

**TITLE III: ADMINISTRATION**

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## CHAPTER 30: TOWN OFFICIALS

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### **GENERAL PROVISIONS**

#### **§ 30.01 POWERS AND DUTIES OF OFFICIALS.**

(A) All officers, officials, boards, or other official entities of the town government shall be construed to have:

(1) All powers or duties prescribed for or conferred on such officers, officials, boards, or official entities by statute;

(2) All powers or duties expressly prescribed or conferred such officers, officials, boards, or official entities by the duly enacted ordinances of the town;

(3) All powers or duties implied by the nature of and necessary or dispensable to the proper and efficient performance of their governmental or corporate function or duties of office.

(B) Unless otherwise provided in this title or other valid ordinances of the town of the fact that a particular power or duty is not expressly set forth in any ordinance of the town and conferred on a town officer, official, board or other official entity does not mean or imply that the power or duty does not exist or has been denied or withheld.

(`99 Code, § 2-50)

### **§ 30.02 COMPENSATION AND BONDS.**

(A) *Compensation.* The Town Council shall fix the compensation or salary of all town employees and officers by appropriate ordinance.

(`99 Code, § 2-51)

(B) *Bonds.*

(1) Official bonds of officers required by I.C. 5-4-1-18, as it may be amended from time to time, shall be provided by the town.

(2) A blanket bond may be obtained to cover the faithful performance of all other employees, commission members, and persons acting on behalf of the town, so required to be covered.

(3) The bond of the Clerk-Treasurer shall be approved by the Town Council.

(4) Code § 34.07 addresses current bonds in effect for the town.

(`99 Code, § 2-52)

***Statutory reference:***

*Setting of salaries or compensation, see I.C. 36-5-3-2*

### **§ 30.03 TOWN APPOINTMENTS.**

(A) The Town Council may employ such persons to effectively carry out the needs and services of the town.

(B) Positions which the Town Council may appoint, include but shall not be limited to the following:

- (1) Town Manager;
- (2) Town Attorney;
- (3) Town Engineer;
- (4) Town Marshal;
- (5) Street Superintendent, Maintenance Personnel;
- (6) Building Commissioner;
- (7) Other officers and employees deemed necessary.

(C) Duties shall be set forth for each position by the Town Council and applicable state law. (<sup>^</sup>99 Code, § 2-53)

**§ 30.04 DELIVERY OF RECORDS TO SUCCESSOR.**

Each town officer shall deliver town records and property in his or her custody to his or her successor in office when that successor qualifies, pursuant to I.C. 36-5-4-10. (<sup>^</sup>99 Code, § 2-54)

***CLERK-TREASURER***

**§ 30.15 TERM OF OFFICE.**

(A) A town election for all town elected officials will be held in November, 2015. This election will include the Clerk-Treasurer position and terms will be staggered as follows: The position of Clerk-Treasurer will be up for election in November 2015 for a three-year term expiring December 31, 2018. The Clerk-Treasurer position will be up for election in November, 2018 for a four-year term expiring December 31, 2022. The position of Clerk-Treasurer will then be up for election in each subsequent four-year election cycle.

(B) The Clerk-Treasurer shall be elected by the voters of the whole town. (<sup>^</sup>99 Code, § 2-1) (Ord. 800, passed 9-2-14)

***Statutory reference:***

*Clerk-Treasurer's term of office, see I.C. 36-5-6-3*

**§ 30.16 POWERS AND DUTIES.**

(A) The Clerk-Treasurer may administer oaths, take depositions, and take acknowledgments of instruments that are required by statute to be acknowledged without charging a fee.

(B) The Clerk-Treasurer may perform all duties prescribed by law, which include but are not limited to the following:

- (1) Receive and care for all town monies, and pay them out upon order of the Town Council;
- (2) Keep accounts of all town monies;
- (3) File monthly reports with the Town Council showing all receipts and disbursements or the town treasury for the preceding month;
- (4) Maintain custody of the Town Seal and the records which are open for inspection by the Town Council;
- (5) Collect fees fixed by ordinance;
- (6) Issue all licenses authorized by statute and/or ordinance;
- (7) Attend Town Council meetings and maintain a recording of its proceedings;
- (8) Prescribe payroll and account forms for all town offices;
- (9) Prescribe the manner in which creditors, officers and employees shall be paid;
- (10) Manage the finances and accounts of the town and make investments of town money;
- (11) Prepare for the Town Council the budget estimate of miscellaneous reserve, financial statements and the proposed tax rate;
- (12) Perform all other duties prescribed by statute.

(C) The Clerk-Treasurer is both the Town Clerk and Town Fiscal Officer pursuant to I.C. 36-5-6-2. ('99 Code, §§ 2-2, 2-6)

***Statutory reference:***

*Powers and duties of Clerk-Treasurer, see I.C. 36-5-6-5 and 36-5-2-8*

**§ 30.17 COMPENSATION.**

(A) The compensation for the services of the person holding the office of Clerk-Treasurer shall be fixed by the Town Council.

(B) The compensation may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the previous year.

(`99 Code, § 2-3)

**Statutory reference:**

*Compensation of Clerk-Treasurer, see I.C. 36-5-3-2*

**§ 30.18 VOTING POWERS.**

(A) The Clerk-Treasurer is the clerk of the Town Council.

(B) Whenever the Town Council has an even number of members for any reason, the any reason, the Clerk-Treasurer is an ex officio member for the purpose of casting the deciding vote to break a tie.

(`99 Code, § 2-5)

**§ 30.19 DEPUTIES; LEGAL ASSISTANTS.**

(A) The Clerk-Treasurer is authorized to appoint Deputy Clerk-Treasurers.

(B) The deputies, in executing the orders of the Town Council or in carrying out the duties and responsibilities of the office of Clerk-Treasurer, shall possess the power and be subject to the liabilities of the elected or appointed Clerk-Treasurer.

(C) One of the deputies may be designated as Chief Deputy Clerk-Treasurer.

(D) The Town Council shall cause to be paid each employee a just and reasonable compensation for this service by ordinance.

(E) Such deputy or deputies shall serve at the pleasure of the Clerk-Treasurer not to exceed the term of the appointing official.

(`99 Code, § 2-4)

(F) The Clerk-Treasurer may hire or contract with competent attorneys or research assistants on terms the Clerk-Treasurer considers appropriate. Any legal assistant must be properly budgeted for pursuant to applicable state law.

(`99 Code, § 2-7) (Ord. 468, passed 7-12-79; Am. Ord. 638, passed 9-8-97)

**Statutory reference:**

*Authority to appoint deputies and employees, see I.C. 36-5-6-7*

*Authority to hire legal assistants, see I.C. 36-4-10-5.5*

**§ 30.20 OFFICE SPACE.**

Pursuant to I.C. 36-5-6-5.1, if office space exists in a building owned or leased by the town, the Town Council shall provide suitable office space for the:

(A) Clerk-Treasurer; and

(B) Staff and records of the Clerk-Treasurer.

(`99 Code, § 2-8)

***TOWN MARSHAL*****§ 30.30 APPOINTMENT.**

The Town Council shall appoint a Town Marshal, who shall, on taking oath of office, assume all of the powers and duties and be subject to the limitations as provided by laws of the State of Indiana, and shall be responsible for preservation of peace, safety, protection of life and property in the town. He or she shall have authority and responsibility to enforce all ordinances of the town. He or she shall report to the Town Council.

(`99 Code, § 2-30) (Ord. 638, passed 9-8-97)

**§ 30.31 DEPUTIES.**

The Town Marshal, with approval of the Town Council, shall appoint such number of Deputy Town Marshals as the interests of the town may require, not exceeding 12, who shall, on taking oath of the office, have all the powers, duties, responsibilities and limitations of the Town Marshal. They shall report to and perform under the direction of the Town Marshal, or in his absence to the Deputy Town Marshal designated by the Marshal to be in charge.

(`99 Code, § 2-31) (Ord. 638, passed 9-8-97)

**§ 30.32 TERMS OF SERVICE.**

(A) The term of service of the Town Marshal shall be at the pleasure of the Town Council. Whenever the Town Marshal is suspended by the Town Council, he may apply for a hearing before the Town Council, providing such action is taken with five days from the date of his suspension. A majority of the Town Council shall be present for this hearing.

(`99 Code, § 2-32)

(B) The term of the service of each Deputy Town Marshal shall be at the pleasure of both the Marshal and the Town Council, and either the Marshal or Town Council may discharge such deputies at any time. Whenever the Town Marshal suspends or dismisses a Deputy, the Deputy may appeal his or her case to the Town Council, providing such action is taken within five days from the date of his or her suspension or discharge.

(`99 Code, § 2-33) (Ord. 638, passed 9-8-97)

**§ 30.33 COMPENSATION.**

Compensation of the Town Marshal, and such Deputy Town Marshals which are assigned regular tours of duty, shall be established by the Town Council.

