

### **TITLE III: ADMINISTRATION**

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## CHAPTER 30: TOWN GOVERNMENT

### Section

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### **GENERAL PROVISIONS**

#### **§ 30.01 LEGISLATIVE DISTRICTS.**

(A) *Establishment.* The following districts are established:

(1) *District 1.* Beginning at the intersection of the southern corporate line and Van Buren Street, then north to the junction of Van Buren Street and State Road 46, then east to the junction of Snyder Road and State Road 46, then following the corporate boundary in a counterclockwise direction to Main Street, then following Main Street west to the intersection of Main and Johnson Street, then along Johnson Street north to Molly's Lane, then east to Jefferson Street, then north along Jefferson Street to Gould Street, then east along Gould Street to

Honeysuckle Lane, then north along Honeysuckle Lane to Printers Lane, then east along Printers Lane to Van Buren Street, then north along Van Buren Street to Pine Tree Hill Drive, then a northeastern direction along Pine Hills Drive to the corporate boundary, then following the corporate boundary in a counterclockwise direction to the southern corporate boundary adjacent Salt Creek, then following the southern boundary to the intersection of the southern corporate boundary and Van Buren Street.

(2) *District 2.* Beginning at the intersection of Van Buren Street and Main Street east along Main Street to the eastern corporate boundary at Main Street and Greasy Creek Road, then north along the corporate boundary to the intersection of the corporate boundary and Pine Hills Drive, then southwest along Pine Hills Drive to Van Buren Street, then south along Van Buren Street to Printers Lane, then west along Printers Lane to Honeysuckle Lane, then south along Honeysuckle Lane to Gould Street, then west along Gould Street to Jefferson Street, then south along Jefferson Street to Molly's Lane, then west along Molly's Lane to Johnson Street, then south along Johnson Street to Main Street, then east along Main Street to the intersection of Main Street and Van Buren Street.

(3) *District 3.* Beginning at the intersection of the southern corporate boundary and Van Buren Street east along the southern corporate boundary, in a counterclockwise direction to Highway 46, then east along Highway 46 to Parkview Road, then south along Parkview Road to the western corporate boundary adjacent census block 3108, then following the corporate boundary in a counterclockwise direction to Parkview Road, then north along Parkview Road to

the southern corporate line along census block 3106, in a counterclockwise direction to Highway 46, then east along Highway 46 to the eastern corporate boundary of census block 4028, then following the corporate boundary in a counterclockwise direction to Highway 46, then west along Highway 46 to the intersection of Highway 46 and Van Buren Street, then south along Van Buren Street to the intersection of the southern corporate line and Van Buren Street.

(B) *Divisions.* The town is divided east from west by the northern extreme of Van Buren Street south to Mound Street then west to Jefferson Street then south to Main Street then east to Van Buren Street then south to the corporate limit. The town is divided north from south by Main Street. (Ord. 1982-10, passed 12-16-1982; Am. Ord. 1992-8, passed 12-17-1992; Am. Ord. 2002-08, passed 5-16-2002)

### § 30.02 TOWN COURT.

(A) There is hereby created the Town Court.

(B) The court shall be a Court of Record and shall have all of the powers and the authority as created by Chapter 76, Acts of 1961, Section 1, pages 144 *et seq.*

(C) The town shall provide the court a seal with the words "Town Court of Nashville, Indiana."

(D) The town shall provide for the court all books, dockets, papers and printed blanks necessary for the discharge of the duties of the court. (Ord. 7-7-69, passed 8-4-1969)

### § 30.03 PURCHASING AGENTS.

(A) The Clerk-Treasurer and Town Manager shall act as the purchasing agents for the town.

(B) The purchasing agents shall have all the powers and duties authorized under I.C. 5-22, as may

be supplemented from time to time by ordinances adopted by the Council and policies adopted by the purchasing agents.

(C) The Clerk-Treasurer or Town Manager shall act as the purchasing agents for every agency, board, office, branch, bureau, commission, council, department or other establishment of the town.

(D) The Clerk-Treasurer or Town Manager may designate in writing any employee of the town as a purchasing agent. (Ord. 1998-9, passed 6-18-1998)

## TOWN EMPLOYEES

### § 30.15 CLERK-TREASURER.

(A) The Town Council authorizes the Clerk-Treasurer to make payment of items that need to be made in a timely manner, and include them on the next claim docket at the Council meeting for approval. (Res. passed 1-19-1959; Res. 1990-1, passed 1-18-1990; Res. 1991-2, passed 1-17-1991; Res. 1992-1, passed 1-28-1992)

(B) The Clerk-Treasurer's salary shall be set by ordinance.

(Ord. 1-3-66, passed 1-3-1966; Am. Ord. 1989-12, passed 12-28-1989; Am. Ord. 1993-6, passed 12-16-1993; Am. Ord. 1993-8, passed 12-30-1993)

#### *Cross-reference:*

*Clerk-Treasurer as Public Records Officer, see § 32.02*

### § 30.16 TOWN MANAGER.

The Town Council shall create the position of Town Manager with the following conditions.

(A) *Employment; compensation; tenure.*

(1) The Town Council shall employ a Town Manager to be the administrative head of the town government and shall fix his or her compensation in the current salary ordinance.

(2) The Town Manager shall serve at the pleasure of the Town Council and may be removed from office by the board for cause at any time after notice and a hearing.

(3) The Town Council may appoint a qualified person to perform the duties of the Manager whenever he or she is absent or unable to perform his or her duties.

(B) *Performance bond.* The Manager must, in the manner prescribed by I.C. 5-4-1, execute a bond for the faithful performance of his or her duties.

(C) *Duties.* The Manager, under the direction of the Town Council, is responsible for the administrative duties of the Town Council. Unless a written order or ordinance of the Town Council provides otherwise, the Manager:

(1) Shall attend the meeting of the Town Council and recommend actions he or she considers advisable;

(2) Shall hire town employees according to the pay schedules and standards fixed by the Town Council or by statute;

(3) Shall suspend, discharge, remove or transfer town employees, if necessary for the welfare of the town;

(4) May delegate any of his or her powers to an employee responsible to him or her;

(5) Shall administer and enforce all ordinances, orders and resolutions of the Town Council;

(6) Shall see that all statutes that are required to be administered by the Town Council or a town officer subject to the control of the Town Council are faithfully administered;

(7) Shall prepare budget estimates and submit them to the Town Council when required;

(8) Shall execute contracts on behalf of the town for materials, supplies, services or improvements, after the completion of the appropriations, notice and competitive bidding required by statute; and

(9) May receive service of summons on behalf of the town.

(D) *Public works.* The Town Manager shall also act as the superintendent of the town public utilities and street department, hereinafter referred to as public works. These duties shall include:

(1) Appointment, supervision and dismissal of all employees of the public works;

(2) Employ unskilled labor when needed, without competitive examination;

(3) Investigate all claims against the public works;

(4) Oversee the operation of the public works and any construction work, repairs or alterations to the public works system; and

(5) Advise the Town Council in all matters that will bring about an efficient and economical operations and maintenance of the public works.

(E) *Police disciplinary body membership barred.* The Manager may not serve as a member of any body that hears disciplinary charges against:

(1) The Town Marshal; or

(2) A member of the Police Department.  
(Ord. 1993-4, passed 7-15-1993)

**Editor's note:**

*Wherever the words "Town Manager" appear in any section contained herein, the words "Town Administrator" or "designee of the Town Council" may be substituted in the application and construction of said sections (see Ord. 2005-03, passed 4-21-2005).*

**TOWN COUNCIL**

**§ 30.30 NUMBER OF MEMBERS.**

(A) There shall be 5 Council members, composed of the following:

(1) *Existing Council seats.*

- (a) District 1;
- (b) District 2; and
- (c) District 3.

(2) *New Council seats.*

- (a) *At Large 1.* Any of the 3 districts;
- (b) *At Large 2.* Any of the 3 districts.

and

(B) All Council members are to be elected by all the voters of the town.

(C) The district map titled Exhibit 1, Ordinance to Redistrict, is attached to Ordinance 2002-08 as a reference guide. However, should a dispute arise from either the boundary description and/or the district map, the census tract and block information attached to Ordinance 2002-08 shall be used in resolving any disputes.

(Ord. 1995-12, passed 11-16-1995; Am. Ord. 2002-08, passed 5-16-2002)

**§ 30.31 ELECTIONS; TERMS.**

(A) *Districts 1, 2 and 3.* The Council seats of District 1, District 2 and District 3 shall be filled by the individuals receiving the winning vote total from the November 7, 1995 ballot for each existing district seat.

(1) The individual receiving the winning vote total in the ballot for District 1 shall be elected to serve a 3-year term on the Town Council, beginning January 1, 1996.

(2) The individuals receiving the winning vote totals in the ballot for Districts 2 and 3 shall be elected to serve 4-year terms on the Town Council, beginning January 1, 1996.

(3) All successors to the Council members elected on November 7, 1995, shall be elected to serve for terms of 4 years.

(B) *At Large 1 and 2.*

(1) The new Council seats, At Large 1 and At Large 2, shall be filled by the members of the Council at a regular or special meeting.

(2) The individuals appointed to the Council seats of At Large 1 and At Large 2 shall serve 4-year terms on the Town Council, beginning January 1, 1996.

(Ord. 1994-6, passed 9-15-1994; Am. Ord. 1995-12, passed 11-16-1995)

## CHAPTER 31: TOWN POLICY

### Section

#### *General Provisions*

- 31.01 Disposal of personal property
- 31.02 Disposal of valuable items
- 31.03 Smoking in public buildings
- 31.04 Right of review
- 31.05 Identity Theft Prevention Program

#### *Purchase Orders*

- 31.15 Protection of offers; status of documents as public records
- 31.16 Discussions with offerors responding to a request for proposals
- 31.17 Delay of opening of offers
- 31.18 Evidence of financial responsibility
- 31.19 Modification and termination of contracts
- 31.20 Purchase of services
- 31.21 Purchase of supplies manufactured in the United States
  
- 31.99 Penalty

#### **GENERAL PROVISIONS**

##### **§ 31.01 DISPOSAL OF PERSONAL PROPERTY.**

All officials and employees of the town shall comply with the following procedure when disposing of any personal property:

(A) An itemized list of the items for disposal shall be submitted to the Town Council. The estimated value of each item shall be stated thereon along with the reason for disposal clearly indicated.

(B) Approval for the sale of the described property shall be obtained from the Town Council a minimum of 10 days prior to the date of disposal. (Res. 1994-2, passed 2-9-1994)

##### **§ 31.02 DISPOSAL OF VALUABLE ITEMS.**

All officials and employees of the town shall comply with the following procedure when disposing of any personal property, 1 item of which has an estimated value of \$1,000 or more, or more than 1 item is involved with an estimated total value of \$5,000 or more:

(A) An itemized list of the items for disposal shall be submitted to the Town Council. The estimated value of each item shall be stated thereon along with the reason for disposal clearly stated.

(B) Approval for the sale of the described property must be obtained from the Town Council in sufficient time to allow for newspaper advertising of the proposed disposal at least 10 days prior to the date of disposal.

