, and which is located either:

(1) In the public right-of-way; or,

(2) Upon property not owned or leased for a term of one (1) year or more by the person engaged in the sale of goods, where the sale of goods occurs immediately adjacent to, or is visible from, the public right-of-way.

Sale of goods means and includes the display, offer, or sale of merchandise of any kind by a person who occupies or uses any fixed location of unimproved real property, temporary or mobile building or structure, vehicle, cart, stand or table for the purpose of displaying, offering, or selling such merchandise; however, a sale from a vending machine shall not be considered a *sale of goods*.

Transient merchant activity means the sale of goods from an outdoor sales location.

Sec. 987-102. License required; 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.

(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 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 meets the requirements of Division 5 of Article VI of Chapter 29 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 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 originate primarily on the property where the auction occurs, and which 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 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. 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 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 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, 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.

Sec. 987-105. Transfer prohibited.

A license issued under this article may not be transferred by the licensee or the controller 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 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 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, 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 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.

ARTICLE II. GARAGE SALES

Sec. 987-201. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them in this section.

Advertised means and includes any visible evidence that property is being sold.

Garage sale means and includes an advertised sale of used, tangible personal property in the city, at a location which is zoned as a dwelling district or planned unit development district under Chapter 731 of the Code, or otherwise is used primarily as a residence.

Sec. 987-202. Limitation on number and duration of garage sales.

(a) It shall be unlawful for a person to hold or allow to be held more than two (2) garage sales at the same location during the same calendar year.

(b) It shall be unlawful for a person to hold or allow to be held a garage sale with a duration of more than three (3) consecutive days.

Sec. 987-203. Restrictions on garage sales.

(a) It shall be unlawful for a person to offer for sale, or to sell, at a garage sale any used, tangible personal property which previously was purchased for the purpose of resale.

(b) It shall be unlawful for a person to hold a garage sale:

(1) Within the travel portion of any street or alley, or upon any median thereof, while such street or alley is open to vehicular traffic; or,

(2) Upon any public sidewalk or right-of-way in such a manner as to impede the flow of pedestrian traffic.

Sec. 987-204. Removal of advertising required.

It shall be unlawful for a person who holds a garage sale, or allows a garage sale to be held, to leave any advertising of such sale standing or posted in or upon a public right-of-way.

Sec. 987-205. Penalties for violations.

A person who violates any provision of this article shall be punishable as provided in Section 103-3 of the Code; provided, however, the fines imposed for such violations shall be as follows:

(1) For the first violation, not less than fifty dollars (\$50.00);

(2) For the second violation, not less than seventy-five Dollars (\$75.00); and,

(3) For the third and all subsequent violations, not less than two hundred dollars (\$200.00).

SECTION 18. Chapter 986 of the "Revised Code of the Consolidated City and County," regarding transient merchant registrations, is hereby REPEALED.

SECTION 19. The title of Article II of Chapter 951 of the "Revised Code of the Consolidated City and County" is hereby amended by the deletion of the language which is stricken-through, to read as follows:

ARTICLE II. DEALERS IN SECONDHAND GOODS; ~~GARAGE SALES~~

SECTION 20. Section 951-206 of the "Revised Code of the Consolidated City and County," regarding garage, patio and residence sales, is hereby REPEALED.

SECTION 21. Section 103-52 of the "Revised Code of the Consolidated City and County" is hereby amended by the deletion of the language which is stricken-through and by the addition of the language which is underscored, to read as follows:

Sec. 103-52. Schedule of Code provisions and penalties.