(`99 Code, § 2-34) (Ord. 638, passed 9-8-97)

**§ 30.34 ACCIDENT REPORTS; FEES.**

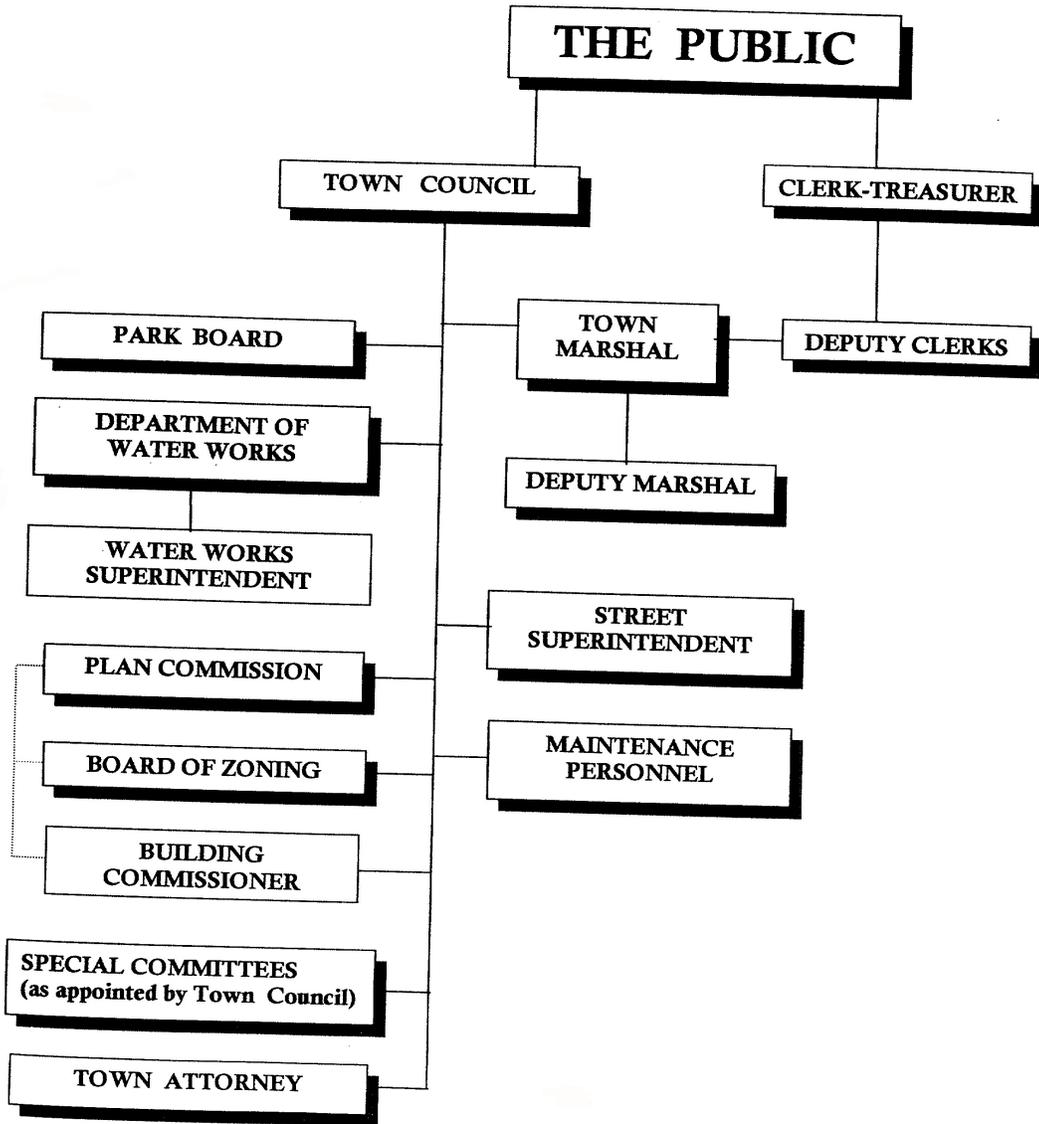
(A) The town authorizes the Town Marshal's office to provide, upon request, to any individual or organization a copy of all automobile or motor vehicle-related accident reports prepared by the Town Marshal's office.

(B) For each copy provided, the town shall charge the requesting entity or person a fee of \$3. In the event additional copies are requested, the request shall be considered a new and separate request and an additional fee of \$3 shall be made for each request.

(`99 Code, § 4-25) (Ord. 655, passed 12-06-99)



APPENDIX: ORGANIZATIONAL CHART





## CHAPTER 31: TOWN COUNCIL

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***ELECTION AND ELIGIBILITY*****§ 31.01 COUNCIL TO BE ELECTED AT LARGE.**

The members of the Town Council are to be elected at large by the voters of the whole town. (1999 Code, § 3-1) (Ord. 489, passed 4-12-82)

**§ 31.02 WARDS ESTABLISHED.**

The Town of Ogden Dunes, in Porter County, Indiana is divided into five councilmatic districts called "Wards" for the purpose of conducting elections of town legislative officers and the boundary of each of the wards is established as running along the center line of the streets and the other places herein mentioned as the boundary line of each of the wards and as follows:

(A) *Ward No. 1.* The boundaries of Ward No. 1 are as follows: An area in the Town of Ogden Dunes, Porter County, Indiana included within and bounded by a line described as follows: Beginning at a point at the northwest corner on the Town of Ogden Dunes boundary and heading east along said boundary to the east side of easement 14 and the west side of the lot known as 114 Shore Drive, thence south to the centerline of Shore Drive, thence east along the centerline of Shore Drive approximately 25 feet to the centerline of the junction with Diana Road; thence continuing south on the centerline of Diana Road to its intersection with Locust Road, thence south along the centerline of Locust Road to its intersection with Sunset Trail, thence southwesterly along centerline of Sunset Trail which gradually turns northwest to its intersection with Diana Road; thence continuing south along the centerline of Diana Road to the intersection of the western most section of Deer Trail, thence south and east along the centerline of Deer Trail to the eastern most intersection of Diana Road and Deer Trail, thence continuing east along the centerline of Diana Road to its intersection with Hillcrest Road, thence south on the centerline of Hillcrest Road to the southernmost right of way of US Hwy 12, thence continuing south along the easternmost border of the property in Indiana Dunes National Lakeshore Park to the southernmost boundary of the Town of Ogden Dunes, thence westerly along the Town of Ogden Dunes town line, thence north along the Ogden Dunes Town Line to the point of a 90 degree angle; thence continuing west along the Ogden Dunes Town boundary to its intersection with the westernmost Town of Ogden Dunes boundary, thence north along the westernmost section of the Town of Ogden Dunes boundary to the Indiana American Water Company access road. The point of the beginning.

(B) *Ward No. 2.* The boundaries of Ward No. 2 are as follows: An area in the Town of Ogden Dunes, Porter County, Indiana included within and bounded by a line described as follows: Beginning at the centerline of the intersections of Diana Road and Shore Drive, thence east on the centerline of Shore Drive to its intersection with Beach Lane, thence south along the centerline of Beach Lane to the 90 degree angle of Beach Lane; thence continuing westerly to the centerline of its intersection with Hillcrest Road, thence south, east and south along the centerline of Hillcrest Road, passed the Ledge to the centerline of its intersection with Sunset Trail, thence northwesterly along the centerline of Sunset

Trail to its intersection with the centerline of Woodland Trail, thence south along the centerline of Woodland Trail to its intersection with the northern most section of Ski Hill Road, thence southeasterly along the centerline of Ski Hill Road to and including the curve to the south and west to the intersection with the centerline of Diana Road, thence northerly along the centerline of Diana Road to the intersection of the centerline with Sunset Trail, thence easterly along the centerline of Sunset Trail to Locust Road, thence north along the centerline of Locust Road to its intersection with the centerline of Diana Road, thence northeast along the centerline of Diana Road to its intersection with Shore Drive. The point of the beginning.

(C) *Ward No. 3.* The boundaries of Ward No. 3 are as follows: A part of the Town of Ogden Dunes, Porter County, Indiana, included within and bounded by a line described as follows: Beginning at the centerline of the intersection of Shore Drive and Beach Lane, thence east to the intersection of the centerline of East Hill Road and Shore Drive, thence south and east along the centerline of East Hill Road to its intersection with the centerline of Skyline Drive, thence west along the centerline of Skyline Drive to the centerline of the intersection of Skyline Drive and Aspen Road, thence south and east along the centerline of Aspen Road around the bend to the centerline of the intersection of Aspen Road and Bittersweet Lane, thence west and north along the centerline of Bittersweet Lane to its intersection with the centerline of Ogden Road, thence west and south along the centerline of Ogden Road to its intersection with the centerline of Cedar Trail, thence north along the centerline of Cedar Trail to the Ledge then west along the centerline of the Ledge to Hillcrest Road, thence north and west along the centerline of Hillcrest Road to the junction with Beach Lane, thence east and north along the centerline of Beach Lane to the intersection of Shore Drive. The point of the beginning.