(C) Items of personal property of the value specified in this section may be sold at a public auction conducted by an auctioneer licensed under I.C. 25-6.1 after public advertisement. If an auctioneer is not engaged, the town shall sell the property at a public sale or by sealed bids delivered to the office of the disposing agent before the date of sale. The advertisement shall state whether it is to be a public sale or by sealed bid. All sales shall be made to the highest responsible bidder. (Res. 1994-2, passed 2-9-1994)

### § 31.03 SMOKING IN PUBLIC BUILDINGS.

It shall be unlawful for any person to light a match or other flame-producing device or to smoke, light or carry a lighted cigarette, cigar, or pipe or similar article, in any public library, public school or public school building including gymnasiums and auditoriums, public theater or auditorium and similar buildings, unless authorized signs are displayed expressly permitting the same; provided, however, that this section shall not be construed to prohibit smoking on the stage of any theater when used in connection with theatrical performances.

(Ord. 4-6-70, passed 4-6-1970) Penalty, see § 31.99

### § 31.04 RIGHT OF REVIEW.

(A) *Purpose.* The welfare of the town and the people who live, work and do business in the town is tied to the Code of Ordinances and the legislative and executive decisions of the Town Council. In order to protect the rights of all to protest any action by the Town Council, the application of the Code of Ordinances, any decision of a board, commission or committee under the jurisdiction of the Town Council, it is necessary to establish a right of review process.

(B) *Procedure.*

(1) Any person, business or other entity who believes himself, herself or itself to be aggrieved by a particular decision of the Town Council, a particular application of the Code of Ordinances or the decision of any board, commission or committee under jurisdiction of the town may, upon proper written request, seek review of the decision. Requests made pursuant to this section must be filed with the Clerk-Treasurer within 10 working days following the date of final action by the Council, board, commission or committee. In the event that the individual person, business or other entity believes there is a particular grievance with regard to a specific ordinance, the request must be filed with the Clerk-Treasurer within 10 working days of the discovery of the particular grievance.

(2) After the filing of the written request for Council review of a decision of the Council's action, application of a particular ordinance or the decision of a board, commission or committee under the jurisdiction of the Town Council, the Town Council President or any 2 Council members, after considering whether sufficient time remains to notice the review for public hearing before a forthcoming Council meeting, shall set the date on which the Council will hold a hearing. Noticing shall be consistent with that specified under Indiana law. At the time of Council review of the matter, the Council may uphold the decision of the Council, the application of the ordinance, the decision of any board, commission or committee under the jurisdiction of the Town Council, amend the decision and/or conditions attached to the decision, overturn the decision, or remand the matter to the board, commission or committee for further consideration.

(Ord. 2000-4, passed 4-27-2000)

### § 31.05 IDENTITY THEFT PREVENTION PROGRAM.

The town hereby adopts the Identity Theft Prevention Program, as is set out in its entirety and as is more particularly set out in Exhibit A of Ordinance 2009-06, available in the Office of the Town Clerk-Treasurer.

(Ord. 2009-06, passed 4-16-2009)

## **PURCHASE ORDERS**

### § 31.15 PROTECTION OF OFFERS; STATUS OF DOCUMENTS AS PUBLIC RECORDS.

(A) *Protection of offers prior to opening.* The purchasing agent shall retain all offers received in a secure location prior to the date and time at which offers will be opened, in order to prevent disclosure of the contents prior to the opening of the offers.

(B) *Unobstructed evaluation of offers.* After offers have been opened, the purchasing agent shall be responsible for maintaining the offers in such a manner as to permit evaluation of the offers by the persons responsible for evaluating the offers.

(C) *Public records status of bids.* Bids submitted in response to an invitation for bids must be available for public inspection and copying after the time of the bid opening.

(D) *Register of proposals.* The purchasing agent shall prepare a register of proposals for each request for proposals issued, which shall contain information concerning the proposals available for public inspection and copying. Proposals may not be disclosed.

(Ord. 1998-10, passed 6-18-1998)

### **§ 31.16 DISCUSSIONS WITH OFFERORS RESPONDING TO A REQUEST FOR PROPOSALS.**

The purchasing agent may conduct discussions with, and best and final offers may be obtained from responsible offerors who submit proposals determined to be reasonably susceptible of being selected for a contract award.

(Ord. 1998-10, passed 6-18-1998)

### **§ 31.17 DELAY OF OPENING OF OFFERS.**

When the Town Council makes a written determination that it is in the town's best interests, offers may be opened after the time stated in the solicitation. The date, time and place of the rescheduled opening must be announced at the time and place of the originally scheduled opening.

(Ord. 1998-10, passed 6-18-1998)

### **§ 31.18 EVIDENCE OF FINANCIAL RESPONSIBILITY.**

(A) *Purchases less than \$25,000.* The purchasing agent may not require evidence of financial responsibility when the estimated cost of a purchase is less than \$25,000.

(B) *Purchases between \$25,000 and \$100,000.* The solicitation may include a requirement that an offeror provide evidence of financial responsibility. If evidence of financial responsibility is required, the solicitation must indicate the kind of evidence that will be acceptable. If a bond or certified check is required, it may not exceed 10% of the estimated cost of the purchase.

(C) *Purchases over \$100,000.* The solicitation shall include a requirement that an offeror provide evidence of financial responsibility and must indicate the kind of evidence that will be acceptable. If a bond or certified check is required, it may not exceed 10% of the estimated cost of the purchase.

(D) *Small business set-asides.* The purchasing agent may determine that no evidence of financial responsibility shall be required for a small business set-aside purchase.

(Ord. 1998-10, passed 6-18-1998)

### **§ 31.19 MODIFICATION AND TERMINATION OF CONTRACTS.**

(A) *Price adjustments.* The purchasing agent may include provisions to permit price adjustments in a purchase contract. The following provisions for price adjustments may be included:

(1) Price adjustments must be computed by agreement on a fixed price adjustment before the beginning of the pertinent performance or as soon after the beginning of performance as possible;

(2) Price adjustments must be computed by unit prices specified in the contract or subsequently agreed upon;

(3) Price adjustments must be computed by costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;

(4) Price adjustments must be computed in such other manner as the contracting parties may mutually agree upon; or

(5) In the absence of agreement by the parties, price adjustments must be computed by a unilateral determination by the governmental body of the costs attributable to the events or situations under those clauses with adjustment of profit or fee all as computed by the governmental body in accordance with applicable rules adopted by the governmental body.

(B) *Adjustments in time of performance.* The purchasing agent may include provisions in a purchase contract concerning adjustments for time of performance under the contract.

(C) *Unilateral rights of the Town Manager.* The purchasing agent may include in a purchase contract provisions dealing with the unilateral right of the Town Manager to order changes in the work within the scope of the contract or to order temporary work stoppage or delays in time of performance.

(D) *Quantity variations.* The purchasing agent may include in a purchase contract provisions dealing with variations between the estimated quantities of work in a contract and the actual quantity delivered. (Ord. 1998-10, passed 6-18-1998)

### § 31.20 PURCHASE OF SERVICES.

The purchasing agents shall have the right to establish policies regarding the purchase of services for the town.

(Ord. 1998-10, passed 6-18-1998)

### § 31.21 PURCHASE OF SUPPLIES MANUFACTURED IN THE UNITED STATES.

Supplies manufactured in the United States shall be specified for all town purchases and shall be purchased unless the town determines that:

(A) The supplies are not manufactured in the United States in reasonably available quantities;

(B) The prices of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured elsewhere;

(C) The quality of the supplies manufactured in the United States is substantially less than the quality of comparably priced available supplies, manufactured elsewhere; or

(D) The purchase of supplies manufactured in the United States is not in the public interest. (Ord. 1998-11, passed 6-18-1998)

### § 31.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of § 10.99.

(B) Whoever violates the provisions of § 31.03 shall upon conviction be fined in any sum not more than \$100.

(Ord. 4-6-70, passed 4-6-1970)

## CHAPTER 32: TOWN RECORDS

### Section

- 32.01 Access to records
- 32.02 Public records officer
- 32.03 Fees

(B) The fee for copying public records not listed above shall be as determined by the Public Records Officer.

(Ord. 1996-1, passed 1-4-1996; Am. Res. 1996-1, passed 1-4-1996)

### § 32.01 ACCESS TO RECORDS.

This town shall make available to any person for inspection or copying all public records, unless otherwise exempted by law.

(Ord. 1996-1, passed 1-4-1996; Am. Res. 1996-1, passed 1-4-1996)

### § 32.02 PUBLIC RECORDS OFFICER.

The Clerk-Treasurer shall be designated Public Records Officer of the town. The Public Records Officer shall be the responsible party for the development of policies and procedures regarding the maintenance and access of the public records of the town.

(Res. 1996-1, passed 1-4-1996)

### § 32.03 FEES.

(A) The fee for copying records shall be as follows:

(1) Pages less than or equal to an 11-inch by 17-inch page - \$0.10 per sheet.

(2) Pages greater than an 11-inch by 17-inch page - \$2.00 per sheet.

(3) Standard audio recording - \$1.60 per recording.



**CHAPTER 33: DEPARTMENTS, BOARDS AND COMMISSIONS**

Section

***Police Department***

- 33.01 Accident Report Fund
- 33.02 Police Reserves; Reserve Police Training Fund
- 33.03 Reserve Police Department Fund
- 33.04 Tow service pool

***Public Facility Corporation***

- 33.10 Parking and Public Facilities Development Corporation established
- 33.11 Organization
- 33.12 Purpose and goals

***Town Plan Commission***

- 33.25 Town Plan Commission established
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***Town Tree Board***

- 33.40 Definition
- 33.41 Creation and establishment
- 33.42 Term of office
- 33.43 Compensation
- 33.44 Duties and responsibilities
- 33.45 Operation
- 33.46 Implementation
- 33.47 Maintenance
- 33.48 Review by Town Board

***POLICE DEPARTMENT***

**§ 33.01 ACCIDENT REPORT FUND.**

(A) The Police Department is authorized to charge a fee of \$10 for each vehicle accident report. The money may be expended for any purpose related to the production of accident reports, necessary record keeping or the prevention of accidents, as established by normal budget policy.

(B) The Clerk-Treasurer shall deposit the \$10 fee in a separate account to be known as the Law Enforcement Continuing Education Fund. (Ord. 1992-1, passed 2-20-1992; Am. Ord. 1994-11, passed 10-20-1994; Am. Ord. 2002-06, passed 3-21-2002)

**§ 33.02 POLICE RESERVES; RESERVE POLICE TRAINING FUND.**

(A) There is hereby established, pursuant to I.C. 36-8-3-20, the town police reserves, which shall be known as the Town Marshal's Reserve Unit.

(1) The maximum number of members of the reserve unit shall be 10.

(2) Reserve police officers are subject to all rules and regulations of the town Police Department and the state.

(3) Reserve police officers are not paid employees.

(4) Reserve police officers shall complete a certified reserve police academy program. Reserve officers shall not work alone or unassisted until satisfactorily completing and being certified by the reserve academy.

(5) Certified reserve police officers shall have the same police powers and authority as regular members of the Police Department, subject to the following:

(a) Reserve officers shall not make any arrests or conduct any search and seizure actions when out of the Police Department uniform.

(b) Reserve officers shall wear the Police Department uniform only when scheduled to work by the Town Marshal or, with the Town Marshal's approval, when working voluntarily with another police officer.

(6) Reserve officers shall work a minimum of 24 hours per month in order to keep their reserve status.

(7) Reserve police officers shall make themselves available for any training deemed necessary by the Town Council, the Town Marshal or mandated by the state.  
(Ord. 1982-9, passed 10-4-1982; Am. Ord. 1989-13, passed 12-28-1989)

(B) A Reserve Police Training Fund is established.