The following Code (or ordinance) provisions of the Code and their respective civil penalties are designated for enforcement through the ordinance violations bureau:

<i>Code Section</i>	<i>Subject Matter</i>	<i>Civil Penalty</i>
4-71	Open burning	50.00
6-4	Animal at large - 1st offense in calendar year	50.00
6-71	Unlicensed dog - 1st offense in calendar year	50.00
6-150	Unvaccinated dog or cat - 1st offense in calendar year	50.00
7-20	Swimming in unguarded waters - 1st offense in calendar year	50.00
17-151	Sale of tobacco products without license - 1st offense	45.00
17-154	Prohibited distributions of tobacco products - 1st offense	45.00
17½-8	Littering on premises of another	45.00
17½-17	Vehicle losing its load - 1st offense in calendar year	50.00
18-2	Unlawful noise - 1st offense in calendar year	50.00
20-9	Loitering - 1st offense in calendar year	50.00
20-46	Noisy house - 1st offense in calendar year	50.00
22-2	In park after hours - 1st offense in calendar year	50.00
22-9	Alcohol in park - 1st offense in calendar year	50.00
28-16	Parking prohibited for street repairs and cleaning	12.50
28-210	Skateboard or similar play device - 1st offense in calendar year	50.00
28-311	Premises address violation - 2nd offense in calendar year	25.00
29-8	Pedestrian violations	12.50
29-27	Parking when temporarily prohibited	12.50
29-97	Display of unauthorized traffic controls	12.50
29-98	Interference with traffic control devices	12.50
29-123	Unlawful use of horn or sounding device	15.00
29-223	Unlawfully parked trailer	12.50
29-252	Unlawful parking on sidewalk, in crosswalk, or adjacent yard	25.00
29-253	Unlawful parking in certain school areas	12.50
29-254	Unlawful manner of parking	12.50
29-255	No required lights on certain parked vehicles	12.50
29-256.1	Violation of handicapped parking restrictions	45.00
29-256.2	Unlawful parking in handicapped parking meter zone	45.00
29-257	Unloading perpendicular to curb without permit	12.50
29-258	Unlawful use of bus stops and taxicab stand	12.50
29-259	Unlawful use of passenger and loading zones	12.50
29-260	Unlawful parking adjacent to certain buildings	12.50
29-262	Unlawful parking for display for sale or advertising	12.50
29-263	Unlawful parking for more than 6 hours	12.50
29-264	Unlawful parking of commercial vehicles at night	12.50
29-265	Unlawful parking in alleys or on certain narrow streets	12.50
29-266	Unlawful parking in designated special parking areas	12.50
29-267	Parking on certain streets where prohibited at all times	12.50
29-268	Stopping, standing or parking on streets where prohibited at all times	12.50
29-269	Parking on certain streets where prohibited at all times on certain days	12.50
29-270	Parking on certain streets when prohibited at certain times on certain days	12.50
29-271	Stopping, standing or parking during prohibited hours on certain days on certain streets. If between hours of 6:00 a.m. - 9:00 a.m., 7:00 a.m. - 9:00 a.m., 3:00 p.m. - 6:00 p.m., 4:00 p.m. - 6:00 p.m.	25.00
29-272	Parking longer than permitted on certain streets, certain times, certain days	12.50
29-284	Parking in excess of time permitted in parking meter zone	12.50
29-291	Parking in meter zone when temporarily prohibited	12.50
29-297	Overtime parking in metered parking space	12.50
29-321	Unlawful parking during snow emergency	25.00
29-335	Leaving taxicab unattended	12.50

29-336	Unlawful parking of bus or taxicab	12.50
29-337	Unlawful parking in certain mailbox zones	12.50
29-341	Unlawful stopping, standing or parking near fire hydrant	45.00
29-342	Unlawful obstruction of fire lane	25.00
29-398	Unlawful loading or unloading of private bus	12.50
29-400	Unlawfully stopping of food vendor vehicle	12.50
29-401	Violation of noise restriction on food vendors	12.50
29-403	Failure of food vending vehicle to display required warnings	12.50
29-403.2	Unlawful vending for other than curb side of vending vehicle	12.50
29-406	Operation of bicycle without required equipment	12.50
29-407	Unlawful operation of bicycle	12.50
29-424	Operation of unregistered bicycle	7.50
29-440	Consumption or possession by operator of motor vehicle	
	1st offense in calendar year	50.00
29-441	Operating motor vehicle containing open alcoholic beverages	
	1st offense in calendar year	50.00
Appendix D. Part 26, Sec. 6 Civil zoning violations - 1st offense in calendar year		50.00
811-401	2nd False alarm in twelve month period	25.00
811-401	3rd False alarm in twelve month period	35.00
811-401	4th False alarm in twelve month period	50.00
<u>895-4</u>	<u>Unlawful stopping, standing or parking in horse-drawn carriage holding area</u>	<u>25.00</u>

SECTION 22. Article V of Chapter 17 of the "Code of Indianapolis and Marion County, Indiana" (Sections 17-150 through 17-183, inclusive), regarding licensure of cigarette and tobacco vendors, is hereby REPEALED.

