

BOARD OF COMMISSIONERS

AN ORDINANCE ESTABLISHING THE
MANNER AND FORM IN WHICH THE
RECORDER MAY PROVIDED BULK
FORM COPIES TO A BULK USER

WHEREAS, IC 36-2-7-10.1 Dealing with the County Recorder's sale of documents in bulk to bulk users has been materially amended and revised effective July 1, 2017; and

WHEREAS, Subsection (b) of this statute provides that a County Executive shall establish by Ordinance the manner and form in which the County Recorder may provide bulk form copies to a bulk user, and the permissible fees the Recorder may charge.

NOW THEREFORE, IN CONSIDERATION OF THE FOREGOING RECITALS AND THE PROVISIONS HEREAFTER MADE, BE IT ORDAINED BY THE BOARD AS FOLLOWS:

Section I. Definitions. The following definitions shall apply throughout this Ordinance:

(a) "Bulk form copy" means an aggregation of:

(1) copies of all recorded documents received by the county recorder for recording in a calendar day, week, month, or year;

(2) the indices for finding, retrieving, and viewing all recorded documents received by the county recorder for recording in a calendar day, week, month or year; or

(3) both clauses (1) and (2).

(b) "Bulk User" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association that receives bulk form copies under a contract with the county recorder.

(c) "Copy: means a reproduction, including an image of a recorded document or indices created by:

(1) duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage; or

(2) reproducing on microfilm.

(d) "Indices" means all of the indexing information used by the county recorder for finding, retrieving, and viewing a recorded document.

(e) "Recorded document" means a writing, a paper, a document, a plat, a map, a survey, or anything else received at any time for recording or filing in the public records maintained by the county recorder or the county recorder's designee.

Section II. Manner and Form of Production. It is hereby established that the Porter County Recorder shall provide bulk form copies to a bulk user only by electronically transmitting the copies using an electronic transfer process.

Section III. Procedure for Requesting Bulk Form Copies. A bulk user must submit a written request to the County recorder that identifies the requested bulk form copies with reasonable particularity. Unless the request is refused under Section VI, upon receipt of a valid written request the County Recorder or the County recorder's designee shall provide the bulk form copies to the bulk user by the method or methods established by Ordinance. The bulk form copies shall be provided within a reasonable time after the later of the following events:

(1) The Recorder's archival process is completed and bulk form copies become available in the County Recorder's Office.

(2) The bulk form user executes a contract that meets the requirements of Section V with:

(A) the County Recorder; and

(B) if the County Recorder uses a third party to provide bulk copy services, the County Recorder's designee.

The County Recorder or the County Recorder's designee shall work with reasonable diligence to ensure that bulk form copies are timely produced to the bulk user.

Section IV. Fees Charged for Bulk form Copies

(a) Based on a cost study dated December 22, 2017 and performed by the Porter County Recorder, this Board finds and determines that the costs incurred by the Porter County Recorder of producing bulk form copies (including applying a watermark or other protective feature) substantially exceed both the standard fee of ten cents (\$0.10) per page or per recorded document fixed by subsection (d) of IC 36-2-8-10.1 and the fee hereafter fixed. Accordingly, the following fee schedule is hereby adopted:

(1) Twenty cents (\$0.20) per page for a copy of

a recorded document, including the instrument's book and page, if applicable.

(2) Twenty cents (\$0.20) per recorded document for a copy of the indices used by the County Recorder for finding, retrieving, and viewing a recorded document.

(b) The fees charged by the County Recorder are subject to the following requirements:

(1) The County Recorder shall pay the fees into the County Treasury at the end of each calendar month.

(2) The fees prescribed and collected under this section supersede all other fees for bulk for copies required by law to be charged for services rendered by the County Recorder to bulk users.

(3) All revenue generated by the County Recorder under this section shall be deposited in the County Recorder's Perpetuation Fund and used by the Recorder in accordance with IC 36-2-7-10(f).

(4) The Recorder shall periodically update and verify the cost study referred to in subsection (a) immediately above.

Section V. Bulk User Contract - Termination

(a) A bulk user must enter into a contract with the County Recorder and if the County Recorder uses a third party to provide bulk copy services, the County Recorder's designee, in order to receive bulk form copies. The contract must be in writing and must require that the bulk user agree not to do any of the following:

(1) Except as provided in Section VI, provide, transfer, or allow the transfer of any copy of a recorded document obtained by the bulk user under this section to a third party.

(2) Engage in unauthorized access to recorded document.

(3) Engage in unauthorized alteration of recorded documents.

A contract required under this subsection may not include any restrictions on a bulk form user's use of the bulk form copies other than those contained in this section.

(b) If a bulk user does not comply with a contract, the County Recorder may terminate the contract, immediately stop providing bulk form copies to the bulk user, and refuse to provide the bulk form copies required by the bulk user if all termination provisions and procedures in the contract have been met by the County Recorder. The County Recorder may refuse subsequent requests from a bulk user for bulk form copies in the following circumstances:

(1) The bulk user is a person that has had a previous bulk form copy contract terminated by the County Recorder because the Recorder determined that the bulk user failed to comply with the contract.

(2) The bulk user is a corporation or limited liability company in which a person has a majority or controlling interest and:

(A) the person requested bulk form copies under a previous contract with the County Recorder; and

(B) the contract was terminated by the County Recorder because the County Recorder determined that the person failed to comply with the contract.

Section VI. Resale of Bulk Form Copies by Bulk User

(a) A bulk user that is licensed under IC 27-1-15.6-6(d) or holds a certificate of authority under IC 27-7-3-6 may provide bulk form copies related to the specific order for a title search (as defined in IC 27-7-3-2) when operating as:

(1) a title plant for the issuance of title insurance (as defined in IC 27-7-3-2); or

(2) title company (as defined in IC 27-7-3-2).

A bulk user that meets the requirements of this subsection may charge its customers a fee for using the bulk form copies obtained by the bulk user that may not exceed the costs incurred by the bulk user for obtaining the bulk form copies.

A bulk user that meets the requirements of this subsection may not resell, provide transfer, or allow the transfer of any copy of a recorded document, whether in bulk form or as individual copies or images, to any other bulk user or title plant.

(b) A bulk user that does not meet the requirements of subsection (a) immediately above is prohibited from selling, offering for sale, advertising for sale, soliciting a purchase of, loaning, giving away, allowing subscription service to, or otherwise transferring, providing, or allowing the

otherwise transferring, provide, or allowing the transfer of bulk form copies for commercial purposes to a third party, whether the copies are in bulk form or individual copies or images.

Section VII. Enhanced Access Not Affected. This Ordinance does not apply to enhanced access authorized under IC 5-14-3-3 and any Porter County Ordinances promulgated thereunder, including (but not limited to) Ordinance 1996-017406.

Section VIII. Effective Date. Upon adoption and signature, this Ordinance shall become effective on 1st day of February, 2018.

This ordinance passed and adopted this 30 day of January, 2018.

BOARD OF COMMISSIONERS
PORTER COUNTY, INDIANA

Jeff Good, President

Laura Blaney, Vice-President

Jim Biggs

Attest: Vicki Urbanik, Auditor

2/23/18 - hspaxlp