(1) The purpose of the fund is to provide the citizens of the town and other communities with well-trained, experienced and knowledgeable civilian reserve police officers and to meet all criteria set forth by the state.

(2) The Police Department is authorized to charge a fee to participating law enforcement agencies at \$50 per officer. The money may be expended at the discretion of the Town Marshal for operating

expenses and for any purpose reasonably related to police officer training.

(Ord. 1992-2, passed 3-19-1992; Am. Ord. 2009-09, passed 10-15-2009; Am. Ord. 2009-12, passed 12-17-2009)

### **§ 33.03 RESERVE POLICE DEPARTMENT FUND.**

(A) The Reserve Police Department Fund, under the direction of the Town Marshal and consistent with budget policies, may make expenditures for any purpose reasonable related to the keeping of peace and safety of the general public as well as for the purpose of providing equipment to maintain the Reserve Police Department.

(B) The Reserve Police Department may solicit funds from the general public under the direction of the Town Marshal.

(C) The Clerk-Treasurer shall deposit monies collected under division (B) above in a separate account known as the Reserve Police Department Fund.

(Ord. 1995-2, passed 3-16-1995)

### **§ 33.04 TOW SERVICE POOL.**

(A) The Town Marshal shall develop written conditions governing the provision of tow services to be provided to the town.

(B) The written conditions of service shall be submitted and approved by the Town Council.

(C) The Town Marshal shall form a pool of tow service providers with the fees of this service being set by the submittal of the lowest responsive service offeror.

(D) The tow service shall be on a rotating basis, with each of the tow service providers being given equal on-call time on an annual basis.

(E) Service conditions should provide for the instance of a vehicle operation requesting a specific tow service provider. If a specific tow service provider be requested, the Town Marshal shall have a written request signed by both the vehicle operator and the attending police representative.  
(Res. 1994-3, passed 2-7-1994)

***PUBLIC FACILITY CORPORATION***

**§ 33.10 PARKING AND PUBLIC FACILITIES DEVELOPMENT CORPORATION ESTABLISHED.**

The Parking and Public Facilities Development Corporation is formed. It shall have all rights, powers, authority and responsibility conferred upon it by state law.  
(Res. 1987-1, passed 11-18-1987; Res. 1988-2, passed 10-20-1988)

**§ 33.11 ORGANIZATION.**

The Board of Trustees of the town shall invite 5 people, who shall serve at the pleasure of the Board of Trustees, to organize the Parking and Public Facilities Development Corporation. The Board of Directors shall be selected in accordance with the terms and conditions in the corporation's code of bylaws, but serve at the pleasure of the Board of Trustees.  
(Res. 1987-1, passed 11-18-1987; Res. 1988-2, passed 10-20-1988; Am. Res. 1996-4, passed 2-15-1996)

**§ 33.12 PURPOSE AND GOALS.**

The Parking and Public Facilities Development Corporation shall acquire land for the construction of parking and public facilities; design and construct parking and public facilities; investigate financial options in order to pay for the cost of acquisition, design, construction and any and all costs related to

the acquisition, design and construction of the proposed parking and public facilities, for approval by the Board of Trustees; enter into a lease-purchase agreement with the town, providing the town shall tender annual lease-purchasing payments to the Parking and Public Facilities Development Corporation, and that the town shall operate and maintain the parking and public facilities; use the annual lease-purchase payment tendered by the town to retire any bonds or payments of debt; transfer ownership and title of any proposed parking and public facility to the town upon expiration of the lease-purchase agreement; and take other action consistent with the Parking and Public Facilities Development Corporation's purpose, articles of incorporation, bylaws and state, federal and local law.  
(Res. 1987-1, passed 11-18-1987; Res. 1988-2, passed 10-20-1988)

***TOWN PLAN COMMISSION***

**§ 33.25 TOWN PLAN COMMISSION ESTABLISHED.**

There is established a Town Plan Commission under the authority provided in Chapter 174 of the Acts of 1947 of the State General Assembly as amended.  
(Ord. passed - -1957)

**§ 33.26 MEMBERSHIP.**

The membership shall be as provided by the statute and the amendments thereto, and the official members are designated as:

- (A) A member of the Board of Trustees, to be selected by the Board;
- (B) The Town Attorney;
- (C) The Street Commissioner; and

(D) Four citizen members to be appointed by the President of the Board of Trustees, for initial terms of 2 years, and 2 members for 4 years, in accordance with the provisions of the statute.

(E) Two members to be appointed by the Judge of the County Circuit Court in accordance with the statute, for initial terms of 1 member for 1 year and 1 member for 4 years, and the members shall reside in the unincorporated area over which the Town Plan Commission has jurisdiction, and shall be of opposite political parties.  
(Ord. passed - -1957)

### ***TOWN TREE BOARD***

#### **§ 33.40 DEFINITION.**

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***MASTER PLAN.*** The plan created to establish a tree canopy for the town limits.  
(Ord. 1988-13, passed - -1988)

#### **§ 33.41 CREATION AND ESTABLISHMENT.**

The Town Tree Board will be a subcommittee of the County Arbor Day Committee and will consist of 5 members to be appointed by the Arbor Day Committee and approved by the Town Board of Trustees.  
(Ord. 1988-13, passed - -1988)

#### **§ 33.42 TERM OF OFFICE.**

(A) The term of the 5 persons to be appointed shall be 3 years, except that the term of 2 of the members appointed to the first board shall be for only 1 year and the term of 2 members of the first board shall be for 2 years.

(B) In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed by the Town Board of Trustees or its designee for the unexpired portion of the term.  
(Ord. 1988-13, passed - -1988)

#### **§ 33.43 COMPENSATION.**

Members of the Board shall serve without compensation.  
(Ord. 1988-13, passed - -1988)

#### **§ 33.44 DUTIES AND RESPONSIBILITIES.**

It shall be the responsibility of the Board to implement the Master Plan for planting during Arbor Day and any other plantings that may occur during a given year. The Board will provide the Town Board each year with a list of accomplishments. The Board when requested shall consider, investigate, make findings, report and recommend upon any special matter of interest coming within the scope of its work.  
(Ord. 1988-13, passed - -1988)

#### **§ 33.45 OPERATION.**

The Board shall choose its own officers and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.  
(Ord. 1988-13, passed - -1988)

#### **§ 33.46 IMPLEMENTATION.**

The Master Plan shall designate placement and species of trees and shrubs and will take into consideration distance from street corners, parking facilities, fireplugs and utilities. The Board will also consider new construction and changes that may occur upon the adoption of the Master Plan. No trees shall be planted upon private property without approval of the property owner. Nor shall trees be planted within

the state right-of-way without the approval of adjacent property owners.

(Ord. 1988-13, passed - -1988)

**§ 33.47 MAINTENANCE.**

The Board will advise on the care of newly planted tree stock, and will chart the progress of trees planted to see that they are in proper care. The Tree Board will advise if pruning or other needs exist for the betterment of the trees. The Tree Board will offer assistance and make recommendations on the care of existing trees if requested by the Town Board or by landowners. The Tree Board will make notification of known diseases that could endanger the tree canopy.

(Ord. 1988-13, passed - -1988)

**§ 33.48 REVIEW BY TOWN BOARD.**

All decisions and recommendations made by the Tree Board are subject to approval of the Town Board of Trustees.

(Ord. 1988-13, passed - -1988)



**CHAPTER 34: FINANCE; TOWN FUNDS**

Section

*General Provisions*

- 34.001 Donation fund
- 34.002 Appropriation of funds for promotion of town
- 34.003 Disbursement of town funds
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- 34.005 Fixed asset capitalization policy

*Capital Improvement Plan*

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*Cumulative Capital Improvement Fund*

- 34.030 Definition
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*Food and Beverage Tax*

- 34.040 Tax established
- 34.041 Exemptions
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*Parking Violation Fund*

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*Police Department Drug Fund*

- 34.070 Establishment
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- 34.080 Establishment

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- 34.090 Establishment

*Rainy Day Fund*

- 34.100 Establishment

***Cross-references:***

- Accident Report Fund, see § 33.01*
- Law Enforcement Continuing Education Fund, see § 33.01*
- Reserve Police Department Fund, see § 33.03*
- Reserve Police Training Fund, see § 33.02*

**GENERAL PROVISIONS**

**§ 34.001 DONATION FUND.**

(A) The Clerk-Treasurer is hereby authorized to accept restricted donations. The Clerk-Treasurer shall keep these donations in a separate fund with proper sub-accounts for each particular approved donation.

(B) The life of the fund shall continue until the Town Council decides otherwise.

(1) The fund balance shall be perpetual until terminated by the terms of the current ordinance or by enactment of a subsequent ordinance or amendment.

(2) The disposition of the fund balance on termination of the fund will be determined by the Town Council.

(Ord. 1991-5, passed 9-26-1991)

**§ 34.002 APPROPRIATION OF FUNDS FOR PROMOTION OF TOWN.**

The Town Council is authorized to budget and appropriate funds from the General Fund of the town, to pay for expenses of or to reimburse town officials for expenses incurred in promoting the best interest of the town. These expenses may include, but not necessarily be limited to rental of meeting places, meals, decorations, memorabilia, awards, expenses incurred in promoting industrial, commercial and residential development, expenses incurred in developing relations with other units of government, and any other expenses of a civic or governmental nature deemed by the Town Council to be in the best interest of the town.

(Ord. 1992-9, passed 12-17-1992)

**§ 34.003 DISBURSEMENT OF TOWN FUNDS.**

(A) The Clerk-Treasurer may make claim payment for the following kinds of expenses:

(1) Property or services purchased or leased from the United States government, its agencies or its political subdivisions;

(2) License or permit fees;

(3) Insurance premiums;

(4) Utility payments or utility connection charges;

(5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced;

(6) Grants of state funds authorized by statute;

(7) Maintenance or service agreements;

(8) Leases or rental agreements;

(9) Bond and coupon payments;

(10) Payroll;

(11) State, federal or county taxes;

(12) A product or service for which the Town Council accepted a bid;

(13) Expenses described in town ordinances;

(14) Professional dues, subscriptions and expenses for the education and development of public officials and employees of the town; and

(15) Expenses that must be paid because of emergency circumstances. Any emergency expense must be accompanied by a written emergency statement from the Town Manager prior to incurring the expense. If the Town Manager is not available, the department head responsible for that service shall execute the necessary emergency statement.

(B) Each payment of expense must be supported by a fully itemized invoice or bill and certification by the Clerk-Treasurer.

(C) The Town Council shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense.

(Ord. 1995-13, passed 12-21-1995)

**§ 34.004 INVESTMENT OF TOWN FUNDS.**

The Clerk-Treasurer is authorized to invest any and all town funds subject to the provisions of I.C. 5-13-9.

(Res. 1997-2, passed 3-20-1997)

**§ 34.005 FIXED ASSET CAPITALIZATION POLICY.**

(A) (1) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.



**CAPITAL OUTLAYS.** Expenditures which benefit both the current and future fiscal periods. This includes costs of acquiring land or structures; construction or improvement of buildings, structures or other fixed assets; and equipment purchases having an appreciable and calculable period of usefulness. These are expenditures resulting in the acquisition of or addition to the government's general fixed assets.