SECTION 23. Article XXVI of Chapter 17 of the "Code of Indianapolis and Marion County, Indiana" (Sections 17-932 through 17-935, inclusive, and the "Appendix A. License Fees"), regarding licensure of special police powers and advertising on vehicles, is hereby REPEALED.

SECTION 24. Section 202-205 of the "Revised Code of the Consolidated City and County," which provides a vendor registration fee, is hereby REPEALED.

SECTION 25. Chapter 903 of the "Revised Code of the Consolidated City and County," regarding registration of junk peddlers, junk dealers and itinerant junk dealers, is hereby REPEALED.

SECTION 26. Section 951-2 of the "Revised Code of the Consolidated City and County," regarding the requirement of a secondhand motor vehicle dealer registration applicant to submit three affidavits stating that the applicant is of good moral character, is hereby REPEALED.

SECTION 27. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance 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 28. 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 29. This ordinance shall be in effect from and after its passage by the Council and compliance with IC 36-3-4-14, and shall have an expiration date of July 1, 2002.

PROPOSAL NO. 674, 1997. Councillor Hinkle reported that the Metropolitan Development Committee heard Proposal No. 674, 1997 on November 3, 1997. The proposal determines that future Canal development adhere to Plan 2010. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended. Councillor Hinkle

moved, seconded by Councillor Gilmer, for adoption. Proposal No. 674, 1997, as amended, was adopted on the following roll call vote; viz:

26 YEAS: Borst, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Dowden, Franklin, Gilmer, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams
0 NAYS:
3 NOT VOTING: Black, Boyd, Moores

Proposal No. 674, 1997, as amended, was retitled COUNCIL RESOLUTION NO. 69, 1997, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 69, 1997

A COUNCIL RESOLUTION determining that future Canal development should adhere to Plan 2010.

WHEREAS, the development of the Indianapolis Water Company Canal in and near downtown Indianapolis has encouraged new development and growth in that part of the City; and

WHEREAS, recent proposals for further development have raised questions about the process and lack of public input; now, therefore:

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

SECTION 1. The Council hereby requests that the Department of Metropolitan and other City officers and agents involved with future Canal development refer to and follow Plan 2010.

SECTION 2. When considering variations from such plans, the persons acting on behalf of the City shall conduct a full and open public process that includes input from affected residents and from recognized neighborhood groups.

SECTION 3. The process of inclusion for the public and/or Council input is to occur prior to any City commitments.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 675, 1997. Councillor Hinkle reported that the Metropolitan Development Committee heard Proposal No. 675, 1997 on November 3, 1997. The proposal, sponsored by Councillor Brents, adds Midtown Economic Development and Industrial Corporation as an eligible neighborhood development corporation for sales and grants of real property. By a 7-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended. Councillor Hinkle moved, seconded by Councillor Brents, for adoption. Proposal No. 675, 1997 was adopted on the following roll call vote; viz:

29 YEAS: Black, Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Dowden, Franklin, Gilmer, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford
0 NAYS:

Proposal No. 675, 1997, as amended, was retitled GENERAL ORDINANCE NO. 184, 1997, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 184, 1997

A GENERAL ORDINANCE amending the Code of Indianapolis and Marion County to add Midtown Economic Development and Industrial Corporation as an eligible neighborhood development corporation for sales and grants of real property under IC 36-7-15.1-15.1 and IC 36-7-15.1-22.5(e)(3).

