

ORIGINAL

AN ORDINANCE OF DELAWARE COUNTY TO AMEND ORDINANCE NO. 2005-004 TO CREATE A FUND FOR THE DELAWARE COUNTY DEPARTMENT OF WEIGHTS AND MEASURES FOR THE DEPOSIT AND USE OF FUNDS DERIVED FROM FINES ASSESSED BY THE DEPARTMENT

WHEREAS, the Delaware County Commissioners are responsible for the operation of the Delaware County Weights and Measures Department, and

WHEREAS, Ordinance No. 2005-004 was previously passed, adopting a schedule of violations and fines for the efficient operation of the Delaware County Weights and Measures Department (a copy of which is hereto attached), and

WHEREAS, the ordinance as written has created some confusion regarding the appropriation and use of fees collected from violations and fines, and the Department has not been able to utilize the funds for the operational needs of the Department,

NOW, THEREFORE, BE IT ORDAINED BY THE DELAWARE COUNTY COMMISSIONERS, FOR DELAWARE COUNTY, INDIANA:

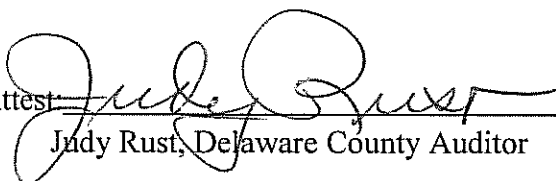
The following language from Ordinance No. 2005-004 Section 9(e) shall be stricken:


"Any fees collected under this ordinance shall be deposited in a special account in which it will then be appropriated for expenses for the operation of the Delaware County Weights and Measures Department."


The following language shall be added to Ordinance No. 2005-004 Section 9(e):

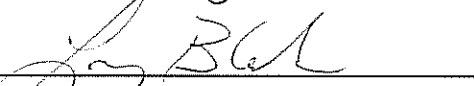
"Any fees collected under this ordinance shall be deposited in a special fund and the fees shall be used for the operational needs of the Delaware County Weights and Measures Department, including but not limited to, needed repairs to equipment and new or replacement equipment or supplies. These funds shall not need to be appropriated for usage and will not revert to any other fund."

Passed by the Board of Commissioners of Delaware County, Indiana, this 3 day of November, 2014.

Attest: 
Judy Rust, Delaware County Auditor


James King, President


Sherry Riggan, Commissioner


Larry Bledsoe, Commissioner

WEIGHTS AND MEASURES DEPARTMENT
VIOLATIONS AND FINES

ORDINANCE NO. 2005- 004

DELAWARE COUNTY COMMISSIONERS

Effective Date: March 17, 2005

WHEREAS, the Delaware County Commissioners are responsible for the operation of the Delaware County Weights and Measures Department, and

WHEREAS, the efficient operation of the Delaware County Weights and Measures Department requires adoption of a schedule of violations and fines, and

WHEREAS, any person engaged in the business of selling, buying, exchanging goods or commodities by weight, measurement or volume shall be informed of the violations and fines, and

WHEREAS, this ordinance is enacted granting the Delaware County Weights and Measures Department the following authority with respect to violations and fine:

Section 1

For the purposes of this ordinance, the following words have the meanings indicated:

“**County Inspector/Deputy Inspector**” shall be the person or persons duly authorized to inspect weighing or measuring instruments in Delaware County.

“**Instrument**” shall be any scale, weight, beam, measure or weighing or measuring device of every kind or instrument, or parts thereof, subject to regulation by the Division of Weights and Measures of the State Department of Health.

Section 2
Compliance with State Standards Required

No person engaged in the business of selling, buying, exchanging goods or commodities by weight, measurement or volume shall use an instrument in his business operations for such purpose if such instrument does not meet the standards established by the State of Indiana or the Division of Weights and Measures of the State Department of Health. A person who violates this section shall be fined One Hundred Dollars (\$100.00) for each violation.

Section 3
Inspection of Mobile Instruments

(A) If an instrument is mobile or otherwise operated at more than one (1) location and is not made available to be inspected by the County Inspector at a permanent business location during regular business hours of the County, the County Inspector shall have the authority to order the owner or operator to present the instrument for inspection by the County Inspector at a time and location designated by the County Inspector.

(B) A person who fails to comply with such orders of the County Inspector shall be fined One Hundred Dollars (\$100.00) for each violation.