**FIXED ASSETS.** Tangible assets of a durable nature employed in the operating activities of the unit and that are relatively permanent and are needed for the production or sale of goods or services are termed property, plant and equipment of **FIXED ASSETS**. These assets are not held for sale in the ordinary course of business. This broad group is usually separated into classes according to the physical characteristics of the items (such as land, buildings, improvements other than buildings, machinery and equipment, furniture and fixtures).

**TANGIBLE ASSETS.** Assets that can be observed by 1 or more of the physical senses. They may be seen and touched and, in some environments, heard and smelled.

(2) *Provisions.*

(a) *Land.*

1. This town will capitalize all land purchases, regardless of cost.

2. Exceptions to land capitalization are land purchased outright, as easements, or rights-of-way for infrastructure. Examples of infrastructures are roads and streets, street lighting systems, bridges, overpasses, sidewalks, curbs, parking meters, street signs, viaducts, wharves and stormwater collection.

3. A department will record donated land at fair market value on the date of transfer plus any associated costs.

4. Purchases made using federal or state funding will follow the source funding policies and above procedures.

(b) *Machinery and equipment.*

1. The definition of **MACHINERY AND EQUIPMENT** is: an apparatus, tool or conglomeration of pieces to form a tool. The tool will stand alone and not become a part of a basic structure of building.

2. The town will capitalize and tag items with an individual value equal to or greater than \$1,000. Machinery combined with other machinery to form 1 unit with a total value greater than the above-mentioned limit will be 1 unit.

3. Improvements or renovations to existing machinery and equipment will be capitalized only if the result of the change meets all of the following conditions:

a. Total cost exceeds \$1,000;

b. The useful life is extended 2 or more years; and

c. The total costs will be greater than the current book value and less than the fair market value.

4. Examples include:

a. A work truck being equipped with screens, lights or radios for use as a single unit throughout its life expectancy is considered 1 unit;

b. If police cars are constantly changing light bars or radios to other vehicles, the town will capitalize each piece of equipment separately, if it meets the required dollar amount; and

c. A department's computer (CPU, monitor, keyboard and printer) is considered 1 unit.

5. A department will record donated machinery and equipment at fair market value on the date of transfer with any associated costs.

6. Purchases made using federal or state funding will follow the source funding policies and above procedures.

(c) *Buildings.*

1. A department will capitalize buildings at full cost with no subcategories for tracking the cost of attachments. Examples of attachments are roofs, heating, cooling, plumbing, lighting or sprinkler systems, or any part of the basic building. The department will include the cost of items designed or purchased exclusively for the building.

2. A department's new building will be capitalized only if it meets the following conditions:

- a. The total cost exceeds \$5,000; and
- b. The useful life is greater than 2 years.

3. A department improving or renovating an existing building will capitalize the cost only if the result meets all of the following conditions:

- a. The total cost exceeds \$5,000;
- b. The useful life is extended 2 or more years; and
- c. The total cost will be greater than the current book value and less than the fair market value.

4. Capital building costs may include preparation of land for the building, architectural and engineering fees, bond issuance fees, interest cost (while under construction), accounting costs, if material, and any costs directly attributable to the construction of a building.

5. A department will record donated buildings at fair market value on the date of transfer with any associated costs.

6. Purchases made using federal or state funding will follow the source funding policies and above procedures.

(d) *Improvements other than buildings.*

1. The definition of this group is improvements to land for better enjoyment, attached or not easily removed, and that will have a life expectancy of greater than 2 years.

2. Examples are walks, parking areas and drives, golf cart paths, fencing, retaining walls, pools, outside fountains, planters, underground sprinkler systems and other similar items.

3. Improvements do not include roads, streets or assets that are of value only to the public. For example, Main Street is a public street with greatest value to the public. Roads or drives upon town-owned land that provide support to our facilities are assets. A sidewalk down the road for public enjoyment is an infrastructure improvement and is not capitalized. However, sidewalks installed upon town-owned land for use by the public and for the support of our facility are capital assets.

4. This town will capitalize new improvements other than buildings only if they meet the following conditions:

- a. The total cost exceeds \$5,000; and
- b. The useful life is greater than 2 years.

5. A department will capitalize improvements or renovations to existing improvements other than buildings only if the result meets the following conditions:

a. The total cost exceeds \$5,000;

b. The asset's useful life is extended 2 or more years; and

c. The total cost will be greater than the current book value and less than the fair market value.

6. A department's donated improvements other than buildings will be recorded at fair market value on the date of transfer with any associated costs.

7. Purchases made using federal or state funding will follow the source funding policies and above procedures.

(B) *Recording and accounting.*

(1) The town and its various departments shall classify capital expenditures as capital outlays within the fund from which the expenditure was made in accordance with the Chart of Accounts of the Cities and Towns Accounting Manual. For purposes of recording fixed assets of the town and its departments, the valuation of assets shall be based on historical cost or, where the historical cost is indeterminable, by estimation for those assets in existence.

(2) The town's municipally owned utilities shall record acquisition of fixed assets in accordance with generally accepted accounting principles. When an asset is purchased for cash, the acquisition is simply recorded at the amount of cash paid. Assets may be acquired under a number of other arrangements including:

(a) Assets acquired for lump-sum purchase price;

(b) Purchase on deferred payment contract;

(c) Acquisition under capital lease;

(d) Acquisition by exchange of nonmonetary assets;

(e) Acquisition by issuance of securities;

(f) Acquisition by self-construction; and

(g) Acquisition by donation or discovery.

(3) Some of these arrangements present special problems relating to the cost to be recorded; for example, in utility accounting, interest during a period of construction has long been recognized as a part of the asset cost. Reference to an intermediate accounting manual will illustrate the recording of acquisition of assets under the aforementioned acquisition arrangements. For purposes of recording fixed assets of the utilities, the valuation of assets shall be based on historical cost.

(4) In addition, assets shall be recorded and maintained to provide a detailed record of the capital assets of the governmental unit.

(5) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**HISTORICAL COST.** The cash equivalent price exchanged for goods or services at the date of acquisition. Land, buildings, equipment and most inventories are common examples of items recognized under the **HISTORICAL COST** attribute.

(C) *Safeguarding of assets.* Accounting controls shall be designed and implemented to provide reasonable assurances that the recorded accountability for assets be compared with the existing assets at least

every 2 years and appropriate action be taken with respect to any differences.

(Ord. 1996-7, passed 12-19-1996)

### ***CAPITAL IMPROVEMENT PLAN***

#### **§ 34.015 ADOPTION.**

The Capital Improvement Plan is adopted by the Town Council in conformance with I.C. 6-3.5-7.

(Ord. 1991-1, passed 3-21-1991)

#### **§ 34.016 TERM.**

The term of the Plan is 5 years from the date of its adoption. The Town Council will review the objectives of this plan at the end of this term and modify those objectives as needs dictate.

(Ord. 1991-1, passed 3-21-1991)

#### **§ 34.017 PLAN OBJECTIVES.**

I.C. 6-3.5-7 requires the adoption of the plan by the Town Council before the town may receive its certified distribution of revenues from the Economic Development Income Tax (EDIT). The plan must specify the uses for which the town proposes to use EDIT revenues.

(Ord. 1991-1, passed 3-21-1991)

#### **§ 34.018 USE OF EDIT REVENUES.**

I.C. 6-3.5-7-13.1 provides that EDIT revenues may be used for the following:

(A) Construction of capital projects for which the town is empowered to issue general obligation notes or establish a fund under any statute listed in I.C. 6-1.1-18.5-9.8;

(B) Economic development projects as defined in I.C. 6-3.5-7-5-13.1(c);

(C) Payment of lease rentals under any statute for a capital project;

(D) Retirement of notes issued under any provisions of state law for a capital project;

(E) Contract payments to a not-for-profit corporation whose primary corporate purpose is to assist government on planning and implementing economic development projects;

(F) Operating expenses of a governmental entity that plans or implements economic development projects;

(G) Retirement of notes under I.C. 6-3.5-7-14 for economic development projects;

(H) Leases under I.C. 6-3.5-7-21; or

(I) Leases or notes entered into or issued prior to the date the EDIT was imposed, if the purpose of the lease or the notes would have qualified as a purpose under I.C. 6-3.5-7 when the lease was entered into or notes were issued.

(Ord. 1991-1, passed 3-21-1991)

#### **§ 34.019 DESCRIPTION OF CAPITAL IMPROVEMENTS PROJECTS.**

(A) The description of specific capital improvement projects as set forth in Ordinance 1991-1, passed 3-21-1991, is adopted by reference and made a part of this section as if set forth in full herein.

(B) The complete description of the capital improvement projects can be examined in the office of the Clerk-Treasurer.

(Ord. 1991-1, passed 3-21-1991)

**CUMULATIVE CAPITAL IMPROVEMENT  
FUND**

**§ 34.030 DEFINITION.**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**CAPITAL IMPROVEMENT.** The construction or improvement of any town-owned property including, but not limited to streets, thoroughfares and sewers, and shall not include salaries of any public officials or employees except that directly chargeable to the improvements.

(Ord. 8265, passed 8-2-1965)

**§ 34.031 ESTABLISHMENT.**

There is hereby established a Cumulative Capital Improvement Fund as provided by Chapter 225, Acts of 1965, to be used solely for capital improvements of the town.

(Ord. 8265, passed 8-2-1965)

**§ 34.032 DISTRIBUTIONS.**

The semi-annual distributions from the Cigarette Tax Fund shall be deposited to the Cumulative Capital Improvement Fund.

(Ord. 8265, passed 8-2-1965)

**§ 34.033 AD VALOREM PROPERTY TAX REVENUES.**

An ad valorem property tax shall be imposed and the revenues from the levy will be retained in the Cumulative Capital Development Fund. The rate of the levy shall be as established by Council from time to time.

(Ord. 1994-7, passed 7-25-1994)

**§ 34.034 USE OF FUNDS.**

The Cumulative Capital Development Fund shall be used for the following purposes:

(A) Cumulative Firefighting Building and Equipment (I.C. 36-8-14) (50%);

(B) Cumulative Drainage Fund (I.C. 36-9-27-100) (25%); and

(C) Cumulative Street Fund (I.C. 36-9-16.5) (25%).

(Ord. 1994-7, passed 7-25-1994)

**FOOD AND BEVERAGE TAX**

**§ 34.040 TAX ESTABLISHED.**

(A) Pursuant to the authority granted to the Town Board of Trustees by the General Assembly of the State, I.C. 6-9-24-3, there is hereby adopted a Town Food and Beverage Tax to be imposed upon any transaction in which food or beverage is furnished, prepared or served:

(1) For consumption at a location or on equipment provided by a retail merchant;

(2) Within the town; or

(3) By a retail merchant for consideration.

(B) The transactions described in division (A) above include, but are not limited to transactions in which food and beverage are:

(1) Served by a retail merchant off the merchant's premises;

(2) Sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverage on a "take out" or "to go" basis; or

(3) Sold by a street vendor.

(C) The Town Food and Beverage Tax imposed on a food or beverage transaction described in division (A) of this section equals 1% of the gross retail income received by the merchant from this transaction. For purposes of this section, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under I.C. 6-2.5 *et seq.* (Ord. 1987-4, passed 5-7-1987)

#### § 34.041 EXEMPTIONS.

The Town Food and Beverage Tax does not apply to the finishing, preparing or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, for the state gross retail tax imposed by I.C. 6-2.5 *et seq.* (Ord. 1987-4, passed 5-7-1987)

#### § 34.042 PROCEDURE OF TAXATION.

(A) The tax imposed under this chapter shall be imposed, paid and collected in the same manner that the state gross retail tax is imposed, paid and collected under I.C. 6-2.5 *et seq.* However, the return to be filed for the payment of the taxes may be made on separate returns or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the State Department of State Revenue.