(D) *Ward No. 4.* The boundaries of Ward No. 4 are as follows: A part of the Town of Ogden Dunes, Porter County Indiana bounded by a line described as follows: Beginning at the centerline of the intersection of Diana Road and Shore Drive, thence north to the northernmost limit of the Town of Ogden Dunes (west side of 114 Shore Drive and the east side of easement 14), thence east along the northernmost border of the Town of Ogden Dunes to the eastern most boundary of the Town of Ogden Dunes, thence south along the eastern most boundary of The Town of Ogden Dunes to a 90 degree turn to the west, thence west along the Town of Ogden Dunes Boundary to another 90 degree turn to the south along the Town of Ogden Dunes boundary to its junction with the centerline of Boat Club Road, thence west along the centerline of Boat Club Road to its junction with Hillcrest Road, thence northwesterly along the centerline of Hillcrest Road to its junction with Ogden Road, thence northeasterly along the centerline of Ogden Road to its junction with Bittersweet Lane, thence south and east along the centerline of Bittersweet Lane to the intersection of Aspen Road, thence southeasterly on the centerline of Aspen Road around the bend and northerly to the intersection of Aspen Road and Skyline Drive, thence easterly along the centerline of Skyline Drive to East Hill Road, thence north along the centerline of East Hill Road to the intersection of Shore Drive, thence west along the centerline of Shore Drive to Diana Road. The point of the beginning.

(E) *Ward No. 5.* The boundaries of Ward No. 5 are as follows: A part of the Town of Ogden Dunes, Porter County, Indiana, included within and bounded by a line described as follows: Beginning at the intersection of Hillcrest Road and the Ledge, thence south along the centerline of Hillcrest Road

to the intersection of Sunset Trail, thence west along the centerline of Sunset Trail to Woodland Trail, thence south along the centerline of Woodland Trail to the northernmost junction with Ski Hill Road, thence east, south and west along the centerline of Ski Hill Road to its intersection with Diana Road, thence south and east along the centerline of Diana Road to the intersection of the westernmost section of Deer Trail, thence south and east along the centerline of Deer Trail to the easternmost intersection with Diana Road, thence east along the centerline of Diana Road to the intersection of Hillcrest Road, thence south along the centerline of the Hillcrest Road to the southernmost right-of-way of US Hwy 12, thence south and southwest along the Indiana Dunes National Lakeshore land to the point of intersection with the southern boundary of the Town of Ogden Dunes, thence east along the southernmost boundary line to a 90 degree angle to the north and forming a stretch of eastern most boundary of the Town of Ogden Dunes, thence north along the eastern Town of Ogden Dunes Boundary Line to its intersection with Boat Club Road, thence west along the centerline of Boat Club Road to Hillcrest Road, thence north along the centerline of Hillcrest Road to Ogden Road, thence east on the centerline of Ogden Road to the intersection of Cedar Trail, thence northeasterly along the centerline of Cedar Trail to its intersection with the Ledge, thence west along the centerline of The Ledge to Hillcrest Road. The point of the beginning.

(`99 Code, § 3-2) (Ord. 589, passed 12-29-92; Am. Ord. 678, passed 10-7-02; Am. Ord. 770, passed 11-5-12)

### **§ 31.03 TERM OF OFFICE.**

A town election for all town elected officials will be held in November, 2015. This election will include all five members of the Town Council and the Clerk-Treasurer position and terms will be staggered as follows:

(A) Three Town Council positions (Ward 2, Ward 3 and Ward 4) will be up for election in November, 2015 for a one-year term which will expire on December 31, 2016. Those same three Town Council positions will be up for election in November, 2016 for a four-year term expiring December 31, 2020. Those same three Town Council positions will then be up for election in each subsequent four-year election cycle.

(B) Two Town Council positions (Ward 1 and Ward 5) and the position of Clerk-Treasurer will be up for election in November, 2015 for a three-year term expiring December 31, 2018. Those same two Town Council positions and the Clerk-Treasurer position will be up for election in November, 2018 for a four-year term expiring December 31, 2022. Those same two Town Council positions and the position of Clerk-Treasurer will then be up for election in each subsequent four-year election cycle.

(`99 Code, § 3-4) (Ord. 457, passed 8-28-78; Am. Ord. 800, passed 9-2-14)

### **§ 31.04 ELIGIBILITY AND RESIDENCY REQUIREMENTS.**

To be eligible to run for the Town Council a person must be a resident of the ward he or she seeks to represent, a citizen of the United States and of legal voting age.

(`99 Code, § 3-6) (Ord. 457, passed 8-28-78)

**§ 31.05 WARD REPRESENTATION; CHANGE OF RESIDENCE.**

(A) Each Council Member shall be elected by a vote of all voters in the town, but shall represent the ward from which he or she runs.

(`99 Code, § 3-5)

(B) A Council Member may move his or her residence from the ward of election to another ward without vacating his or her seat; but such Council Member shall not be eligible for re-election from the ward in which he or she no longer resides.

(`99 Code, § 3-7) (Ord. 457, passed 8-28-78)

**§ 31.06 VACATING OFFICE.**

A Council Member who resigns, dies, or moves his or her place of residence outside of the corporate limits of the town vacates his or her seat on the Town Council, and shall be replaced according to the applicable Indiana statutes.

(`99 Code, § 3-8) (Ord. 457, passed 8-28-78)

**§ 31.07 COMPENSATION.**

(A) The Town Council shall, by ordinance, fix the compensation of its own members.

(B) The compensation of an elected town officer may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the previous year.

(`99 Code, § 3-27)

***POWERS AND DUTIES; OFFICERS AND COMMITTEES***

**§ 31.20 POWERS AND DUTIES.**

The Council may:

(A) Pass ordinances and adopt resolutions for the performance of functions of the town;

(B) Purchase, hold, and convey any interest in property, for the use of the town;

(C) Adopt and use a common seal; and

(D) Exercise all powers that are needed for the effective operation of local government.  
(`99 Code, § 3-15)

**§ 31.21 PRESIDENT.**

(A) At the first regular meeting of the calendar year, or as soon thereafter as possible, the Council shall elect one member to serve as President of the Council and one member to serve as Vice-President. Officers so elected shall hold office until their successors in office are elected in accordance with this section.

(`99 Code, § 3-9)

(B) The President of the Town Council is the town executive as provided by Indiana Code. In addition to the duties of such officer as specified by law, the President shall:

- (1) Preside over all regular and special meetings;
- (2) Preserve order and decorum;
- (3) Decide all questions of order;

(4) Announce the result of any vote by the Council upon all motions, resolutions, ordinance and other matters;

(5) Appoint all members of standing and special committees;

(6) Refer new business to the proper special committee;

(7) Supervise all business of the Council;

(8) Recommend persons for appointment to serve on governmental boards, commissions, committees or bodies when such appointment power is granted to the Town Council, such recommendation being subject to a majority vote of approval by the Town Council; and, the transaction of all business that might properly come before the Town Council and such call shall be sufficient to permit the transaction of any and all business of the town.

(9) Execute such documents as may be required to give legal effect to actions of the Town Council.

(`99 Code, § 3-10) (Ord. 492, passed 8-2-82)

***Statutory reference:***

*Legislative body and executive, see I.C. 36-4-2-11*

**§ 31.22 VICE PRESIDENT.**

The Vice President shall preside at regular and special meetings of the Council in the absence of the President and, in the event of the incapacity of the President, the Vice President shall assume all of the duties of the President during such period of incapacity.

(`99 Code, § 3-11) (Ord. 492, passed 8-2-82)

**§ 31.23 APPOINTMENTS BY COUNCIL AND COUNCIL PRESIDENT.**

Appointive powers given to the President by law shall be exercised by the President. Appointive powers given to the Town Council generally or to the local government of the town shall be exercised as follows:

(A) The President or any Council member may nominate an individual for the position;

(B) The nominations shall be submitted to the Council for vote thereon;

(C) Notwithstanding the above, the President shall have the power to appoint any Council member to a special or standing committee of the Council subject to acceptance by the appointee.

(`99 Code, § 3-12) (Ord. 492, passed 8-2-82)

**§ 31.24 STANDING COMMITTEES; COMMITTEE LIAISON.**

(A) The following standing committees shall be committees of the whole, and shall be the standing committees of the Council and their respective duties.

(1) *Security and Fire Protection.* The Security and Fire Protection Committee shall provide liaison with the Police Department, Marshal, Fire Department, medical/ambulance service.

(2) *Streets and Utilities.* The Streets and Utilities Committee shall maintain liaison with the Street Department, Street Commissioner, Water Board, and utilities providing services within the town.

(3) *Parks and Recreation.* The Parks and Recreation Committee shall maintain liaison with the Ogden Dunes Park.

(4) *Environmental and Public Affairs.* The Environmental Committee shall maintain liaison with the Environmental Advisory Board, Cable TV Advisory Board, National Lakeshore, and U.S. Postal Service and in addition shall maintain such public relations as are to be found to be necessary or desirable.

(5) *Building and Zoning.* The Building and Zoning Committee shall maintain liaison with the Building Commissioner, the Board of Zoning Appeals, and the Plan Commission.

(6) *Finance and Administration.* The Finance and Administration Committee shall maintain responsibility in the areas of the town budget and financial matters.  
(`99 Code, § 3-13)

(B) The President shall annually appoint one or more Council members as liaison for each standing committee. Committee members so appointed shall serve a term concurrent with the term of the appointing President.

(`99 Code, § 3-14) (Ord. 492, passed 8-2-82; Am. Ord. 507, passed 3-5-84; Am. Ord. 807, passed 12-1-14)

**§ 31.25 TOWN COUNCIL APPROVAL REQUIRED FOR FRANCHISE.**

(A) Because the operation of cable television systems or other utilities in enterprises requires the permission of the town to use the public ways, the Council has determined that it is proper and expedient to franchise such systems.

