

ORDINANCE NO. 2005-14

**AN ORDINANCE REPEALING AND REPLACING AN ORDINANCE ESTABLISHING
AN ORDINANCE VIOLATIONS BUREAU AND DESIGNATING A SCHEDULE OF
VIOLATIONS SUBJECT TO ADMISSION BEFORE THE VIOLATIONS CLERK**

WHEREAS, the Board of Commissioners of the County of Whitley, Indiana (the "Board of Commissioners") is authorized to establish an ordinance violations bureau pursuant to Indiana Code 33-36-2-1; and

WHEREAS, the Board of Commissioners deems it in the best interest of the County to establish such a bureau for the acceptance of appearances, of waivers of trial, of admissions of certain ordinance violations and of the payment of civil penalties of one hundred dollars (\$100.00) or less; and

WHEREAS, Indiana Code 33-36-2-1 provides that, upon the creation of such a bureau, the legislative body shall provide for the appointment of a violations clerk to be the administrator of the bureau; and

WHEREAS, the Board of Commissioners further finds that only certain ordinance violations should be subject to the violations bureau procedure; and

WHEREAS, the Board of Commissioners adopted ordinance number 2005-11 on June 20, 2005 establishing an ordinance violations bureau and appointing the county clerk as the violations clerk; and

WHEREAS, for administrative and accounting reasons, the Board of Commissioners finds that the county auditor should be appointed as violations clerk pursuant to Ind. Code 33-36-2-1, *et seq.*, instead of the county clerk;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners as follows:

Section 1. Repeal of Ordinance No. 2005-11. Ordinance number 2005-11 is hereby repealed in its entirety and is hereby entirely replaced with this ordinance.

Section 2. Establishment of Ordinance Violations Bureau. There shall be created an ordinance violations bureau pursuant to Ind. Code 33-36-2-1, as amended, for Whitley County, Indiana.

Section 3. Admissions of Violations. A person charged with violating an ordinance or provision of the Code of Ordinances of the County that is subject to admission before the

ordinance violations bureau may elect to admit the violation, waive a trial and pay the civil penalty to the violations clerk without the assessment of court costs.

Section 4. Violations Clerk. The Whitley County Auditor is hereby appointed and shall serve as the violations clerk and shall administer the bureau. The violations clerk and his or her staff, as agents of the violations clerk, shall accept written appearances, waivers of trial, admissions of violations and payment of civil penalties in the amount and for the violation as provided in this ordinance.

Section 5. Violations Subject to Admission Before Ordinance Violations Bureau. Violations of the following ordinances and provisions of the Code of Ordinances of Whitley County shall be subject to admission before the ordinance violations bureau and, for the purposes of the civil penalty set forth in Section 6 of this ordinance, shall be classified as follows:

<u>Subject</u>	<u>Code Section(s)</u>	<u>Classification</u>
Junk and Trash Violations	Title V, Chapter 53, Sections 53.01 - 53.10	Class D

Section 6. Civil Penalty. The civil penalties for violations which are subject to admission before the violations bureau shall be as follows:

(a) Class A. If the violation is classified as a Class A violation, the penalty shall be twenty-five dollars (\$25.00) if paid on or before the fourteenth day following the violation and otherwise one hundred dollars (\$100.00).

(b) Class B. If the violation is classified as a Class B violation, the penalty shall be fifty dollars (\$50.00) if paid on or before the fourteenth day following the violation and otherwise one hundred dollars (\$100.00).

(c) Class C. If the violation is classified as a Class C violation, the penalty shall be seventy-five dollars (\$75.00) if paid on or before the fourteenth day following the violation and otherwise one hundred dollars (\$100.00).

(d) Class D. If the violation is classified as a Class D violation, the penalty shall be one hundred dollars (\$100.00) for each violation.

(e) Class E. If the violation is classified as a Class E violation, the penalty shall be: twenty-five dollars (\$25.00) if that person has not committed the same violation during the year prior to such violation; fifty dollars (\$50.00) if that person has committed the same violation once during the year prior to such violation; and one hundred dollars (\$100.00) if that person has committed the same violation more than once during the year prior to such violation; provided, however, if the penalty is not paid on or before the

fourteenth day following the violation, the penalty shall be one hundred dollars (\$100.00) regardless of whether the person has committed the same violation during the year prior to such violation.

Section 7. Proceeds Placed in General Fund. Proceeds from the violations bureau shall be placed into the Whitley County general fund unless otherwise designated within the specific ordinance subject to this ordinance.

Section 8. Effect on Other Ordinances and Provisions. The Code of Ordinances of the County of Whitley is amended to provide for the civil penalties set forth in this ordinance; provided, however, that this ordinance shall not diminish the right of the County to enforce any other penalty or remedy (including without limitation abatement, revocation of license, and right to reimbursement) which may be available in addition to the momentary civil penalty by virtue of any other ordinance or provision now or subsequently in effect.

Section 9. Severability. The sections, paragraph, sentences, clauses and phrases of this ordinance are separable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance.

Section 10. Effective date. This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

Passed and adopted by the Board of County Commissioners of Whitley County, Indiana, this 20 day of September, 2005.

Tom Rethlake
Tom Rethlake, President

James Pettigrew
James Pettigrew, Commissioner

Doug Eyer
Doug Eyer, Commissioner

ATTEST:

Linda Gerig
Linda Gerig, County Auditor