(B) The amounts received from the taxes imposed under the ordinance shall be paid monthly by the Treasurer of the State to the Clerk-Treasurer upon warrants by the State Auditor. (Ord. 1987-4, passed 5-7-1987)

#### § 34.043 FOOD AND BEVERAGE FUND.

(A) The Clerk-Treasurer shall establish a Food and Beverage Receipt Fund.

(B) The Clerk-Treasurer shall deposit in this fund all amounts received under this tax.

(C) Any money earned from the investment of money in the fund shall become a part of the fund.

(D) (1) The Clerk-Treasurer shall apply the money as directed by the Board of Trustees in the fund as follows: Solely to finance, construct, improve, equip, operate and maintain public parking and public restroom facilities, or to renovate, equip, operate and maintain any structure that may be used as a public parking or public restroom facility.

(2) The municipality may enter into lease or contractual arrangements, or both, with governmental, not-for-profit or other private entities to operate and maintain these facilities. (Ord. 1987-4, passed 5-7-1987)

#### § 34.044 EXPIRATION OF TAX.

This subchapter expires July 1, 2007. (Ord. 1987-4, passed 5-7-1987)

### *PARKING VIOLATION FUND*

#### § 34.060 ESTABLISHMENT

(A) Monies collected from a parking violation fine shall be deposited by the Clerk-Treasurer in a separate fund to be known as the Parking Violation Fund.

(B) The monies collected in the Parking Violation Fund may be expended at the discretion of the Town Marshal for any purpose related to the operation of the Police Department. (Ord. 155, passed - -1948; Am. Ord. 1975-1, passed 8-4-1975; Am. Ord. 1992-11, passed 12-30-1992; Am. Ord. 1994-10, passed 10-20-1994)

#### *Cross-reference:*

*Parking regulations, see Chapter 71*

***POLICE DEPARTMENT DRUG FUND*****§ 34.070 ESTABLISHMENT.**

(A) There is hereby created a Police Department Drug Fund. The fund shall consist of deposits in the form of proceeds recovered by the Police Department, in part or as a whole, in forfeiture actions filed pursuant to I.C. 34-24-30.1, forfeiture actions which are adopted by federal agencies, liquidations of personal or real property obtained from criminal defendants in those actions, and voluntary surrenders of funds and assets from criminal defendants.

(B) The Police Department Drug Fund shall be appropriated for funding law enforcement activities conducted by the Police Department and reimbursement of expenses incurred in pursuing forfeiture and RICO actions.

(C) All monies collected under this subchapter shall be transferred to the Clerk-Treasurer, who shall deposit the funds and disburse as the Town Marshal directs, subject to the appropriation requirements of this subchapter. Monies remaining in the fund at the end of the year shall not revert to any other fund but shall continue in the Police Department Drug Fund.

(D) Monies from this fund shall be subject to appropriation by the Town Council in accordance with I.C. 36-5-4-2.

(Ord. 2001-01, passed 3-15-2001)

**§ 34.071 FUND EXPENSE POLICY.**

(A) The Town Council has previously enacted a Police Department Drug Fund as outlined in § 34.70.

(B) These funds, after appropriation by the Town Council, may be used to fund law enforcement activities in enforcement of drug-related crimes conducted by the Police Department, in whole or part.

(C) The funds, after appropriation, may need to be used by the Police Department in order to purchase

drugs, controlled substances, stolen property, the lease and purchase of equipment, training and to pay confidential informants.

(D) In order to facilitate the expenditure of the appropriated funds by the Police Department, the Clerk-Treasurer should establish a checking account, which may bear interest, to hold funds for usage by the Police Department after the funds have been appropriated by the Town Council.

(E) In establishing the checking account, all interest earned on this account shall be kept and retained in this checking account and used for the purposes set forth for the principal sums.

(F) The Town Marshal is hereby authorized to maintain cash in the amount of \$1,000. This cash shall be referred to as "evidence acquisition cash." The Town Marshal shall account to the Clerk-Treasurer for any expenditure of this cash prior to the Clerk-Treasurer issuing additional evidence acquisition cash.

(G) Additionally the Town Marshal shall reconcile expenses and cash on hand on a quarterly basis and shall submit this to the Clerk-Treasurer in the report form within 15 days of the last day of each quarter.

(H) The Town Marshal shall be bonded in an amount not to be less than \$2,500.

(Ord. 2001-01, passed 3-15-2001)

***RIVERBOAT WAGERING  
TAX REVENUE SHARING FUND*****§ 34.080 ESTABLISHMENT.**

(A) A fund is established for the receipt of monies collected from the town's share of the Riverboat Wagering Tax Revenue Sharing Fund and for the expenditure of monies in accordance with I.C. 4-33-13-5(f).

(B) Riverboat Wagering Tax Revenue Sharing funds shall be used for the following purposes:

(1) To reduce the property tax levy of the town;

(2) To fund additional property tax replacement credits in property tax increment allocation areas;

(3) To fund sewer and water projects, including stormwater management projects;

(4) For police and fire pensions; and

(5) To carry out any governmental purpose for which the fiscal body of the town appropriates the Riverboat Wagering Tax Revenue Sharing Fund. (Ord. 2003-07, passed 11-20-2003)

(B) The Rainy Day Fund is subject to the same appropriation process as other funds that receive tax money.

(C) In any fiscal year, a political subdivision may transfer under I.C. 36-5, not more than 10% of the political subdivision's total annual budget for that fiscal year, adopted under I.C. 6-1.1-17, to the Rainy Day Fund.

(D) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the Rainy Day Fund of a political subdivision.

(E) The fund may be used for all purposes permitted by law.

(Ord. 2009-04, passed 4-16-2009)

### ***POLICE GAS DONATION FUND***

#### **§ 34.090 ESTABLISHMENT.**

A Police Gas Donation Fund is established for restricted donations for the specific use of the purchase of gasoline for the Police Department. This fund shall be operated in accordance with § 34.001. (Res. 2008-03, passed 5-15-2008)

### ***RAINY DAY FUND***

#### **§ 34.100 ESTABLISHMENT.**

(A) There is hereby created a Rainy Day Fund. The fund shall consist of deposits in the form of unused and unencumbered funds under I.C. 36-5, I.C. 6-3.5-1.1-21; I.C. 6-3.5-6-17.3; or I.C. 6-3.5-7-17.3 or any other funding sources not otherwise prohibited by law.

## CHAPTER 35: CIVIL EMERGENCIES

### Section

- 35.01 Definitions
- 35.02 Proclamation by Town Board
- 35.03 Imposition of curfew
- 35.04 Additional regulations
- 35.05 Emergency powers
  
- 35.99 Penalty

of the town during the hours in which a curfew has been imposed, excepting persons officially designated to duty with reference to the civil emergency.  
(Ord. 5-4-70, passed 5-4-1970)

### § 35.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

#### ***CIVIL EMERGENCY.***

(1) A riot or unlawful assembly characterized by the use of actual force if accompanied by immediate power to execute such force by 3 or more persons acting together without authority of law; or

(2) Any natural disaster or man-made calamity, including flood, conflagration, cyclone, tornado, earthquake or explosion within the corporate limits of the town, resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

***CURFEW.*** Prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits

### § 35.02 PROCLAMATION BY TOWN BOARD.

When in the judgment of the Town Board a civil emergency as defined herein is deemed to exist, they shall proclaim in writing the existence of same. In case of the absence of any member of the Town Board, the remaining members shall act.  
(Ord. 5-4-70, passed 5-4-1970)

### § 35.03 IMPOSITION OF CURFEW.

After proclamation of a civil emergency by the Town Board, they may order a general curfew applicable to those geographical areas of the town, or to the town as a whole, as they deem advisable and applicable during those hours of the day or night as they deem necessary in the interest of the public safety and welfare.  
(Ord. 5-4-70, passed 5-4-1970)

### § 35.04 ADDITIONAL REGULATIONS.

After proclamation of a civil emergency, the Town Board may also in the interest of public safety and welfare make any or all of the following orders:

- (A) Order the closing of all retail liquor stores;

(B) Order the closing of all taverns;

(C) Order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor and/or beer is permitted;

(D) Order the discontinuance of the sale of beer;

(E) Order the discontinuance of selling, distributing or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle;

(F) Order the closing of gasoline stations and other establishments, the chief activity of which is the sale, distribution or dispensing of liquid flammable or combustible products;

(G) Order the discontinuance of selling, distributing, dispensing or giving away of firearms and/or ammunition; or

(H) Issue such other orders as are imminently necessary for the protection of life and property. (Ord. 5-4-70, passed 5-4-1970)

### § 35.05 EMERGENCY POWERS.

During the period of a declared state of emergency, the Town Board shall have the power to invoke any or all of the following provisions:

(A) *Alcoholic beverages.* No person shall consume any alcoholic beverages in a public street or place which is publicly owned, or in any motor vehicle driven or parked thereon which is within a duly designated restricted area.

(B) *Weapons.* No person shall carry or possess any rock, bottle, club, brick or weapon, who uses or intends to use the same unlawfully against the persons or property of another.

(C) *Incendiary missiles.* No person shall make, carry, possess or use any type of "Molotov Cocktail," gasoline- or petroleum-base firebomb or other incendiary missile.

(D) *Restricted areas.* No person shall enter any area designated by the Town Board as a restricted area unless in the performance of official duties or with the written permission from the Town Board or its duly designated representative, or the person shall prove residence therein.

(Ord. 5-4-70, passed 5-4-1970) Penalty, see § 35.99

### § 35.99 PENALTY.

Any person violating any provision of this chapter or any order made by the Town Board in accordance with the terms of this chapter shall be punished by a fine of not more than \$100.

(Ord. 5-4-70, passed 5-4-1970)

## CHAPTER 36: PERSONNEL POLICIES

### Section

#### *General Provisions*

- 36.001 Definitions
- 36.002 Flexible benefits plan adopted
- 36.003 Participating in a 457 Plan

#### *Conditions of Employment*

- 36.010 Residency
- 36.011 Recruitment of personnel
- 36.012 Selection of personnel
- 36.013 Preemployment substance screening
- 36.014 Probationary period
- 36.015 Transfers
- 36.016 Employee evaluations
- 36.017 Work schedule; breaks
- 36.018 Tardiness
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**GENERAL PROVISIONS****§ 36.001 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**FULL-TIME EMPLOYEE.** An employee who is employed on a year-round basis and works the full regularly scheduled 40-hour workweek of the department in which the employee works.

**PART-TIME EMPLOYEE.** An employee who is employed on a year-round basis, but for less than the average 40-hour workweek of the department in which the employee works. These employees shall not receive vacation or sick leave days or holiday pay.

**TEMPORARY EMPLOYEE** or **SEASONAL EMPLOYEE.** An employee who is employed on less than a year-round basis or for a limited period of time. These employees shall not receive vacation or sick leave days or holiday pay.

(Ord. passed - -)

**§ 36.002 FLEXIBLE BENEFITS PLAN ADOPTED.**

(A) The Authority hereby adopts the Flexible Benefits Plan, consisting of the Flexible Benefits Plan Document, the Adoption Agreement, and component benefit plans and policies for the town, effective as of the date specified in the Adoption Agreement.