(B) All such business must seek the approval of the Town Council by the appropriate ordinance or resolution prior to initiating business in the town.

(C) All fees paid to the town shall be properly accounted for by the Clerk-Treasurer pursuant to applicable State Board of Accounts regulations.  
(`99 Code, § 4-65)

### ***MEETINGS; ORDINANCES***

#### **§ 31.35 REGULAR MEETINGS.**

The Town Council shall meet in regular session on the first Monday of each and every calendar month at 7:00 p.m. at the fire hall in the town of Ogden Dunes, except as follows:

(A) If the meeting date shall fall on a legal holiday, the regular session shall be held on a date established at the preceding regular meeting;

(B) A regular session may be adjourned to a designated future day and hour upon a majority vote of the Council. Subsequent session held pursuant to the majority vote shall be considered a continuance of the original regular session;

(C) A regular session may be called for a designated future date and hour upon a majority vote of the Council at any regular or special meeting;

(D) The location of the meeting may be changed by the President in the event a majority vote of the Council.

(`99 Code, § 3-16) (Ord. 603, passed 2-7-94)

#### **§ 31.36 SPECIAL MEETINGS.**

(A) The Town Council shall meet in special session upon call by the Council President or three members of the Council. The call of the meeting shall be in writing and shall specify the purpose of the meeting. Such call shall be signed by the President or three Council Members.

(B) Notice shall be given to the clerk at least 48 hours in advance of the time set for the meeting, unless an emergency exists. The clerk shall notify all members of the Town Council, Clerk-Treasurer, and media, with the date, time, and place.

(C) Any special meeting attended by at least three members of the Town Council shall be a regular meeting for transaction of any business that may come before the Town Council. Action of the Town Council is not official unless authorized by at least three members present and voting. Voting by proxy or in absentia shall not be permitted.

(`99 Code, § 3-17) (Ord. 479, passed 2-2-82; Am. Ord. 492, passed 8-2-82)

**§ 31.37 ORDER OF BUSINESS.**

(A) The order of business at all regular meetings shall be as follows:

- (1) Reading of the minutes or suspension thereof;
- (2) Correspondence;
- (3) Treasurer's report;
- (4) Consideration of claims;
- (5) Presentation of ordinances and resolutions;
- (6) Unfinished business;
- (7) New business;
- (8) Reports (community organizations and town officers);
- (9) Resident's remarks;
- (10) Council remarks;
- (11) Adjournment.

(B) At the discretion of the President an item may be deferred to a subsequent agenda location subject to appeal by any member of the Council.

(`99 Code, § 3-18) (Ord. 492, passed 8-2-82)

**§ 31.38 ROBERT'S RULES.**

*Robert's Rules of Order* shall govern the procedures and conduct of meetings in all cases not specifically provided for herein when requested by any member of the Council.

(`99 Code, § 3-19) (Ord. 492, passed 8-2-82)

**§ 31.39 QUORUM VOTING.**

The presence of three or more Council Members at regular or special meeting of the Council shall constitute a quorum and action of the Council is not official unless authorized by at least three members present and voting. Voting by proxy or in absentia shall not be permitted.

(`99 Code, § 3-20) (Ord. 492, passed 8-2-82)

**§ 31.40 INTRODUCTION AND PASSAGE OF ORDINANCES.**

The following shall govern the introduction and passage of ordinances:

(A) An ordinance shall be introduced by reading the same aloud in toto at a regular or special meeting; provided, that in the event that ordinance is of such length or complication so as to make reading thereof impractical, the Council may, by majority vote, allow introduction thereof by reading aloud of title only and by announcement that the complete text will be posted at the police building.

(B) No ordinance shall be voted upon or passed on the same day or at the same meeting at which it is introduced unless at least four Council members are present and all Council members present consent to suspend the rules to allow final action thereon.

(C) Final action on a proposed ordinance shall be permitted without suspension of the rules upon a second presentation thereof which said presentation may be made by reading aloud the title of the proposed ordinance.

(D) All amendments or changes to a proposed ordinance shall be made subject to the same rules governing the introduction and passage of the original proposed ordinance except that the change or amendment may be offered orally by motion of a Council member passed by a majority vote.

(E) An ordinance duly passed shall be considered adopted when it is signed by the majority of the Council unless a later date is specified by law.  
(`99 Code, § 3-21) (Ord. 492, passed 8-2-82; Am. Ord. 575, passed 12-2-91)

**§ 31.41 RECORD AND PUBLICATION OF ORDINANCES.**

(A) Within a reasonable time after an ordinance is adopted, the Clerk-Treasurer shall record it in a book kept for that purpose. The record must include:

- (1) The signature of the President;
- (2) The attestation of the Clerk-Treasurer; and
- (3) The date of each recorded item.

(`99 Code, § 3-22)

(B) An ordinance, order, or resolution passed by the Town Council is considered adopted when it is signed by the President of the Town Council. If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(C) An ordinance prescribing a penalty for a violation must, before it takes effect be published in the manner prescribed by I.C. 5-3-1-1 through 5-3-1-9, unless:

(1) It is published under I.C. 36-1-5-1 through 36-1-5-6; or

(2) It declares an emergency requiring its immediate effectiveness and is posted in one public place in the town.

(`99 Code, § 3-23) (Ord. 492, passed 8-2-82)

### **§ 31.42 MAJORITY VOTE; CLERK-TREASURER TO BREAK TIE.**

(A) A requirement that an ordinance, resolution, or other action of the Town Council be passed by a majority vote means at least a majority vote of all the elected members.

(B) A requirement that an ordinance, resolution, or other action of the Town Council be passed by a two-thirds vote means at least a two-thirds vote of all the elected members.

(C) A majority vote of the Town Council is required to pass an ordinance, unless a greater vote is required by statute.

(D) A two-thirds vote, with unanimous consent of the members present, is required to pass an ordinance of the Town Council on the same day or at the same meeting at which it is introduced.

(`99 Code, § 3-25)

(E) The Town Clerk-Treasurer is the Clerk of the Town Council. Whenever there is a tie vote for any particular issue, the Clerk-Treasurer is an ex officio member for purposes of casting the deciding vote to break a tie.

(`99 Code, § 3-26)

#### ***Statutory reference:***

*Vote requirements, see I.C. 36-5-2-8, 36-5-2-9.4, 36-5-2-9.6, 36-5-2-9.8*

### **§ 31.43 RECORDING OF INTERLOCAL AGREEMENTS.**

Pursuant to the provisions of I.C. 36-1-7-6, an agreement under the *Interlocal Cooperation Act* must be recorded with the County Recorder and, not later than 60 days after adoption, must be filed with the Indiana State Board of Accounts for purposes of audit.

(`99 Code, § 4-70)

**APPENDIX: FORM OF ORDINANCES AMENDING CODE**

All ordinances which are of a general and permanent nature, and which would amend this code, shall be in the following form:

Ord. No. \_\_\_\_\_  
(Number assigned by Clerk-Treasurer)

**(Short Title)**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF OGDEN DUNES, INDIANA,  
AMENDING CHAPTER \_\_\_\_\_, ARTICLE \_\_\_\_\_,  
SECTION(S) \_\_\_\_\_, OF THE *OGDEN DUNES TOWN CODE*  
BY THE INCLUSION/DELETION OF SECTION(S),  
ENTITLED \_\_\_\_\_.

Whereas, *(Background statements setting forth the purpose or background of the Ordinance where appropriate)*

Whereas,

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF OGDEN DUNES, INDIANA, AS FOLLOWS:

Section I. Chapter \_\_ , Article \_\_ , Section(s) \_\_\_\_\_ , of the Ogden Dunes Town Code, is/are hereby amended to read as follows:

*(Set forth specific amendatory language)*

Section II. All prior Ordinances or parts thereof inconsistent with any provisions of this Ordinance are hereby repealed.

Section III. This Ordinance is hereby passed and adopted at a regular meeting of the Town Council of the Town of Ogden Dunes, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
President

**Attest:**

\_\_\_\_\_  
Town Council Member

\_\_\_\_\_  
Town Council Member

\_\_\_\_\_  
Town Council Member

\_\_\_\_\_  
Clerk-Treasurer

\_\_\_\_\_  
Town Council Member



## CHAPTER 32: DEPARTMENTS, BOARDS AND COMMISSIONS

### Section

- 32.01 Continuation of boards and commissions
- 32.02 Advisory Plan Commission
- 32.03 Master Plan, Subdivision Control Ordinance, Zoning Ordinance and Building Code Review Committee
- 32.04 Police reserve unit

### **Statutory reference:**

*Authority to establish fire department, see I.C. 36-8-2-3*

*Authority to establish police reserve unit, see I.C. 36-8-3-20*

### **Cross-reference:**

*Department of Parks and Recreation, see § 94.02*

*Department of Waterworks, see §§ 52.35 through 52.40*

*Purchasing Agency, see § 33.15*

### **§ 32.01 CONTINUATION OF BOARDS AND COMMISSIONS.**

The following boards, commissions, and appointments are continued in full force and effect:

- (A) (Reserved for future use).
- (B) Building Code Review Committee.
- (C) Environmental Advisory Board.
- (D) Northwest Indiana Regional Planning Commission.
- (E) Town Beautification Committee.
- (F) Ogden Dunes Board of Zoning Appeals.
- (G) Safety Director.
- (H) Shore Protection Review Committee.
- (I) Town Engineer (Volunteer).
- (J) Ogden Dunes, ADA (Americans with Disabilities Act).

