

ORDINANCE NO. 11-2007

**An Ordinance Authorizing Clerk of Court to Continue Conducting
Marriage Ceremonies Under Circumstances Described**

WHEREAS, the Board of Commissioners of Clark County ("Board") is the County Executive under I. C. 36-2-2-2 and also functions as the County legislative body under I. C. 36-1-2-9(1), with authority to enact local ordinances that have the force of law, to the extent they are not in contradiction to existing Indiana state statutes;

WHEREAS, a situation has arise wherein a historical practice in Clark County Indiana has been disrupted by a conclusion in an Indiana State Board of Accounts ("SBA") report to the Clerk of the Courts, citing ATTY. GEN. OP. No. 11, issued in August, 1977, rendering an opinion that any Clerk of the Court, or the Clerk's deputies, may not charge a reasonable fee for solemnizing marriages in the state of Indiana;

WHEREAS, the Board, is not, by this Ordinance, intending to contradict existing Indiana law. However, the Board recognizes that a need exists for this County to have an orderly procedure for addressing situations wherein couples appear in Clark County Government offices and request to be married;

WHEREAS, this Board recognizes that Clerks of the Court, or their authorized deputies, may not collect reasonable fees for performing the function of solemnizing marriages during regular working hours. However, this Board is of the opinion that the foregoing Opinion No. 11 issued in 1977 (some 30 years ago) does not specifically address the services and functions of the Clerk in this area when they are performed before regular working hours, during lunch hours, on days when the Court House is closed, or after working hours ("other authorized days");

WHEREAS, the respective Judges of the Clark Circuit and Superior Courts have issued a request to this Board, seeking intervention by Ordinance, due to the workload of the Court and a desire not to have judicial officers confronted with requests for marriage ceremonies, in an unauthorized way at times that cannot be scheduled, when the Clerk has historically performed these important functions;

WHEREAS, this Board has determined that the Clerk, who is not a judicial officer, should take sufficient time to make inquiry of any requesting couple as to their readiness for marriage, their commitment to the marital relationship as to the seriousness of solemnizing a marriage before the Clerk completes any marriage ceremony;

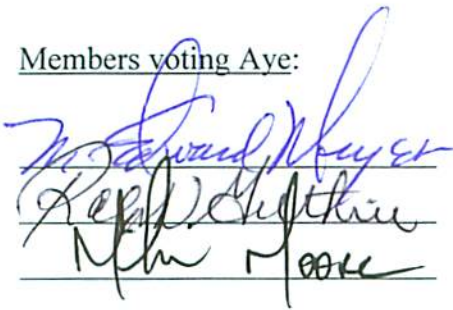
NOW, THEREFORE, be it ordained by the Board as follows:

1. That each and every recital as set forth hereinabove is incorporated into and made a part of this Ordinance;
2. That the Clerk of the Court in Clark County, and the Clerk's authorized deputies, may continue to perform the official act of solemnizing marriages on the "other authorized days" identified hereinabove in this Ordinance;
3. That to the extent any reasonable fee is offered to the Clerk of the Court for this function, when not performed during working hours as aforesaid, this Board is not in a legal position to prohibit such discussions or the delivery of such fees to the Clerk when the Clerk is not performing these acts during Clark County Governments regular working hours;
4. That this Board explicitly recognizes by this Ordinance that the Clerk of the Court is a position authorized under the laws and Constitution of the state of Indiana and that persons holding the position of Clerk, as well as the Clerk's authorized deputies, remain and exist in that capacity and in the functions of those positions before and after regular working hours of Clark

County, Indiana government. The Board deems it necessary to the public interests that the Clerk and the Clerk's authorized deputies, are subject to inquiries and requests from persons seeking to solemnize a marriage and that public service can be best achieved by enabling the Clerk and the Clerk's authorized deputies, to be accessible to persons seeking to complete and solemnize a marriage under the reasons and circumstances set forth hereinabove;

SO ORDAINED THIS 20TH DAY OF SEPTEMBER, 2007.

Members voting Aye:



Members voting Nay:

ATTEST:



Auditor of Clark County