

CHAPTER 102

CONSTRUCTION AND APPLICATION OF THE CODE, ORDINANCES AND RESOLUTIONS

102-1. Rules of Construction

Unless the construction is plainly repugnant to the intent of the adopting officer or agency or of the context of the provision of the Code, ordinance, resolution, rule or regulation:

- (A) this Code and all ordinances, resolutions, orders, rules and regulations adopted by an officer or agency of Monroe County shall be liberally construed and shall not be limited by any rules of strict construction;
- (B) this Code and all ordinances, resolutions, rules and regulations adopted by an officer or agency of Monroe County shall be construed by the following rules:

 - (1) words and phrases not specifically defined shall be taken in their plain or ordinary and usual sense; however, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import;
 - (2) the singular includes the plural, and the plural includes the singular;
 - (3) words of one gender include the other gender;
 - (4) words in the present tense include the future tense;
 - (5) words importing joint authority to three (3) or more persons shall be construed as imparting the authority to a majority of such persons, unless otherwise declared in the law giving such authority;
 - (6) the words "preceding" and "following" shall be understood as meaning the section, chapter, title or provision next preceding, or next following, that section or provision in which such words occur, unless some other section, chapter, title or provision is designated;
 - (7) the words "writing," "in writing" and "written" include printing, lithographing or other mode of representing words and letters; however, in all cases where the written signature of any person is required, the proper handwriting of such person or his mark shall be intended (where authorized by statute "proper handwriting" may include facsimile signatures);
 - (8) the words "shall" and "shall not" are mandatory; "shall" creates a duty to act and "shall not" creates a duty not to act;
 - (9) whenever an officer or agency is designated by name and the name is stated incorrectly, the named officer or agency shall be construed to mean the proper or correct officer or agency;

- (10) whenever upon or after the effective date of any provision of this Code or an ordinance, resolution, order, rule or regulation the rights, powers, duties or liabilities of an officer or agency are transferred to a different officer or agency, the named officer or agency shall be construed to mean the officer or agency to which the rights, powers, duties or liabilities have been transferred;
- (11) whenever the title of an officer or agency commonly associated with a county or county government is used, the title shall be considered to be preceded by the words "Monroe County";
- (12) whenever the title of an officer or agency commonly associated with a city or city government is used, the title shall be considered to be preceded by the word "Bloomington";
- (13) a reference by citation to any provision of the Code of Federal Regulations, Indiana Code and the Acts and Public Laws of the General Assembly, the Indiana Administrative Code and the orders, rules and regulations of state officers and agencies, the Monroe County Code and the ordinances and resolutions of Monroe County and the orders, rules and regulations of the officers and agencies of Monroe County shall be construed to include any later amendments to, or replacements of, that provision, unless otherwise provided;
- (14) if a conflict existed between provisions of ordinances or resolutions that have been repealed and restated in this Code, to resolve the conflict, the dates of adoption of the conflicting provisions may be considered along with other appropriate aids to statutory construction, but the order in which the corresponding provisions appear in this Code may not be considered;
- (15) when an ordinance, resolution, order, rule or regulation requires an act to be done that by law an agent or deputy as well as the principal may do, the requirement shall be satisfied by the performance of the act by an authorized agent or deputy; and
- (16) when a person is required to be disinterested or indifferent in acting on any question or matter affecting other parties, consanguinity or affinity within the sixth degree, inclusive, by the civil rules or within the degree of second cousin, inclusive, shall be deemed to disqualify such person from acting, except by consent of the parties.

102-2. Effective Date and Time of Ordinances and Resolutions

- (A) If an ordinance or resolution is to take effect upon passage or adoption, it is effective on the date and time of adoption recorded upon the ordinance or resolution by the presiding officer or clerk of the adopting body; however, if the time is not recorded, the ordinance or resolution is effective at 11:59 p.m. on the date of adoption.

- (B) If an ordinance or resolution is to take effect on a date after the date of passage or adoption, it is effective on the date and time specified in the ordinance or resolution; however, if the time is not specified, the ordinance or resolution is effective at 12:01 a.m. on the date specified.
- (C) If the date an ordinance or resolution is to take effect is not specified in the ordinance or resolution, it is effective upon passage or adoption.
- (D) Notwithstanding any other provision of this section, if an ordinance specifies a penalty or forfeiture for its violation, it becomes effective upon the latter of:
 - (1) the date or date and time specified in the ordinance; or
 - (2) 12:01 a.m. on the day following the final publication of the ordinance according to the procedure required by the Indiana Code.

102-3. Severability

The provisions of County ordinances, resolutions, orders and rules are separable and if any part or provision thereof or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction on procedural or any other grounds, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which the judgment shall have been rendered and shall not affect or impair the validity of the remainder of the ordinance, resolution, order or rule or the application thereof to other persons or circumstances. The Board of Commissioners hereby declares that it would have enacted the remainder of the ordinance, resolution, order or rule even without the invalid part, provision, procedure or application.

This section applies to every ordinance, resolution, order or rule adopted before and after the effective date of this section.

102-4. Effect of Repeal

- (A) Whenever a provision of this Code or of an ordinance, resolution, order or rule that repealed a former Code provision, ordinance, resolution, order or rule is itself repealed, the former Code provision, ordinance or resolution shall not thereby be revived, unless it is expressly provided.
- (B) The repeal of a provision of this Code, an ordinance, resolution, order or rule shall not have the effect of releasing or extinguishing any penalty, forfeiture or liability incurred under such Code provision, ordinance, resolution, order or rule, unless the repealing ordinance, resolution order or rule so expressly provides, and the repealed Code provision, ordinance, resolution, order or rule shall be treated as still remaining in force for the purposes of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture or liability.

[end of chapter]