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

SECTION 1. Section 2-515.5 of the Code of Indianapolis and Marion County, Indiana is hereby amended by adding the underlined language to read as follows:

Sec. 2-515.5. Determination of eligibility of neighborhood development corporations and nonprofit corporations for sales and grants of real property under IC 36-7-15.1-15.1 and IC 36-7-15.1-22.5(e)(3).

(a) When disposing of real property by sale or grant under IC 36-7-15.1-15.1 or IC 36-7-15.1-22.5(e)(3) the Metropolitan Development Commission shall only sell or grant to a nonprofit corporation or neighborhood development corporation, meeting the following criteria:

- (1) it shall have as a major corporate purpose and function, the provision of housing for low or moderate income families within the geographic area in which the parcel of property is located;
- (2) it shall have been established for at least one year; and
- (3) it shall have filed, and complied with the terms of, a "project development agreement" in the form determined by the Metropolitan Development Commission, which shall require among other terms, that prior to the transfer of title to the real estate to it:
 - a. all affected, registered neighborhood associations will have been notified and either agreed to the project or have been granted the opportunity for hearing before the Commission, and
 - b. an acceptable and feasible financial plan for the intended redevelopment has been presented to and approved by the director or the director's designee.

(b) The City-County Council of the City of Indianapolis and of Marion County, Indiana determines, that so long as they operate in compliance with the criteria in subsection (a), the following nonprofit corporations and neighborhood development corporations meet the criteria established herein:

- (1) Business Opportunity Systems Community Development Corporation;
- (2) Community Action of Greater Indianapolis;
- (3) Concord Community Development Corporation;
- (4) Eastside Community Investments, Inc.;
- (5) Indianapolis Neighborhood Housing Partnership;
- (6) King Park Area Development Corporation;
- (7) Mapleton-Fall Creek Housing Development Corporation;
- (8) Martindale-Brightwood Community Development Corporation;
- (9) Martin Luther King Community Development Corporation
- (10) Meridian Kessler Development Corporation;
- (11) Near North Development Corporation;
- (12) Riley Area Revitalization Program;

- (13) Southeast Neighborhood Development, Inc.;
- (14) United Northwest Area Development Corporation;
- (15) West Indianapolis Development Corporation;
- (16) Westside Community Development Corporation;
- (17) Williams, Howard, Wright, Inc.;
- (18) Habitat for Humanity;
- (19) Historic Landmarks Foundation;
- (20) Consortium Foundation, Inc.;
- (21) Redevelopment/Revitalization of the Southside Community;
- (22) Indiana Black Expo Economic Development Corporation;
- (23) United Northeast Development Corporation;
- (24) Midtown Economic Development and Industrial Corporation.

SECTION 2. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 678, 1997. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 678, 1997 on October 29, 1997. The proposal determines the need to lease office space at 129 East Market Street for the Prosecuting Attorney. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Dowden moved, seconded by Councillor Smith, for adoption. Proposal No. 678, 1997 was adopted on the following roll call vote; viz:

25 YEAS: *Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Curry, Dowden, Golc, Gray, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams*
0 NAYS:
4 NOT VOTING: *Black, Coughenour, Franklin, Gilmer*

Proposal No. 678, 1997 was retitled SPECIAL RESOLUTION NO. 84, 1997, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 84, 1997

A PROPOSAL FOR A SPECIAL RESOLUTION determining the need to lease approximately 56,073 square feet of office space at 129 East Market Street, Indianapolis, Indiana for the Office of Prosecuting Attorney for Marion County, Indiana.

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

SECTION 1. The City-County Council, pursuant to IC 36-1-10-7, has investigated the conditions requiring the subject lease and hereby determines the lease of office space for the use of the Office of Prosecuting Attorney for Marion County, Indiana, is necessary.

SECTION 2. The property to be leased is located at 129 East Market Street, Indianapolis, Indiana, and is owned by C & F Acquisition Associates, LLC.