(B) The Clerk-Treasurer may, without further resolution, execute the Adoption Agreement and any related documents or amendments which may be necessary or appropriate to adopt the Plan or maintain its compliance with applicable federal, state and local law.

(Res. 2000-1, passed 2-21-2000)

**§ 36.003 PARTICIPATION IN A 457 PLAN.**

Employees of the town are authorized to voluntarily participate in the Lord Abbett 457 Plan through payroll deductions if so desired.

(Res. 2008-04, passed 5-15-2008)

**CONDITIONS OF EMPLOYMENT****§ 36.010 RESIDENCY.**

Employees of the town are required to reside within Brown County. Upon employment, new employees shall have 1 year to establish residency within Brown County. It is the responsibility of the employee to notify the Clerk-Treasurer of his or her correct residential address and telephone number.

(Ord. passed - -)

**§ 36.011 RECRUITMENT OF PERSONNEL.**

(A) All departments shall utilize a job application form approved by the town for the filling of vacancies in existing and new positions. Applications will be taken on a continual basis.

(B) Job applications will be retained by the town records officer for a period of not less than 1 year. The applications will remain active for 6 months and then be placed into an inactive file for the remainder of the year.

(C) The town may utilize a variety of methods in the recruitment of new employees, including but not limited to:

- (1) Newspaper advertisement;
- (2) Job applicant file; and
- (3) Employment Security Division.

(D) All applications will be reviewed and considered on the following applicable factors, which are not listed in any order of priority:

(1) Ability and fitness to perform the job applied for;

(2) Training, experience and education directly related to the job applied for; and



(3) Any state or federal requirements that may apply to the job applied for.  
(Ord. passed - -)

**§ 36.012 SELECTION OF PERSONNEL.**

(A) Each department head may establish a hiring/testing process that is designed for the selection of personnel for that department. The hiring/testing process may include any combination of, but is not limited to the following procedures:

- (1) Written testing;
- (2) Drug screen testing;
- (3) Physical fitness testing;
- (4) Psychological testing;
- (5) Background investigations;
- (6) Physical examinations; and
- (7) Oral interviews.

(B) These procedures may also be utilized in testing employees for promotions within their department.

(C) Department heads shall be responsible for selecting the most qualified applicants for the openings in their respective departments.

(Ord. passed - -)

**§ 36.013 PREEMPLOYMENT SUBSTANCE SCREENING.**

(A) All applicants for full-time or part-time employment with the town are required to submit to a medical examination. Prospective employees will be screened for a range of chemical substances, which shall include but not necessarily be limited to the following:

- (1) Amphetamine/methamphetamine (such as speed);
- (2) Benzodiazepines (such as Valium, Librium, Dalmane, Ativan);
- (3) Barbiturates (such as Amobarbital, Butabarbital, Pentobarbital, Phenobarbital);
- (4) Cocaine;
- (5) Methadone;
- (6) Methaqualone (such as Quaalude);
- (7) Opiates (such as codeine, heroin, morphine);
- (8) Phencyclidine (PCP);
- (9) THC (marijuana and other cannabinoids); and
- (10) Lysergic acid diethylamide (LSD).

(B) The substance groups listed in division (A) of this section were selected based upon known abuse in the general area of the town and the ability of each substance to adversely affect physical and mental performance. All controlled substances listed above are illegal under state and federal law.

(C) All applicants for full-time or part-time employment will be required to sign a consent form to permit the screening and allow the release of the report to the town, and shall provide appropriate bodily fluids for the screening. Applicants who refuse to consent to substance screening, who refuse to provide appropriate bodily fluids for the screening or who attempt to tamper with screening samples will not be eligible for employment with the town.

(D) Any applicant whose initial substance screen shows a positive result will have that result confirmed by additional studies. If the second screen of the same sample shows a negative result, the individual will not

automatically be disqualified from town employment on account of the substance screen. If the second screen confirms the positive test result, the applicant may be disqualified from consideration for town employment. The applicant will be notified of the positive results from the second screen in writing by certified mail and be given the opportunity, at the applicant's expense, to have a third screen conducted on the same sample within 72 hours after the applicant is notified of the results of the second screen. If this final screen again confirms the positive test result, the prospective employee will be disqualified from employment with the town.

(E) All screens will be made on the same sample by a firm selected by the town. An applicant whose screen shows positive results will have 24 hours after receiving the notification of positive screen results to provide verification of a current valid prescription in the applicant's name.

(F) The required substance examination and screening of bodily fluids for chemical substances, except for the third screen as herein provided, shall be at the sole expense of the town.

(G) To the extent possible, confidentiality will be maintained by the town for all records and reports of the testing of an applicant's bodily fluids.  
(Ord. passed - -)

***Cross-reference:***

*Drug-free workplace policy, see §§ 36.075 through 36.085*

**§ 36.014 PROBATIONARY PERIOD.**

Every person appointed or promoted to a permanent position shall be subject to the requirement of a probationary period of 6 months' duration.  
(Ord. passed - -)

**§ 36.015 TRANSFERS.**

(A) Procedures used in the recruitment and selection of personnel process shall be utilized when an employee requests a transfer to a new position.

(B) Employees transferring into a new position will serve a transfer probationary period of 6 months. All vacation and sick leave days will transfer with the employee, not to exceed set limits listed within the town's personnel policies.  
(Ord. passed - -)

**§ 36.016 EMPLOYEE EVALUATIONS.**

Each department head, with the exception of the Clerk-Treasurer, shall provide the Town Council with a semi-annual and annual employee evaluation of each worker within his or her department. These reports are to be submitted April 1 and November 1 for evaluation by the Town Council.  
(Ord. passed - -)

**§ 36.017 WORK SCHEDULE; BREAKS.**

(A) The Town Hall will be open from 8:00 a.m. to 4:00 p.m. on weekdays. Each department head shall set the work schedules for his or her department as appropriate.

(B) Employees shall be allowed a 60-minute lunch break and two 15-minute rest breaks. The department head or supervisor shall determine when the breaks are to be taken.  
(Ord. passed - -)

**§ 36.018 TARDINESS.**

Employees unable to report to work at their scheduled starting time shall notify their supervisor or department head, explaining the reason for the tardiness and anticipated arrival time. Department heads are to keep records of all employee tardiness.  
(Ord. passed - -)

**§ 36.019 ATTENDANCE RECORDS.**

Employee attendance records will be maintained for all employees. Department heads or supervisors will complete an employee attendance record for each

employee at the end of each pay period and submit it to the Clerk-Treasurer prior to payroll distribution.  
(Ord. passed - -)

**§ 36.020 PAY PERIODS.**

Pay periods shall be set by the Clerk-Treasurer.  
(Ord. passed - -)

***EMPLOYMENT BENEFITS***

**§ 36.030 HOLIDAYS.**

(A) The following days shall be recognized holidays for the town:

- (1) New Year’s Day;
- (2) Martin Luther King, Jr.’s birthday;
- (3) President’s Day;
- (4) Good Friday;
- (5) Memorial Day;
- (6) Independence Day;
- (7) Labor Day;
- (8) Columbus Day;
- (9) Veterans’ Day;
- (8) Thanksgiving Day;
- (9) Friday after Thanksgiving;
- (10) Christmas Eve (Dec. 24);
- (11) Christmas Day (Dec. 25); and

(12) Primary/general/town election days when appropriate (1/2 day). The Town Hall will be closed on all election days. Other departmental employees will work until 12:00 noon.

(B) When any holiday occurs on a Sunday, the succeeding day not considered a recognized holiday shall be designated as the legal holiday. When any holiday occurs on a Saturday, then the preceding day not considered a recognized holiday shall be designated as the legal holiday.

(C) Any employee who is scheduled to work or called in to work a full standard shift on a holiday shall be paid at a rate of 1-1/2 times his or her hourly pay rate.  
(Ord. passed - -; Am. Res. 1998-5, passed 12-17-1998)

**§ 36.031 FUNERAL LEAVE.**

(A) Upon the death of a member of the immediate family, which includes spouse, parents, son, daughter, brother, sister, grandparents, grandchildren, step-children, step-parents, and in-laws, an employee will receive a maximum of 3 working days’ leave with pay to attend to family matters and funeral services.

(B) Employees shall receive 1 day off with pay upon the death of a niece, nephew, aunt or uncle to attend funeral services.

(C) Additional time off without pay may be granted at the discretion of the department head.  
(Ord. passed - -; Am. Res. 1998-1, passed 6-18-1998; Am. Res. 1998-3, passed 11-19-1998)

**§ 36.032 JURY LEAVE.**

(A) Employees shall receive leave to serve on a jury in any federal, state or local court without loss of pay.  
(Ord. passed - -; Am. Res. 1998-1, passed 6-18-1998)

(B) However, employees may not receive compensation from both the court and the town; therefore the employee must select 1 of the following 3 procedures regarding compensation:

(1) The employee shall receive the full amount of the employee's regular salary and not claim compensation for serving as a juror or a witness;

(2) The employee shall receive the compensation for serving as a juror or witness and the amount received, excluding mileage reimbursement, will be deducted from the employee's regular salary; or

(3) The employee shall receive the full amount of the employee's regular salary and turn over the warrant received for serving as a juror or witness to the Clerk-Treasurer. The Clerk-Treasurer shall receipt the warrant into the fund from which the regular salary was paid. This procedure is not possible if any mileage reimbursement is included in the warrant.

(C) The employee is to notify the Clerk-Treasurer in writing of his or her decision prior to receiving compensation from the town for the period served as a juror.

(Res. 1998-3, passed 11-19-1998)

**§ 36.033 MILITARY LEAVE.**

(A) Any employee who is a member of a military reserve or guard unit in the State of Indiana shall be entitled to a leave of absence not to exceed 15 calendar days in order to attend reserve or guard training or functions.

(B) An employee who is drafted or called to active military service shall be considered on a leave of absence and all federal laws regarding active service shall apply.

(Ord. passed - -; Am. Res. 1998-1, passed 6-18-1998; Am. Res. 1998-3, passed 11-19-1998)

**§ 36.034 VACATION LEAVE.**

(A) All full-time employees shall be entitled to vacation leave each year based on the following formula:

<i>Length of Employment</i>	<i>Leave (Working Days)</i>
1 day but less than 1 year	0
1 year but less than 3 years' service to the town	5
3 years but less than 5 years	10
5 years but less than 10 years	12
10 years but less than 20	15
20 years or more	20

(B) Employees must inform their department head at least 2 weeks in advance of intent to take vacation leave. Employees may not take vacation time that has not been earned nor receive advance vacation time. Vacation leave shall be taken at the discretion of the department head. Vacation days unused may not be traded for pay.

(Ord. passed - -; Am. Res. 1998-1, passed 6-18-1998; Am. Res. 1998-3, passed 11-19-1998)

**Cross-reference:**

*Department heads; personal days, see § 36.039*

**§ 36.035 SICK LEAVE.**

(A) All full-time employees, after 1 year of service, will start accumulating sick leave at the rate of 1 day per month and may accumulate to a maximum of 30 days.

(B) If an employee is absent from work more than 3 days consecutively due to illness, a doctor's

certification must be provided to the department head. A department head may request this certification at any time if sick leave abuse is suspected.

(C) Sick leave is to be used only for absence due to illness of employee, an illness in the immediate family or to avoid jeopardizing the health and welfare of other employees.