(K) Ogden Dunes, Recognition Committee.

(L) Ogden Dunes, Grant Committee.

(M) Ogden Dunes, Donor Project Committee.

(N) Cable Advisory Board.

(O) Ogden Dunes, Plan Commission.

(P) Ogden Dunes, Bridge Committee.

(Q) Ogden Dunes, Dog Committee.

(`99 Code, § 2-123) (Am. Ord. 807, passed 12-1-14)

### **§ 32.02 ADVISORY PLAN COMMISSION.**

(A) There is created a Plan Commission consisting of seven members; three persons from the Town Government and four citizens, all appointed by the President and confirmed by the Town Council, as provided by I.C. 36-7-4; terms of office shall be staggered.

(B) The Commission shall elect a Chairperson, Vice-Chairperson, and Secretary and shall determine its own rules of procedure and program of work subject to special requests from the Town Council and requirements of state law.

(C) Members shall serve without compensation. Expenditures for technical assistance, for carrying on Commission work may be made only as provided for and approved from time to time by the Town Council.

(D) It is the duty of the Plan Commission to prepare and adopt a master plan as prepared in parts or as a whole, for the town and surrounding area, including policies concerning future changes and development of the community, a program of public improvements, and appropriate regulations governing the platting of subdivisions, draining, water supply, street, other public and private improvements, zoning, building construction and such other matters provided for by the State Planning Act and other statutes and in accordance with the procedures there set forth. Matters requiring legislative action or confirmation by the Town Council shall be referred to it for consideration.

(`99 Code, § 2-120)

(E) The Plan Commission shall establish a procedure to allow for the review of all conservation easement requests brought before the town in compliance with local planning and zoning laws, I.C. 36-7-4 and to establish a procedure which will allow review and recommendation by the Park Board and Plan Commission. Final approval shall rest with the Town Council.

(`99 Code, § 10-121) (Ord. 218, passed 6-1-53; Res. 99-04, passed 9-15-99)

**§ 32.03 MASTER PLAN, SUBDIVISION CONTROL ORDINANCE, ZONING ORDINANCE AND BUILDING CODE REVIEW COMMITTEE.**

(A) A special advisory committee entitled Master Plan, Subdivision Control Ordinance, Zoning Ordinance and Building Code Review Committee is established.

(B) (1) The Master Plan, Subdivision Control Ordinance, Zoning Ordinance and Building Code Review Committee shall be comprised of up to ten members who shall be building-minded town residents appointed to serve with the Building Commissioner:

(a) At least two Town Council members;

(b) At least two members of the Ogden Dunes Plan Commission;

(c) At least two members of the Ogden Dunes Board of Zoning Appeals and three members can be appointed by the Ogden Dunes Town Council.

(2) The Board of Zoning Appeals and the Plan Commission members will be selected by its own Commission or Board members. If they fail to appoint, the Town Council may make the appointment.

(C) The seven mandatory positions shall be selected within 15 days of the adoption of Res. 97-05. The three discretionary positions will be filled by the Town Council as needed. Each member will serve until the end of the year of appointment. Members shall be appointed annually.

(D) The Committee shall review the Master Plan, the Subdivision Control Ordinance, the Zoning Ordinance and the Residential Building Code of Ogden Dunes for necessary or desirable changes and report their recommendations to the Plan Commission. The Plan Commission will report their recommendations to the Town Council in Ordinance form.

(E) The Committee shall meet at least semi-annually each year to review the code and make recommendations to the Plan Commission.

(`99 Code, § 2-121) (Res. 97-05, passed 3-3-97)

**§ 32.04 POLICE RESERVE UNIT.**

(A) *Establishment of police reserves.* A police reserve unit of Ogden Dunes Police Department is hereby established to assist the Police Department in the performance of law enforcement and other official duties. Personnel so appointed may be designated as police reserve officer or as reserve deputy marshal.

(B) *Appointment and qualifications.*

(1) The Town Marshal may appoint a maximum of 12 reserve deputy marshals.

- (2) A reserve deputy marshal appointed may not:
- (a) Make an arrest;
  - (b) Conduct a search or a seizure of a person or property; or
  - (c) Carry a firearm

unless the police reserve officer has successfully completed an Indiana Law Enforcement Training Board prescribed pre-basic course established under I.C. 5-2-1-9(f).

(3) Reserve deputy marshals may not be regular members of the Police Department and may not be appointed until the completion of the training and probationary period specified by rules adopted pursuant to division (C).

(C) *Rules and regulations.* The Town Marshal may adopt rules and regulations governing reserve deputy marshals and shall direct and oversee the reserve unit.

(D) *Benefits.*

(1) To the extent funds are appropriated by the Town Council and approved by the Town Council and Town Marshal for a purpose listed in this division, reserve deputy marshals may receive the following: a reserve deputy marshal shall be covered by the medical treatment and burial expense provisions of the worker's compensation law (I.C. 22-3-2 through I.C. 22-3-6) and the worker's occupational diseases law (I.C. 22-3-7). Said coverage shall be included in the town's workers compensation insurance coverage for injuries sustained by a reserve deputy marshal while performing reserve duties. If compensability of the injury is an issue, the administration procedures of I.C. 22-3-2 through I.C. 22-3-6 and I.C. 22-3-7 shall apply.

(2) Reserve deputy marshals shall receive no compensation for their duties, excepting as may be specifically provided from time to time by an ordinance of the Town Council.

(3) Reserve deputy marshals are not eligible to participate in any pension program provided for regular members of the Police Department.

(E) *Uniform, arms and equipment.* The Town Marshal may issue uniforms, arms and equipment, to the extent available, to reserve deputy marshals. Any items issued shall immediately be returned to the Town Marshal or designated officer upon request or separation from the Police Department. Any uniforms, arms or equipment purchased individually by a reserve deputy marshal shall be reimbursed by the Police Department.

(Ord. 689, passed 8-30-04; Am. Ord. 726, passed 5-5-08)

## CHAPTER 33: FINANCE

Section

### *General Provisions*

- 33.01 Payment of claims procedures
- 33.02 Administrative fees
- 33.03 Credit card use by certain town officials

### *Purchasing*

- 33.15 Purchasing agency
- 33.16 Buy U.S.A. purchasing rules
- 33.17 Instructions for bids or proposals

### *Funds*

- 33.30 Miscellaneous funds continued
- 33.31 Cumulative Capital Development Fund
- 33.32 Cumulative Capital Improvement Fund
- 33.33 Rainy Day Fund
- 33.34 Promotional Fund
- 33.35 Law Enforcement Continuing Education Fund
- 33.36 Road Resurfacing and Restoration Fund
- 33.37 Beach Erosion Litigation Fund
- 33.38 Beach Nourishment Fund
- 33.39 Dredging Fund
- 33.40 Motor Vehicle Highway Fund
- 33.41 Local Road and Street Fund
- 33.42 Police Department Gift Fund
- 33.43 Improvement Gift Fund
- 33.44 Sanitation Fund
- 33.45 Deer Management Fund

Appendix: Form for Offer or Proposal

### ***Cross-reference:***

*Waterworks funds, see § 52.38*

**GENERAL PROVISIONS****§ 33.01 PAYMENT OF CLAIMS PROCEDURES.**

(A) *Pre-approved claims.* The Clerk-Treasurer is authorized to disburse money to make claim payments in advance of the Town Council's usual allowance for only the following types of expenses of the town:

(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 or coupon payments;

(10) Payroll;

(11) State, federal, or county taxes;

(12) Expenses that must be paid because of emergency circumstances;

(13) Expenses described in an ordinance.

(`99 Code, § 2-148)

(B) *Itemized invoices required.* Each payment of expenses must be supported by a fully itemized invoice or bill and certification by the fiscal officer.

(`99 Code, § 2-149)

(C) *Role of Town Council.* The Town Council shall review and allow the claim at its regular or special meeting following the pre-approved payment of the expense.

(`99 Code, § 2-150)

(D) *Conditions of pre-approved claims.* The claims paid under this division must be listed in division (A) above and the expenditure must be for lawful town purposes.  
(`99 Code, § 2-151) (Ord. 628, passed 7-30-96)

### § 33.02 ADMINISTRATIVE FEES.

(A) *Fees for NSF checks.* Any person or firm presenting a check or draft that is returned to the town marked “unpaid,” “NSF” or a similar deficit posting shall be assessed the additional fee, which shall be added to the invoice or bill for which the unpaid draft was presented. The additional charge shall be \$25 or 5% of the face amount of the check, whichever is greater, not to exceed \$250.  
(`99 Code, § 4-15)

(B) *Copying or duplication fee of public records.* This section sets the cost and fee schedule for public records of the town, to be used by all of the town’s offices, agencies, and departments as charges for copying public records and shall be as follows. This excludes copies for distribution to town elected and appointed officials.

(1) No search and compile fee shall be charged.