SECTION 3. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 685, 1997. Councillor Dowden reported that the Public Safety and Criminal Justice Committee heard Proposal No. 685, 1997 on October 29, 1997. The proposal, sponsored by Councillors Curry, Dowden, and Talley, eliminates the requirement that state and federal reimbursement moneys for emergency response teams cannot be paid without an appropriation, and to recodify and reorganize the provisions of the Code regarding appropriations. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Dowden moved, seconded by Councillor Talley, for adoption. Proposal No. 685, 1997 was adopted on the following roll call vote; viz:

27 YEAS: *Borst, Boyd, Bradford, Brents, Cockrum, Coonrod, Coughenour, Curry, Dowden, Franklin, Gilmer, Gray, Hinkle, Jones, Massie, McClamroch, Moores, Moriarty Adams, O'Dell, Schneider, SerVaas, Shambaugh, Short, Smith, Talley, Tilford, Williams*
0 NAYS:
2 NOT VOTING: *Black, Golc*

Proposal No. 685, 1997 was retitled GENERAL ORDINANCE NO. 185, 1997, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 185, 1997

A PROPOSAL FOR A GENERAL ORDINANCE to amend and recodify Chapter 2, Art. X, Div. 2 of the "Code of Indianapolis and Marion County, Indiana," concerning appropriations, and special nonreverting funds of the department of parks and recreation, as Chapter 181, Art. II, and Section 135-461, respectively, of the "Revised Code of the Consolidated City and County."

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

SECTION 1. The "Revised Code of the Consolidated City and County" is hereby amended by the addition of a new Article II of Chapter 181, to read as follows:

ARTICLE II. APPROPRIATIONS

Sec. 181-201. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them in this section.

Distribution means the act of transferring receipts among funds or taxing units as required or permitted by law without appropriation.

Pay or payment means the act of disbursing money to any person or firm other than intergovernmental fund settlements.

Public fund means and includes any and all money in possession of the city or county for any purpose except the following:

- (1) Money received gratuitously from private persons for designated payments not directly affecting governmental operation;
- (2) Money received from nongovernmental sources and held in trust for specified uses; or,
- (3) Direct federal grant for capital equipment to be purchased for a total cost not exceeding one thousand dollars (\$1,000.00).

Sec. 181-202. Unlawful disbursements.

It shall be unlawful for the city controller or county auditor to pay any money from any public fund except pursuant to an appropriation by the council, regardless of the source of such fund, unless such payment is authorized in Sections 181-203 through 181-206 of this article.

Sec. 181-203. Exception: distribution of taxes or other revenues.

The requirements of Section 181-202 of the Code shall not apply to distribution by the county auditor, county treasurer, or city controller in the process of collection and distribution of taxes or other revenues.

Sec. 181-204. Exception: special recreation fund and sports account fund.

The requirements of Section 181-202 of the Code shall not apply to expenditures from the special recreation fund and the sports account fund established under Section 135-461 of the Code.

Sec. 181-205. Exception: payment of court judgment or order.

The requirements of Section 181-202 of the Code shall not restrict any public official from complying with any valid order or judgment of a court of competent jurisdiction which directs the payment of public funds not appropriated. Whenever the controller or county auditor is directed to make such payment, such official shall notify the clerk of the council of such order, prior to compliance, if at all possible.

Sec. 181-206. Exception: emergency response team reimbursement.

(a) The requirements of Section 181-202 of the Code shall not apply to state or federal reimbursement moneys for emergency response teams, thereby allowing the appropriate officials to disburse such funds upon receipt, provided that within sixty (60) days after the date of team deployment, a fiscal report shall be presented to the city board of public safety and the public safety and criminal justice committee of the council.

(b) With respect to federal funds other than those specified in Subsection (a) of this section, the council, under IC 5-19-1-3, requires that as a condition of approval of the acceptance of any grant, whether from the state or federal government or from a private source, which anticipates or requires any city or county action, the amounts provided from such sources shall not be spent unless appropriations therefor are adopted by ordinance.

Sec. 181-207. Penalty.

Any official of the city or county who pays, or causes the payment of, any money of the city or county or any grant money received by the city or county, without an appropriation having been approved for such expenditure in violation of this article, shall be subject to the penalties provided in Section 103-3 of the Code and, in addition, such action may constitute grounds for removal or impeachment as provided by law.