(D) An employee who is injured while on- or off-duty shall obtain a statement from a physician certifying the employee is capable to return to duty. (Ord. passed - -; Am. Res. 1998-1, passed 6-18-1998; Am. Res. 1998-3, passed 11-19-1998)

### § 36.036 LEAVE OF ABSENCE.

(A) An employee may, upon written application to the department head and with the approval of the Town Council, receive authorized leave of absence without pay prescribed in the Family and Medical Leave Act of 1993.

(B) This leave may be granted after all accumulated vacation and sick leave is exhausted. During the leave of absence the employee will not be eligible for any pay or fringe benefits, but leave will be considered as time worked for purposes of seniority and longevity. Health and life insurance benefits shall be continued during leave of absence as under terms of current employment.

(C) An employee on a leave of absence may request an additional 3-month extension to the leave of absence. The Town Council has discretion in granting a request for extension. In no case will the total leave of absence exceed 6 months.

(D) Failure of an employee to return to work at the end of the granted leave of absence will result in termination of employment. (Ord. passed - -; Am. Res. 1998-1, passed 6-18-1998; Am. Res. 1998-3, passed 11-19-1998)

### § 36.037 HEALTH INSURANCE.

(A) The town does not guarantee the providing of health insurance coverage for each employee of the town. The town will undertake reasonable efforts to provide health insurance coverage for all of its employees. The town will pay the cost of any employee's health insurance coverage, less \$1.

(B) If a town employee is rejected coverage under the town's group policy, then the town will pay the total cost, less \$1, provided the cost of coverage from a town-approved carrier for any particular employee does not exceed 2 times the cost of the average group coverage cost for town employees.

(C) Any health insurance coverage provided and/or paid for by the town shall be for the employee only. The employee shall be responsible solely for the cost of health insurance coverage for his or her spouse and/or dependents. (Ord. passed - -; Am. Res. 1996-2, passed 1-18-1996; Am. Res. 1998-4, passed 12-17-1998; Am. Res. 2000-5, passed 10-19-2000)

### § 36.038 OVERTIME PAY.

(A) All departments shall comply with all state and federal laws regarding overtime pay. Hourly employees required to work beyond 40 hours per week shall be compensated at a pay of 1-1/2 times their regular hourly rate.

(B) Police (emergency) personnel required to work beyond 171 hours per 28-day cycle shall be compensated at a pay rate of 1-1/2 times their regular hourly rate. The 28-day cycle shall be defined by the Town Marshal and copies shall be provided to the Clerk-Treasurer prior to the beginning of the particular cycle.

(C) Salaried personnel are required to work various hours and shifts. They are expected to complete their duties without regard for a 40-hour work week and therefore do not qualify for overtime pay. (Ord. passed - -)

**§ 36.039 PERSONAL DAYS FOR DEPARTMENT HEADS.**

(A) As department heads do not qualify for overtime pay/time off, they shall be allowed 3 personal days off per year at the discretion of the Town Council.

(B) This shall not affect any vacation days or sick days allowed within this chapter.

(Ord. passed - -)

**§ 36.040 RETIREMENT.**

(A) All full-time employees are provided and shall follow PERF requirements regarding retirement. Employees must file paperwork with the Clerk-Treasurer's office upon employment.

(B) All full-time employees shall give 30 days' notice of intent of retirement.

(Ord. passed - -)

**§ 36.041 TRANSFER OF SICK LEAVE.**

An employee may, upon written notice to the Clerk-Treasurer, transfer any portion of his or her sick leave to another employee.

(Res. 1998-1, passed 6-18-1998; Am. Res. 1998-3, passed 11-19-1998)

**§ 36.042 DEATH DURING EMPLOYMENT.**

If any employee dies during his or her term of employment, the town shall pay to the designated beneficiary of the employee or, if the employee is not survived by the designated beneficiary, to the employee's legal estate, compensation then due and for any accrued sick leave, vacation, holidays, compensatory time and other accrued benefits.

(Res. 1996-2, passed 1-18-1996; Am. Res. 1998-4, passed 12-17-1998; Am. Res. 2000-5, passed 10-19-2000)

**§ 36.043 PERSONNEL ADVANCEMENT INCENTIVE.**

(A) Incentive pay of \$1,000 per year shall be given in the following circumstances:

(1) *Police Department.* Graduate from the Indiana Law Enforcement Academy.

(2) *Water Department.* Operator certification necessary for operation of the water system (DS and/or CT certification).

(3) *Sewer Department.* Operator certification necessary for operation of sewer system (Class II certification).

(4) *Clerk-Treasurer.* Certified Municipal Clerk.

(B) Should an employee be eligible for incentive pay during any portion of the year, the incentive increase shall be prorated to reflect the portion of eligibility for the year.

(Res. 1998-4, passed 12-17-1998; Am. Res. 2000-5, passed 10-19-2000)

**GENERAL EMPLOYMENT POLICIES**

**§ 36.050 BUSINESS PRACTICES.**

The town is to be considered a place of business. Employees should be mindful of their dress and language. No loitering is permitted by salespersons or town employees.

(Ord. passed - -; Am. Res. 1996-3, passed 1-18-1996)

**§ 36.051 USE OF TELEPHONE, EQUIPMENT.**

The telephones and other town equipment shall be used by town personnel as authorized by department heads.

(Ord. passed - -; Am. Res. 1996-3, passed 1-18-1996)

**§ 36.052 CLAIM AND INVOICE PROCEDURE.**

A purchase order and claim form shall be completed and submitted to the Clerk-Treasurer and Town Manager for approval before outside purchases are authorized. All claims are required to be turned in, in proper form, by the second Monday of each month.

(Ord. passed - -; Am. Res. 1996-3, passed 1-18-1996)

**§ 36.053 VEHICLE USE.**

(A) All town vehicles shall be used by town personnel as authorized by the department heads for business reasons only. Personal use of vehicles is expressly prohibited and will be subject to Group I disciplinary action.

(B) Additionally, persons not employed by the town, holding official office or a contracted agent of the town, are expressly prohibited from being transported in any town vehicle except in emergency conditions or as authorized in writing by the Town Council.

(Ord. passed - -; Am. Res. 1996-3, passed 1-18-1996)

**§ 36.054 POLITICAL CAMPAIGNING.**

Employees shall not use their position with the town nor during work hours to assist in any political campaigning for a candidate running for office.

(Ord. passed - -)

**§ 36.055 GIFTS AND GRATUITIES.**

Employees shall not accept a gift or gratuity outside the limits set by the Indiana State Board of Accounts.

(Ord. passed - -)

**§ 36.056 INJURY REPORTS.**

All work-related injuries are to be recorded with the Clerk-Treasurer within 8 working hours. All injuries are to be reported to the department head and to the Town Council. If physically able, the employee is to come to Town Hall and fill out the report in person.

(Ord. passed - -)

**§ 36.057 PRESCRIPTIONS.**

All prescriptions are to be paid by the employee. Workmen's compensation-related prescriptions should be turned into Bright & Williamson Insurance for reimbursement. Others should be turned into Farm Bureau Insurance (Healthsource) for possible reimbursement.

(Ord. passed - -)

**§ 36.058 PERSONNEL FILES.**

(A) Each employee shall have a personnel file located in the office of the Clerk-Treasurer. The file should reflect each employee's employment history with the town, including applications for employment, resume, record of all personnel actions, job title, starting salary, changes in position, performance evaluations and any other data relevant to the employee.

(B) Personnel files are confidential and shall be released only to department heads or the Town Council, or reviewed by employees in the presence of a department head or the Clerk-Treasurer or a town Council member.

(Ord. passed - -)

**§ 36.059 OUTSIDE EMPLOYMENT.**

All outside employment must be reported to the employee's department head. If outside employment is interfering with or adversely affecting the quality of

the employee's work for the town, the employee may be required to give up the outside employment.  
(Ord. passed - -)

### § 36.060 DISCIPLINARY PROCEDURES.

(A) Each department shall follow any state statute that may apply to the respective department.

(B) Employee violation of the rules listed in divisions (D) through (F) of this section will result in disciplinary action. The rules and accompanying disciplinary action have been divided into 3 groups based upon the seriousness of the offense. Violation of any combination of the rules will warrant discipline. Disciplinary action shall be accurately documented at the time of occurrence with copies provided to the employee, department head and Town Council.

(C) If the employee has not committed any violation which warrants discipline within 3 years of the first disciplinary action, the record of the violation and subsequent disciplinary action shall be erased from the employee's file.

(D) *Group I.*

(1) *Disciplinary measures.*

(a) First violation: written reprimand.

(b) Second violation: 1 working day's suspension (without pay).

(c) Third violation: dismissal (the department head may request and the Town Council may approve a demotion for a third offense).

(2) *Offenses.*

(a) Neglect of duty.

(b) Failure to report any accident of employee or equipment.

(c) Violation of safety rules or O.S.H.A. standards.

(d) Gambling on town property or during work hours.

(e) Abuse of lunch or break times.

(f) Unauthorized use of town property, equipment or supplies.

(g) Absence or tardiness without authorization.

(h) Sleeping on duty.

(i) Charged with a preventable accident or O.S.H.A. standard.

(E) *Group II.*

(1) *Disciplinary measures.*

(a) First violation: 3 working days' suspension (without pay).

(b) Second violation: dismissal (the department head may request and the Town Council may approve a demotion for a second offense).

(2) *Offenses.*

(a) Conviction of any Class A misdemeanor.

(b) Consuming or being under the influence of alcohol during work hours.

(c) Intentional damage or destruction of town property or equipment less than \$50.

(d) Unbecoming conduct.

(e) Engaging in any sexual conduct during work hours or on town property.

(f) Absence for 3 consecutive working days without a doctor's statement and department head approval.

(F) *Group III.*

(1) *Disciplinary measures.* First violation: dismissal.

(2) *Offenses.*

(a) Conviction of any felony.

(b) Official misconduct.

(c) Possession or use of any controlled substance as described in I.C. 35-48-1-9.

(d) Theft.

(e) Falsifying official records.

(f) Unauthorized possession of explosives, firearms or other weapons on town property.

(g) Giving false information on an application for employment.

(h) Intentional damage or destruction of town property or equipment equal to or greater than \$50.

(Ord. passed - -)

**§ 36.061 GRIEVANCE PROCEDURE.**

(A) Employees have the right to appeal any disciplinary action taken by a department head against them by following the steps in division (B) of this section.

(B) (1) Give written notification to the Town Council:

(a) Stating facts involving the incident, any witnesses, or other pertinent information; and

(b) Requesting a hearing before the Town Council.

(2) The written notification to the Town Council must be sent within 10 days of the disciplinary action taken by the department head against the employee.

(C) The grievance procedure described above does not apply to the law enforcement employees of the town.

(Ord. passed - -)

**§ 36.062 DEMOTIONS.**

An employee may be demoted in position and pay for, but not limited to the following reasons:

(A) Disciplinary action;

(B) Job performance (based on work and evaluations);

(C) Elimination of job position.

(Ord. passed - -)

**§ 36.063 LAYOFFS.**

(A) Circumstances may arise which could cause a reduction in the work force. In these circumstances the town shall follow any applicable federal and/or state regulations regarding layoffs. Where layoffs are necessary, factors including, but not limited to the following will be considered:

(1) Length of service with the department;

(2) Length of service with the town in all jobs;

(3) Performance history; and

(4) Importance of job position to proper operation of the town.