(2) Copying of single sided/standard sized records. \$.10/side for each 8-1/2 x 11 or 8-1/2 x 14 page to be copied for a single sided document;

(3) Copying of double-sided/standard sized records. \$.10/side for each 8-1/2 x 11 or 8-1/2 x 14 page to be copied if a particular page has material on both sides of the paper.

(4) Copying of single sided/ledge sized records \$.15/side for each 11 x 17 page to be copied.  
(`99 Code, § 4-16) (Ord. 653, passed 7-7-99; Am. Ord. 655, passed 12-6-99; Am. Ord. 728, passed 12-29-08; Am. Ord. 768, passed 9-12-12)

### § 33.03 CREDIT CARD USE BY CERTAIN TOWN OFFICIALS.

(A) Credit card use is authorized, for town business only, by the Town Water Manager, the Town Marshal and the Street Superintendent.

(B) Credit cards are to be used for the following purposes: travel expenses, the purchase of parts and materials, conference fees and the like.

(C) No personal expenses are authorized, nor are any uses not specifically related to town business.

(D) All credit cards issued shall be returned to the Deputy Clerk-Treasurer, when the purpose for which the credit card was used has been accomplished.  
(Res. 2006-02, passed 6-5-06)

**PURCHASING****§ 33.15 PURCHASING AGENCY.**

(A) *Designation.* The Town of Ogden Dunes Purchasing Agency is established as the purchasing agency for the Town of Ogden Dunes, Porter County, Indiana.

(`99 Code, § 2-130)

(B) *Powers and duties.*

(1) The Purchasing Agency 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 Town Council and policies adopted by the purchasing agency and the Clerk-Treasurer.

(2) The Purchasing Agency shall act as the purchasing agency for every agency, board, office, branch, bureau, commission, council, department, or other establishment of the civil Town of Ogden Dunes, Porter County, Indiana.

(`99 Code, § 2-131)

(C) *Role of Clerk-Treasurer and Town Marshal.* The Purchasing Agency may designate in writing any employee of the town as a purchasing agent. For the day-to-day purchases and acquisitions of the town, the Clerk-Treasurer is designated as the town purchasing agent. For the purchases and acquisitions of the Police Department, the Town Marshal is designated as the Police Department purchasing agent.

(`99 Code, § 2-132) (Ord. 645, passed 7-6-98)

**§ 33.16 BUY U.S.A. PURCHASING RULES.**

The following are the required “Buy U.S.A.” purchasing rules for the town. Supplies manufactured in the United States shall be specified for all town purchases and shall be purchased unless a purchasing agent of the town determines that:

(A) 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 the supplies manufactured in the United States is not in the public interest.

(`99 Code, § 2-136) (Ord. 646-A, passed 9-1-98)

**§ 33.17 INSTRUCTIONS FOR BIDS OR PROPOSALS.**

(A) The town establishes the following instructions to be part of the official purchasing policy of the town. All bids or proposals made to the town shall follow current state law.

(B) Bidders must comply with all instructions as outlined herein.



(1) *Immediate cause for rejection of bid.*

(a) Failure to comply with all instruction or to sign all necessary forms including the Request For Bid (RFB) form (if required) and/or the Form for Offer or Proposal.

(b) Failure to submit a bid surety completely and correctly executed at the time of bid submission in the correct amount (if required).

(c) Failure to correctly and completely execute the non-collusion affidavit (if required).

(d) Failure to comply with any other mandatory bid requirements, requirements of any or all resolutions and ordinances of the town, the legal notice (if used) and state law.

(2) *Bonding requirements.*

(a) Bidders may be required to provide with a bid, at time of submission, a bid surety in either a flat dollar amount or percentage of bid, as specified. Acceptable forms of bid surety as follows (unless otherwise specified in the legal notice):

1. Bid bond secured from a bona fide bid surety firm;

2. A certified check (or equivalent) if issued by a financial institution insured by an agency of the United States;

3. Other forms of bid surety as specified in a particular bid.

(b) All forms of bid surety should be made payable to the town. No cash or personal checks accepted. All bid surety will be held until formal award is made by the appropriate governing body and until successful vendor complies with all terms of the award.

(c) Successful bidder may be requested to provide a performance bond/payment bond in either a flat dollar amount or a percentage of bid as specified, made payable to the town, within ten days after receipt of award letter. Other forms of performance guarantee may be acceptable as specified in a particular bid.

(3) *General conditions/contractual clauses.*

(a) The town is exempt From local, state and federal taxes and will not be responsible for any taxes levied on vendor as a result of a bid award.

(b) All terms contained in this document will become part of contract between successful bidder and the town unless bidder takes exception.

(c) The town reserve the right to reject any and all bids and to waive any of the terms and conditions and provisions contained in the invitation to bid, legal notice or other documents, or any informality, irregularity or omission in any bid, and to award to one or more bidders.

(d) Bidders may be required to submit a financial statement for non-construction (non-public works) bids, if specified in a particular bid's technical specifications. Bidders may also be required to submit such information for each construction (public works) bid under \$100,000, if specified in a particular bid's technical specifications.

(e) Manufacturer and/or model number of equipment being used must be stated.

(f) If not bidding a delivered price to point of destination, shipping charges must be shown as a separate price on the bid.

(g) Upon delivery and/or inspection of ordered goods or upon performance of services, should the ordering agency determine that goods/services do not meet specification, same will not be accepted and shall be returned at vendors expense.

(h) Reference to brand names, catalogue numbers and the like are made to establish level of quality needed and not for the purpose of limiting competition. It is the vendor's responsibility to show proof that goods being offered are of equal quality to those that were specified.

(i) Formal contracts and/or proof of insurability may be required on applicable bids for construction an/or service products.

(j) The town reserves the right to deny payment to vendors ordering or delivering goods/services without benefit of a verbal or written purchase order number or other similar written authorization from the Clerk-Treasurer.

(k) Any exceptions to the specifications must be clearly set forth in vendor's bid.

(l) All bidders must comply with town pre-existing purchasing policies and the apparent low bidder must submit or have on file Form for Offer or Proposal. Failure to do so may cause the bid to be rejected. A copy of this Form and/or any questions should be directed to: The Clerk-Treasurer, Town of Ogden Dunes, 115 Hillcrest Road, Ogden Dunes, Indiana 46368, (219) 762-4125.

(m) The vendor agrees to indemnify and hold harmless the town and its officers, agents, officials, and employees for any and all claims, actions, causes of action, judgments, and liens arising out of any negligent act or omission by the vendor or any of its officers, agents, employees, or subcontractors or any defect in materials or workmanship or any supply, material, mechanism or other product which it or any of its officers, agents, employees, or subcontractors has supplied to the town or has used in connection with this agreement. Such indemnity shall include attorneys fees, costs and other expenses arising therefrom or incurred in connection therewith and shall not be limited by reason of the enumeration of any insurance coverage required herein.

(n) Notwithstanding any other provision of this agreement, if funds for the continued fulfillment of this agreement by the town are at any time not forthcoming or are insufficient, through failure of any entity to appropriate funds or otherwise, the town shall have the right to terminate this agreement without penalty by giving prior written notice documenting the lack of funds, in which instance, unless otherwise agreed to by the parties, this agreement shall terminate and become null and void on the last day of the fiscal period for which appropriations were received. The town agrees that it will make its best effort to obtain sufficient funds to meet its obligations hereunder in full. This contract may be terminated by either party at the town's option, upon 30 days written notice.

(o) No portion of this agreement shall be sublet, assigned or otherwise disposed of by vendor except with the written consent of the town being first obtained. Consent to sublet, assign or otherwise dispose of any portion of this agreement shall not be construed to relieve vendor of any responsibility for the fulfillment of the agreement.

(p) Unless otherwise specified within the agreement, this agreement shall be governed by the laws of the State of Indiana, and by all municipal ordinances, resolutions and codes of the town, as the same shall be in full force upon the date this agreement is executed.

(q) This agreement represents part of the agreement and is integrated into the agreement between the town and vendor which includes the legal notice (if used), and bid specifications and supersedes all prior oral negotiations, oral representations, oral agreements, and/or oral contracts unless a pre-bid conference has been held and the town reserves the right to rely on the representation made and recorded in the pre-bid conference meeting minutes. This agreement may be amended only by written instrument signed by both the town and vendor and attached to the bid records as an addendum. (Res. 2000-12, passed 12-4-00)

## *FUNDS*

### **§ 33.30 MISCELLANEOUS FUNDS CONTINUED.**

The following funds are continued in effect. Each shall be funded and operated in accordance with all statutory requirements:

(A) *General Fund*;

(B) *Parks and Recreation Fund*.  
(`99 Code, § 2-164)

### **§ 33.31 CUMULATIVE CAPITAL DEVELOPMENT FUND.**

(A) There is reestablished a *Cumulative Capital Development Fund* (CCD Fund).

(B) The CCD Fund rate of levy is reestablished at: \$0.04 per \$100 of assessed valuation payable in 2013 and thereafter, continuing until reduced or rescinded. The revenues from the levy will be retained in the CCD Fund.

(C) The funds accumulated in the CCD Fund will be used for any of the purposes allowed by I.C. 36-9-15.5-2 and the I.C. sections cited therein.

(D) The reestablishment of the CCD Fund takes effect upon approval of the Department of Local Government Finance of the State of Indiana.