Section 4
Instrument Repair and Installation

All owners or operators of instruments shall inform the County Inspector that an instrument has been repaired or installed and provide the County Inspector with the location of said instrument prior to that instrument being placed into service. The County Inspector shall thereafter certify its accuracy and affix a security seal and/or annual approval seal. A person who violates this section shall be fined One Hundred Dollars (\$100.00) for each such instrument placed into service without such certification and seal.

Section 5
Numbering of Instruments

Any person who owns or operates more than one (1) instrument of a particular type at a business location shall serially number each instrument in such a manner that each instrument shall be readily distinguishable from all other such instruments of that type present at that location. A person who violates this section shall be fined Fifty Dollars (\$50.00)

Section 6 Security Seals

(A) When a weighing or measuring device is security sealed by a County Inspector, such security seal shall not be cut, severed or removed without permission of a County Inspector. Any weighing or measuring device designed to be security sealed should be sealed by a County Inspector.

(B) Repairmen whose equipment is certified under Section 510-4 may remove a security seal for the purpose of making repairs without prior approval of the County Inspector. Repairmen who cut, sever or remove a security seal shall notify the County Inspector with **24 hours**.

(C) If the instrument bears an annual approval seal on its exterior, such approval seal shall not be altered, defaced or removed.

(D) No security seal or annual approval seal shall be valid in the County except a seal authorized by the County Inspector.

(E) No weighing or measuring device shall be used in the business of selling, buying, bartering or exchanging of goods or commodities if the security seal has been cut, severed or removed until it is resealed by the County Inspector or permission is given by the County Inspector if immediate resealing is impractical.

(F) A person who violates this section shall be fined Two Hundred Dollars (\$200.00)

Section 7 Commodity Regulations

(A) All persons engaged in the selling, buying, bartering or exchanging goods or commodities must sell, buy, barter or exchange the goods or commodities using the legal method of selling, buying, bartering or exchanging such goods or commodities as required by the National Conference on Weights and Measures Sale of Commodities Regulation.

(B) All commodities and goods offered for sale in package or containers shall meet all labeling requirements of the National Conference on Weights and Measures Packaging and labeling Regulations. A manufacturer, wholesale distributor or retail seller who violates this section may be fined as follows for the number of units at each location where they are available for purchase.

1. (1 to 25 units; \$100.00)
2. (26 to 50 units; \$200.00)
3. (51 to 75 units; \$300.00)

4. (76 to 100 units; \$400.00) 5. (101 to 200 units; \$800.00)
6. (201 or more units; \$1,000.00)

(C) All commodities, when required to be sold by weight, must be sold by net weight and all commodities required to be sold by measure or count shall be accurate as required.

(D) The manufacturer, wholesale distributor or retail seller of a prepackaged commodity which is less than the weight, measure or count designated on its package may be fined as follows for the number of such units at each location where they are available for purchase.

1. (1 to 25 units; \$100.00) 2. (26 to 50 units; \$200.00) 3. (51 to 75 units; \$300.00)
4. (76 to 100 units; \$400.00) 5. (101 to 200 units; \$800.00)
5. (201 or more units; \$1,000.00)

Section 8 User Fee for Courtesy Services

The County Inspector may collect a fee which shall not exceed Forty Dollars (\$40.00) for inspecting or calibrating any scale or measuring device which is not used in the business of selling, buying or exchanging goods or commodities, and is not subject to regulation by the Division of Weights and Measures of the State Board of Health.

Section 9 Enforcement

- (A) The County Inspector may issue to the violator a citation which shall be written on a citation ticket and kept on file in the Weights and Measures Office.
- (B) If the violator does not pay the fine and/or correct the problem within ten (10) days, the matter shall be referred to the County Attorney for prosecution. If enforcement becomes necessary, it shall include costs incurred and attorney fees.
- (C) The fine shall be doubled if the person has a prior violation of this chapter within the last one- (1) year.
- (D) Each day the violation continues constitutes a separate violation.
- (E) Any fees collected under this ordinance shall be deposited in a special account in which it will then be appropriated for expenses for the operation of the Delaware County Weights and Measures Department.

**Section 10
Repealer**

All ordinances or parts of ordinances in conflict with provisions of this ordinance are hereby repealed.

**Section 11
Severability Clause**

Should any section, paragraph, clause or phrase of this ordinance be declared unconstitutional or invalid, the remainder of said ordinance shall continue in full force and effect.

DATED THIS 23rd DAY OF February, 2005.

Board of Commissioners for Delaware County

Larry Crouch, Commissioner

Tom L. Bennington
Tom L. Bennington, Commissioner

John H. Brooke
John Brooke, Commissioner
H.

Attest:

Jane Lasater
Jane Lasater, Auditor for Delaware County