

ORDINANCE NO. 2006 - 17

AN ORDINANCE PRESCRIBING THE CONDITIONS
OF USE OF ELECTRONIC DATA PURSUANT TO I.C. 5-14-3-3(e)

WHEREAS, pursuant to Indiana Code 5-14-3-3(e), the Whitley County, Indiana Board of Commissioners ("Board") has the authority to prescribe the conditions under which a person who receives public information in the form of electronic data may or may not use the information for commercial purposes; and

WHEREAS, the Board finds it to be in the best interest of the citizens of the County to prohibit the use of public information in the form of electronic data for certain commercial purposes as provided herein.

NOW, THEREFORE, BE IT ORDAINED:

1. A person who receives public records or information in the form of electronic data from Whitley County on disk or tape pursuant to I.C. 5-14-3-3(d) may use the information or data only for the following purposes :

- 1.1 "News" within the meaning of Indiana Code 5-14-3-3.5.
- 1.2 "Nonprofit activities" within the meaning of Indiana Code 5-14-3-3.5.
- 1.3 "Academic research" within the meaning of Indiana Code 5-14-3-3.5.
- 1.4 A public works project within Whitley County.
- 1.5 A non-commercial purpose not expressly prohibited herein.

2. A person who receives public records or information in the form of electronic data from Whitley County on disk or tape pursuant to I.C. 5-14-3-3(d) may not:

2.1 Use the data (or any information contained therein) for the purpose of selling, advertising or soliciting the purchase or sale of merchandise, goods or services or for any type of mass-marketing.

2.2 Sell, loan, give away, or otherwise deliver the data (or any information contained therein) to any other person or entity for the purpose of selling, advertising or soliciting the purchase or sale of merchandise, goods or services or for any type of mass-marketing.

3. Any person who receives an electronic map or GIS data from Whitley County must sign a data usage agreement in a form approved by the Board, must comply with such agreement and must comply with this ordinance.

4. A penalty of \$2,500.00 is hereby imposed for each violation of this ordinance. Each day that a violation continues shall constitute a separate violation.

5. In the event of any violation of this ordinance, and in addition to collecting the penalty herein imposed, Whitley County shall be entitled to: (i) prohibit the person or entity who violates this ordinance from receiving any further electronic data from Whitley County; and/or (ii) institute and exercise any and all other rights and remedies which may be available at law or in equity arising by reason of such violation, including a lawsuit for injunctive relief, specific performance and/or damages.

6. Reference herein to a provision of the Indiana Code includes any future version of such provision, as amended, and any similar provision of any successor statute.

7. If any provision(s) of this ordinance shall be held to be invalid, illegal, or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

8. The Auditor of Whitley County is directed to publish this Ordinance as provided by law.

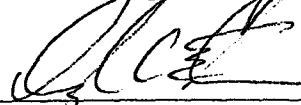
9. This Ordinance shall be in full force and effect from and after its passage and approval by the Board of Commissioners on the date shown below.

ADOPTED this 2nd day of October, 2006.

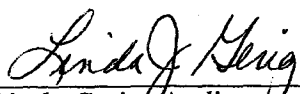
**THE BOARD OF COMMISSIONERS OF
WHITLEY COUNTY, INDIANA**


Tom Rethlake, President


James Pettigrew, Vice President

 (OPPOSED)
Douglas C. Eber, Commissioner

ATTEST:


Linda Gerig, Auditor
Whitley County, Indiana