(E) Notwithstanding division (C), funds accumulated in the CCD Fund may be spent for purposes other than the purposes stated in division (C), if the purpose is to protect the public health, welfare, or safety in an emergency situation which demands immediate action. Monies may be spent under the authority of this section only after a local declaration of emergency or disaster that the public health, welfare, or safety is in immediate danger that requires the expenditure of money in the fund. ('99 Code, § 2-159) (Ord. 591, passed 5-3-93; Am. Ord. 744, passed 7-6-10)

### **§ 33.32 CUMULATIVE CAPITAL IMPROVEMENT FUND.**

In accordance with the requirements of I.C. 6-7-1-31.1 there is created a special fund to be known as the *Cumulative Capital Improvement Fund* into which the cigarette taxes allotted to the town by reason of I.C. 36-7-23 as amended shall be deposited. ('99 Code, § 2-160) (Ord. 374, passed 5- -65)

### **§ 33.33 RAINY DAY FUND.**

(A) *Creation.* There is hereby established a *Rainy Day Fund* to receive transfers of unused and unencumbered funds raised by a general or special tax levy on taxable property within the town whenever the purpose of such tax levy has been fulfilled and an unused and unencumbered balance remains.

(B) *Purpose.* The funds on deposit in the Rainy Day Fund may be used for the operation of the town, when the town does not have sufficient levies or funds to pay such costs including, but not limited to, salaries and wages, costs of services, supplies, equipment, capital improvements, repairs and similar expenditures.

(C) *Transfers to fund.* On or before December 31 each year, the Town Council may determine the amount, if any, of any unused and unencumbered funds available to be transferred to the Rainy Day Fund, which transfer may not exceed more than 10% of the town's total budget for that fiscal year.

(D) *Appropriations.* The Town Council may authorize the expenditure of funds from the Rainy Day Fund by appropriation made in the same manner as other funds that receive tax money, upon finding that the proposed use is consistent with the intent of the fund.  
(Ord. 674, passed 12-3-01)

**§ 33.34 PROMOTIONAL FUND.**

(A) *Establishment.* A fund entitled *Town Promotion Fund* is established.

(B) *Purpose.* This fund is established for the purpose of paying expenses of or to reimburse town officials or to pay for expenses incurred in promoting the best interest of the town including, but not limited to, those expenditures listed in division (C) below.

(C) *Expenditures.* Expenditures from the Town Promotion Fund may include, but are not necessarily limited to, any of the following:



(1) The rental of meeting places, meals, decorations, memorabilia, awards, expense incurred in interviewing job applicants, expenses incurred in promoting industrial, commercial and residential development, expenses incurred in developing relations with other units of government, in the promotion of tourism and goodwill of the town's employees, and any other expenses of a specific or governmental nature deemed by the Town Council to be in the interest of the town.

(2) Illustrative of the expenditures approved by this section include, but are not limited to the following: commemorative plaques, certificates, or objects such as commemorative keys; employee appreciation dinners; and expenses incurred due to participation or membership in local, regional, state and national associations of a civic, educational or governmental nature which expense shall have as its purpose the betterment of the town or the town's operations.

(D) *Effect.* This section establishing a promotional fund shall have no limiting effect or otherwise upon any other fund of the town including printing and advertising, meeting room rental, subscriptions and dues, traveling expenses and any other similar fund, line item or account of the town.

(^ 99 Code, § 2-158) (Ord. 563, passed 12-3-90)

### **§ 33.35 LAW ENFORCEMENT CONTINUING EDUCATION FUND.**

(A) There is established a fund known as the *Law Enforcement Continuing Education Fund* for the purpose of purchases made by the Police Department for equipment, supplies, continuing education, and law enforcement training for the Police Department (Town Marshal's Office).

(B) This fund shall be comprised of fees collected by the Police Department from the following activities:

- (1) Vehicle Inspections;
- (2) Accident reports;
- (3) Hand gun licenses and transfers;
- (4) Proceeds from the sale of confiscated weapons;
- (5) Traffic tickets and criminal arrests.

(C) Before any money from this fund is spent, same must be first appropriated according to state statute.

(D) The funds accumulated in the Local Law Enforcement Continuing Education Fund established shall be used for the purpose of continuing education and training of law enforcement officers employed by the town. All expenditures must comply with the terms and provisions of the statute by the authority of which the Fund is created, and must be approved by the Town Marshal.

(E) The funds placed in the Local Law Enforcement Continuing Education Fund may not be withdrawn except for the purposes set forth herein, so long as this section remains in full force and effect.

(`99 Code, § 2-163) (Ord. 655, passed 12-6-99)

### § 33.36 ROAD RESURFACING AND RESTORATION FUND.

(A) *Creation.* There is hereby created fund for the monies received by the town for the purpose of road resurfacing, replacement, reconstruction or improvement that becomes necessary as a result of the Ogden Dunes Interim Sand Replacement Project for the Ogden Dunes Beach. This fund may be used in conjunction with any other funds of the town for restoration of the roads and rights-of-way of the town requiring maintenance or reconstruction as a result of the Interim Sand Replacement project. This fund shall be known as the *Road Resurfacing and Restoration Fund*.

(B) *Revenues.* Revenue received from the anonymous donor, the private trust, the interim sand replacement project contractor or subcontractors and any other donated funds may go into this fund. Transfer from existing town funds are permitted to the extent authorized by law.

(C) *Non-reverting fund.* This fund shall be a non-reverting fund of the town. It shall terminate upon the enactment of a subsequent ordinance which determines the existence of the fund as no longer needed.

(D) *Disbursement.* The Town Council hereby authorizes the disbursement of funds to pay any and all road work costs which result from the Interim Sand Replacement Project.

(E) *Accounting.* An accurate accounting shall be maintained of all disbursements and credits and all transactions involving this fund by the Clerk-Treasurer as an official record of the town. From the date of the enactment of this section the monies received into this fund shall not be commingled with any other monies of the town.

(Ord. 660, passed 6-5-00)

### § 33.37 BEACH EROSION LITIGATION FUND.

(A) There is created a special non-reverting account for the use of the town for the purposes of tort claim filing, litigation, and pre-litigation expenses as a separate non-reverting fund known as the *Ogden Dunes Beach Erosion Litigation Fund*.

(B) The *Ogden Dunes Beach Erosion Litigation Fund* is a donation fund and shall be a non-reverting fund not subject to appropriations pursuant to Indiana Code.

(C) Funds received by the town for beach erosion litigation and related purposes shall be deposited into said fund.

(D) The Town Council may accept and approve claims against the funds to defray costs and pay expenses incurred in relation to beach erosion litigation, pre-litigation and tort claim filing costs and other similar uses; including but not limited to attorneys fees, engineering fees, appraisals and for similar expenses related to the purposes specified hereby or by the donors of the specific gifts related to this fund.

(E) An accurate accounting shall be maintained for credits and approved claims as debits and maintained by the Clerk-Treasurer as an official record of the town. The money shall not be commingled with other monies of the town.

(`99 Code, § 2-155) (Ord. 621, passed 12-28-95)

### § 33.38 BEACH NOURISHMENT FUND.

(A) A non-reverting fund known as the *Beach Nourishment Fund* is established in the municipal treasury.

(B) The fund is not subject to appropriation.

(C) Funds received by the town for the purpose of beach nourishment shall be deposited in the fund.

(D) The Town Council may accept and approve claims against the fund to defray cost and pay expenses incurred by beach nourishment projects including but not limited to expenses associated with trucking, hauling, equipment rental, gas reimbursement gasoline expenses, fuel oil, rental, equipment maintenance, and the like.

(E) An accurate accounting shall be maintained for credits and approved claims as debits and maintained by the Clerk-Treasurer as an official record of the town.

(`99 Code, § 2-156) (Ord. 598, passed 11-15-93)

### § 33.39 DREDGING FUND.

(A) A non-reverting fund known as the *Dredging Fund* is established in the municipal treasury.

(B) The fund is not subject to appropriation.

(C) Funds received by the town for the purpose of dredging be deposited in the fund.

(D) The Town Council may accept and approve claims against the fund to defray cost and pay expenses incurred in filling the requirements of the contract with the Indiana Port Commission and to acquire dredging equipment and operate for the purpose of beach nourishment in the town.

(E) An accurate accounting shall be maintained for credits and approved claims as debits and maintain by the Clerk-Treasurer as an official record of the town.  
(`99 Code, § 2-157) (Ord. 597, passed 11-15-93)

#### **§ 33.40 MOTOR VEHICLE HIGHWAY FUND.**

(A) The *Motor Vehicle Highway Fund* is established.

(B) This fund shall receive state funds and be used for expenditures authorized by I.C. 8-14-1-1, *et seq.*  
(`99 Code, § 2-161)

#### **§ 33.41 LOCAL ROAD AND STREET FUND.**

The *Local Road and Street Fund* is established for the purpose of receiving applicable state funds and for expenditures permitted by statute.  
(`99 Code, § 2-162)

#### **§ 33.42 POLICE DEPARTMENT GIFT FUND.**

(A) There is hereby created the *Ogden Dunes Police Department Gift Fund* which shall be a non-reverting fund. The fund shall be used to receive, hold and spend all money and other property which shall be received by the Police Department as gifts.