(B) Reassignment or transfer to another position will be done where possible. Reemployment may be to original position or to another position that becomes available. Where practical, the department heads will give at least 2 weeks' advance notice of the layoff. Employees shall be entitled to all accrued vacation pay plus 1 week's pay.

(C) Employees dismissed due to disciplinary action are not considered as layoffs.  
(Ord. passed - -)

### ***DRUG-FREE WORKPLACE POLICY***

#### **§ 36.075 POLICY STATEMENT; GENERAL PROHIBITIONS.**

(A) The Town Council is committed to providing a drug-free workplace and expects the cooperation of all employees and a similar commitment from them. Pursuant to the Drug-Free Workplace Act of 1988, the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance in the workplace is prohibited. Any employee who violates this subchapter may be subject to discipline, up to and including termination. As a condition of employment, all employees must abide by this policy. In addition, any employee who is convicted of a drug statute violation arising out of conduct occurring in the workplace must notify the Town Council of the conviction at least 5 days after the conviction.

(B) The town also expects its employees to refrain from being impaired from the use of alcohol, using alcohol, or the improper use of prescription or other medications which might affect their abilities or judgment while at work.

(Ord. passed 5-3-1995)

#### **§ 36.076 EMPLOYEES EXPECTED TO SEEK TREATMENT.**

(A) Employees who have a substance abuse problem, which includes alcohol, are expected to

obtain treatment and counseling through the numerous treatment agencies available throughout the area of Brown County and the area within 60 miles of the town.

(B) Given the importance of maintaining a work environment without the presence of alcohol and drugs, and the opportunities that employees have to address substance dependencies through treatment and counseling programs offered through various treatment facilities throughout the area of Brown County and the area within 60 miles of the town, substance abuse which adversely effects job performance will not be tolerated. This applies to on-duty employees as well as employees who are on call. Employees whose on- or off-duty use of substances impacts job performance will be appropriately disciplined, including but not limited to the sanction of termination from employment with the town.  
(Ord. passed 5-3-1995)

#### **§ 36.077 PROHIBITED ACTS; RESPONSIBILITIES OF EMPLOYEES.**

(A) An employee must not report to work or be subject to duty while his or her ability to perform job duties is impaired due to alcohol or illegal drug or substance use, on- or off-duty;

(B) An employee shall not possess or use illegal drugs or improperly use prescription or other medications during working hours, on breaks, during meal periods, while on town property in an official or unofficial capacity or while operating any town vehicle or machinery;

(C) An employee shall not possess or use an alcoholic beverage or have the odor of an alcoholic beverage on his or her breath during working hours, on breaks, during meal periods, while on town property in an official or unofficial capacity or while operating any town vehicle or machinery;

(D) An employee shall not directly or through a third party sell or provide illegal drugs or improperly used prescription or other medications or alcoholic beverages to any person or to any other employee

while either or both employees are on duty during working hours, on breaks, during meal periods, while on town property in an official or unofficial capacity, while operating any town vehicle or machinery, or on call;

(E) An employee shall submit immediately to reasonable request for alcohol or drug analysis when requested by a department head;

(F) An employee shall provide the name of any prescription or nonprescription medication or drugs to his or her supervisor before beginning work, when taking any medication or drugs (prescription or nonprescription) which may interfere with the safe and effective performance of duties or operations of the town equipment;

(G) An employee shall provide, within 24 hours of request, a current valid prescription for any drug or medication identified when that employee's drug screen/analysis is positive. The prescription must be in the employee's name; and

(H) An employee shall notify his or her supervisor or department head of any conviction of a federal or state criminal drug statute for a violation occurring in the employee's workplace, not later than 5 days after the conviction.  
(Ord. passed 5-3-1995)

**§ 36.078 BASIS FOR EMPLOYEE SUBSTANCE ABUSE SCREENING.**

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**IMPAIRED.** Being, in the judgment of the employee's supervisor or department head, unable to perform duties safely and completely due to the use of alcohol, controlled substances or the improper use of prescription or nonprescription medications.

**REASONABLE SUSPICION.** A belief based on objective fact sufficient to lead a reasonably

prudent person to suspect that an employee is under the influence of drugs and/or alcohol so that the employee's ability to perform the functions of the job is impaired or so the employee's ability to perform his or her job safely is reduced. Observations which constitute a factual basis for determining reasonable suspicion may include but are not limited to the following:

- (a) Odor of alcoholic beverage upon the employee's breath;
- (b) Erratic behavior;
- (c) Violent mood swings;
- (d) Excessive absenteeism;
- (e) Repeated tardiness;
- (f) Inability to walk a straight line;
- (g) Open and obvious possession of alcohol and/or illegal controlled substances;
- (h) Slurred speech;
- (i) An accident which is caused by the apparent action or inaction of the employee under circumstances giving rise to a reasonable inference that the accident was caused or was a result of the use of alcohol and/or illegal controlled substances;
- (j) Possession of drug paraphernalia or alcoholic beverage containers; and
- (k) A report of a reliable witness indicating use or possession of drugs or alcohol.

(B) Town employees are subject to substance screening if there is a reasonable suspicion that, while on duty, they are impaired.  
(Ord. passed 5-3-1995)

**Cross-reference:**

*Preemployment screening, see § 36.013*

**§ 36.079 PROCEDURE FOR EMPLOYEE SCREENING.**

(A) *Impetus.* A supervisor who has reasonable suspicion that an employee is impaired by alcohol or other illegal controlled substances on the job will, with the approval of the department head, immediately arrange for a substance screening through a medical facility that has been designed to perform the screening for the town.

(B) *Transportation; testing methods.* Employees who are scheduled for a substance screening must be transported to the designated medical facility by the employee's department head. The employee to be tested shall sign a consent form to permit the screening and shall provide appropriate bodily fluids for the screening. The screening for substances will be made on a sample provided at the clinic. The procedures for the sample collection and testing will be made based upon the medically accepted procedure developed by the chosen medical facility and in order to ensure results of tests no less than a highly sensitive methodology shall be utilized. The testing shall be based on medically acceptable testing procedures and shall include but not necessarily be limited primarily to tests utilizing enzyme amino acid techniques, followed up by more specific confirmation testing such as gas chromatography (GC) or gas chromatography/mass spectrophotometry (GCMS) or other highly sophisticated methods which are accepted by the medical facility and/or by the courts. After the sample is given as outlined above, the supervisor will see to it that the employee is safely transported home.

(C) *Alcoholic beverage testing methods.* For alcoholic beverage testing, the facilities such as the Brown County Police Department or the Indiana State Police and the use of the Department's breath test instrument shall be a sufficient determination for blood alcohol content, provided statutorily approved procedures are followed.  
(Ord. passed 5-3-1995)

**§ 36.080 RESULTS.**

(A) At the testing as outlined in § 36.079, if the sample provides a negative result, the conclusion will be that the sample contains no alcohol and/or controlled substance.

(B) If the first screen shows a positive result, and a second screen using a more sophisticated testing technique shows a positive result, then the employee will be assumed to be under the influence of alcohol and/or illegal controlled substances.

(C) An employee whose test shows a positive result will have 24 hours after receiving notification of the positive result to provide a bona fide and verified current valid prescription which may have caused the positive result. The prescription must be in the employee's name.  
(Ord. passed 5-3-1995)

**§ 36.081 FAILURE TO TEST OR TESTING POSITIVE; DISCIPLINARY MEASURES.**

(A) The discipline for failing to sign a consent form to permit screening, for failure to provide appropriate bodily fluids for screening, or for being under the influence of alcohol and/or nonprescribed controlled substances will be the basis for appropriate employee sanctions, including the sanction of termination. This determination will be made on the basis of the employee's prior work-related history, previous disciplinary actions and any prior identification of substance abuse problems.

(B) An employee who receives a positive result in substance abuse screening will receive at a minimum a 5-day suspension without pay. An employee who refuses to sign a consent form to permit screening or who fails to provide appropriate bodily fluids for screening will receive at a minimum a 5-day suspension without pay.

(C) In addition to the disciplinary procedure as outlined above, if an employee substance abuse problem has been identified, the supervisor and/or

department head will immediately refer the employee to a reputable substance abuse entity for an evaluation. Based on the determination of that substance abuse entity, the employee may be required to undergo a drug or alcohol evaluation and treatment program as a condition of continued employment. Any and all expenses incurred as a result of the evaluation and/or treatment program undertaken by the employee as a condition of continued employment shall be paid by the employee.

(Ord. passed 5-3-1995)

**§ 36.082 SUBSTANCE ABUSE OFFENSES; DISCIPLINARY MEASURES.**

(A) If the town receives notification of any employee conviction of a drug offense which occurred in the employee's workplace, or if the town receives notification of an employee violation of the terms of this subchapter, the town shall, within 30 days after receipt of the notice, either;

(1) Impose a sanction on the employee, which may include employee termination; or

(2) Require the employee to satisfactorily participate in a drug or alcohol abuse assistance or rehabilitative program approved by the Town Council.

(B) The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or illegal substance by any employee during working hours while on duty, during meal periods, during breaks or at any time while the employee is on the town's work site or on town working time, constitutes cause for dismissal. Appropriate law enforcement agencies will be notified of any unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or illegal substance by employees.

(Ord. passed 5-3-1995)

**§ 36.083 USE OF MEDICATION AND PRESCRIPTION DRUGS.**

All employees who are using a prescription or nonprescription drug which may in any way impact their job performance must notify their first line supervisor. The department head may require a doctor's statement if the employee indicates that there is need to use the prescription drug for an extended period of time.

(Ord. passed 5-3-1995)

**§ 36.084 CONFIDENTIALITY.**

(A) The confidentiality of laboratory reports or test results shall appear in the employee's confidential file. Reports or test results may be disclosed to town department heads on a strictly need-to-know basis, and to the tested employee upon request.

(B) Disclosures without employee consent may also occur in the following circumstances:

(1) When the information is compelled by law or by judicial or administrative process;

(2) The information has been placed at issue and there is a formal dispute between the employer and employee;

(3) The information is to be used in administering any employee benefit plan; or

(4) The information is needed by medical personnel for the diagnosis or treatment of the employee, who is unable to authorize the disclosure.  
(Ord. passed 5-3-1995)

**§ 36.085 CERTIFICATION OF COMPLIANCE WITH FEDERAL DRUG-FREE WORKPLACE REQUIREMENTS.**

(A) In order to continue receiving federal grants, the town certifies that it will provide a drug-free workplace by taking the measures set forth in this section.

(B) The town shall publish a policy statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the town's workplace and specifying the actions that will be taken against employees for violation of the prohibition.

(C) The town shall establish an ongoing drug-free awareness program to inform employees about the following:

(1) The dangers of drug abuse in the workplace;

(2) The town's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(D) The town shall require that each employee engaged in the performance of a federal grant be given a copy of the statement published under division (B) of this section.

(E) The town shall notify the employee in the statement published under division (B) above that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 calendar days after the conviction.

(F) The town shall notify the federal granting agency in writing within 10 calendar days after receiving notice from an employee or otherwise receiving actual notice of a criminal drug statute conviction for a violation occurring in the workplace.

(G) The town shall take 1 of the following actions within 30 calendar days of receiving notice under division (E)(2) above, with respect to any employee who is so convicted:

(1) Take appropriate personnel action against such an employee, up to and including termination; or

(2) Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for those purposes by a federal, state or local health, law enforcement or other appropriate agency.

(Ord. passed - -)

***Statutory reference:***

*Similar federal law, see 41 U.S.C. §§ 701 et seq.*