SECTION 2. Section 2-381 of the "Code of Indianapolis and Marion County, Indiana" is hereby amended and recodified as Section 135-461 of the "Revised Code of the Consolidated City and County" by the deletion of the language which is stricken-through and by the addition of the language which is underscored, to read as follows:

Sec. ~~2-381~~ 135-461. ~~Unlawful disbursements~~ Special recreation fund; sports account fund.

(a) ~~It shall be unlawful for the city controller or county auditor to pay any money from any public fund except pursuant to an appropriation by the council, regardless of the source of such fund; provided, however, this prohibition shall not apply to distribution by the county auditor, county treasurer, or city controller in the process of collection and distribution of taxes or other revenues.~~

(ba) The ~~city-county~~ council hereby ~~designates~~ establishes the special recreation fund and the sports account fund as special nonreverting operating funds, from which approved expenditures for league fees, payment of umpires and the like may be made by the city department of parks and recreation without specific appropriation, which funds shall be comprised of fees derived from specific recreation and instructional programs.

(eb) Moneys in the form of fees procured from golf courses, swimming pools, skating rinks or other similar facilities requiring major expenditures for management and maintenance shall not be deposited in the special nonreverting operating funds ~~authorized by established under~~ Subsection (ba) of this section.

(ec) Moneys from the special nonreverting operating funds shall be disbursed only on approved claims allowed and signed by the ~~president~~ director of the ~~board~~ city department of parks and recreation or ~~his the director's~~ designated representatives ~~pursuant to~~ under applicable law and rulings of the state board of accounts.

(ed) No moneys shall be disbursed to defray the expenses of any specific program contemplated herein in excess of amounts received for that specific program. It is the intent of this section that any specific program, the expenses for which are paid from either the special recreation fund or from the sports account fund, shall be self-sustaining, and not subsidized by moneys received for any other specific program.

SECTION 3. Chapter 2, Article X, Division 2 (Sections 2-380 through 2-390, inclusive) of the "Code of Indianapolis and Marion County, Indiana" is hereby REPEALED.

SECTION 4. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance 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 5. 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 6. This ordinance shall be in effect from and after its passage by the Council and compliance with IC 36-3-4-14.

NEW BUSINESS

Councillor Borst announced that Peter Beering, Director of Emergency Management, will be leaving the City's employment, and stated that he wishes him well in future endeavors.

ANNOUNCEMENTS AND ADJOURNMENT

The President said that the docketed agenda for this meeting of the Council having been completed, the Chair would entertain motions for adjournment.

Councillor Boyd stated that he had been asked to offer the following motion for adjournment by:

- (1) Councillors Gilmer and Cockrum in memory of Albert P. Tutsie; and
- (2) Councillor Smith in memory of Harris W. Wood and Raymond J. Giroud; and
- (3) Councillor Moores in memory of Wallace R. Raiser and Richard "Kent" Davis; and
- (4) Councillor Shambaugh in memory of Larry Reed.

Councillor Boyd moved the adjournment of this meeting of the Indianapolis City-County Council in recognition of and respect for the life and contributions of memory of Albert P. Tutsie, Harris W. Wood, Raymond J. Giroud, Wallace R. Raiser, Richard "Kent" Davis, and Larry Reed. He respectfully asked the support of fellow Councillors. He further requested that the motion be made a part of the permanent records of this body and that a letter bearing the Council seal and the signature of the President be sent to the families advising of this action.

There being no further business, and upon motion duly made and seconded, the meeting adjourned at 8:47 p.m.

We hereby certify that the above and foregoing is a full, true and complete record of the proceedings of the regular concurrent meetings of the City-County Council of Indianapolis-Marion County, Indiana, and Indianapolis Police, Fire and Solid Waste Collection Special Service District Councils on the 10th day of November, 1997.

In Witness Whereof, we have hereunto subscribed our signatures and caused the Seal of the City of Indianapolis to be affixed.

Beurt Lerdaas

President

ATTEST:

Suellen Hart

Clerk of the Council

(SEAL)