(B) Any gifts which are restricted or designated to a certain purpose in any manner shall be utilized only for such purpose and shall be maintained by the Clerk-Treasurer in separate ledger accounts to designate such purpose or use. Any gifts of money not immediately needed may be co-mingled with all other general funds.

(C) The Clerk-Treasurer is hereby specifically authorized to invest such funds with, or separate from, the remainder of the General Fund in any suitable manner as is now provided by state statute and/or ordinance.  
(Ord. 705, passed 8-28-06)

#### **§ 33.43 IMPROVEMENT GIFT FUND.**

(A) There is hereby created the *Ogden Dunes Improvement Gift Fund* which shall be a non-reverting fund. The fund shall be used to receive and hold all money and other property which shall be received by the town for the planting, preservation and maintenance of trees, and other beautification or park projects for the town.

(B) Any gifts which are restricted or designated to a certain purpose in any manner shall be utilized only for such purpose and shall be maintained by the Clerk-Treasurer in separate ledger accounts to designate such purpose or use. Any gifts of money not immediately needed may be co-mingled with all other general funds.

(C) The Clerk-Treasurer is hereby specifically authorized to invest such funds with, or separately from, the remainder of the General Fund in any suitable manner as is now provided by state statute and/or ordinance.

(Ord. 706, passed 8-28-06)

#### **§ 33.44 SANITATION FUND.**

(A) The *Sanitation Fund* is hereby created as an enterprise fund for the approval of payment of all accounts, payable vouchers and claims for the Sanitation Fund by the Town Council.

(B) The Sanitation Fund shall be in existence for as long as the town is providing garbage collection and disposal services, unless it is rescinded by a future ordinance of the Town Council.

(Ord. 713, passed 6-4-07)

#### **§ 33.45 DEER MANAGEMENT FUND.**

(A) A “Deer Management Fund” is hereby established in order for the town to accept donations to be used for deer management expenses. Deer management expenses include, but are not necessarily limited to, expenses in obtaining, defending, and implementing any special purpose deer control permit for the town, ecological reports, flyovers in order to obtain the count of deer in Ogden Dunes and adjacent areas, deer processing, and other deer management methods such as the four-poster method.

(B) The Town Council has the authority to take official action to reject any terms, conditions, or purposes attached to a proposed donation to this fund.

(C) The fund is non-reverting at the end of each calendar year and shall remain in effect until rescinded by ordinance of the Town Council. In the event the fund is terminated, the fund balance, if any, existing at the time of its termination shall be deposited into the General Fund of the town.

(Ord. 773, passed 12-10-12)

**APPENDIX: FORM FOR OFFER OR PROPOSAL**

Please print or type.

- 1. Date: \_\_\_\_\_
- 2. Governmental unit: \_\_\_\_\_
- 3. County: \_\_\_\_\_
- 4. Offeror (Firm): \_\_\_\_\_  
     Address: \_\_\_\_\_  
     City/State: \_\_\_\_\_
- 5. Telephone Number: \_\_\_\_\_
- 6. Agent or Offeror (if applicable): \_\_\_\_\_

Pursuant to notices given, the undersigned offers to \_\_\_\_\_ (Governmental Unit) in accordance with the following attachment(s) which specify the class or item number or description, quantity, unit price and total amount.

The contract will be awarded in accordance with specifications. Offeror promises that it has not offered nor received a less price than the price stated in its offer/proposal for the supplies included in its offer/proposal. Offeror further agrees that it will not withdraw its offer/proposal from the office in which it is filed. A certified check or bond shall be filed with each offer/proposal if required, and liability for breach shall be enforceable upon evidence of financial responsibility.

\_\_\_\_\_  
Signature of Offeror or Agent

## CHAPTER 34: PERSONNEL POLICIES

### Section

#### *General Provisions*

- 34.01 Title
- 34.02 Definitions
- 34.03 Full time employee status
- 34.04 Drug free workplace
- 34.05 Drug free awareness program
- 34.06 No smoking policy
- 34.07 Surety bond to cover town employees
- 34.08 Town policy on disabilities
- 34.09 Town policy on conflict of interest and nepotism

#### *Leaves and Other Benefits*

- 34.20 Prohibition on pay in lieu of vacation
- 34.21 Paid holidays
- 34.22 Sick leave
- 34.23 Vacation leave
- 34.24 Military leave
- 34.25 Other leave
- 34.26 Medical and life insurance; COBRA benefits
- 34.27 Public Employee Retirement Program
- 34.28 Deferred compensation retirement program
- 34.29 Mileage reimbursement
- 34.30 Clothing allowance for Police Department

#### ***Cross-reference:***

*Compensation of officers and employees, see § 30.02*

### **GENERAL PROVISIONS**

#### **§ 34.01 TITLE.**

This subchapter shall be known as the *Personnel Administration Ordinance* of the town. ('99 Code, § 2-65) (Ord. 638, passed 9-8-97)

**§ 34.02 DEFINITIONS.**

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

**FULL TIME EMPLOYEE.** Any person employed by the town in a position designed to require continuous employment for 52 weeks on a regular salary or hourly rate basis, whose position is identified as full time on an annual or amended ordinance fixing salaries and compensation rates of officials and employees of the town for the calendar year or part thereof, and who works in such employment an average of 37 hours or more a week.

**PROBATIONARY EMPLOYEE.** Any person employed by the town who has not completed one year of service. During probationary status, an employee's progress and ability to accomplish their job in an appropriate manner will be evaluated by that employee's supervisor. Probationary employees are subject to review and can be terminated without recourse for an unsuitable evaluation by the employee's supervisor.

(`99 Code, § 2-60) (Ord. 638, passed 9-8-97; Ord. 642, passed 3-2-98; Res. 97-03, passed 1-7-97; Am. Ord. 783, passed 6-3-13)

**§ 34.03 FULL TIME EMPLOYEE STATUS.**

All full time employees will have their hours averaged quarterly. One time only, full time employees who do not work an average of 37 hours per week in a quarter will be given a chance to average 37 hours per week the next quarter and if that quarter does not average 37 hours per week the employee is subject to reclassification of employment status.

(`99 Code, § 2-61) (Ord. 638, passed 9-8-97)

**§ 34.04 DRUG FREE WORKPLACE.**

(A) *Prohibited conduct.* The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace by any employee of the town.

(B) *Penalty for violation.* Employees in the workplace in violation of any prohibition in division (A) above, shall be summarily discharged from their employment. Police officers are subject to disciplinary proceedings before the Town Council as a board of safety pursuant to state statute.

(`99 Code, § 2-85) (Ord. 638, passed 9-8-97)

***Editor's note:***

*Res. 92-08, adopted on December 7, 1992 addresses standards for a drug-free workplace policy and is on file in the office of the Clerk-Treasurer*

**§ 34.05 DRUG FREE AWARENESS PROGRAM.**

Each employee shall be given a copy of a statement of the town's drug-free awareness program and each employee must sign a statement that they have read the statement of the drug free awareness program, that they will abide by the terms of the statement; and they will notify the town of any criminal drug statute convictions for a violation occurring in the workplace no later than five days after such conviction. The signed statement shall be kept by the Clerk-Treasurer in the employee's personnel file. ('99 Code, § 2-86) (Ord. 638, passed 9-8-97)

**§ 34.06 NO SMOKING POLICY.**

The town police station is designated a "no smoking" building. Any visitor or employee who smokes will leave the building to smoke. ('99 Code, § 2-90) (Town Council meeting of 8-1-93)

**§ 34.07 SURETY BOND TO COVER TOWN EMPLOYEES.**

(A) The Clerk-Treasurer is authorized and instructed to purchase surety bonds as required by this section and by law in the amount deemed necessary.

(B) The Clerk-Treasurer is authorized to obtain a surety bond, whether an individual bond or a blanket bond, for the Marshal and any Deputy Marshals to be bonded in the amount of \$2,500. So long as the Marshal is bonded, it is not required by this section that any Deputy Marshals be bonded.

(C) The Clerk-Treasurer is authorized and instructed to obtain a surety bond, whether an individual bond or a blanket bond, for the Clerk-Treasurer in the amount of \$15,000.

(D) The Clerk-Treasurer is authorized and instructed to obtain a surety bond, whether an individual bond or a blanket bond, for the Deputy Clerk-Treasurer in the amount of \$10,000.

(E) Should a blanket bond be obtained for any group of officials or employees acting on behalf of the town, then the amounts set forth in this section shall be the minimum amount required as the amount of such a bond for that official or employee. ('99 Code, § 2-91) (Ord. 579, passed 5-4-92)

**§ 34.08 TOWN POLICY ON DISABILITIES.**

The express policy of the town shall be to not exclude qualified individuals with disabilities from participation in or benefitting from the services programs, or activities of the town. It is the further policy of the town not to discriminate against a qualified individual with a disability in the town's job

application procedures, that is, in the hiring, advancement or discharge of employees, employee compensation, job training, and all other terms, conditions and privileges of employment with the town. (1999 Code, § 2-92)

#### **§ 34.09 TOWN POLICY ON CONFLICT OF INTEREST AND NEPOTISM.**

(A) The town finds that it is necessary and desirable to adopt a policy of conduct with regard to nepotism in the employment with the town and in contracting with the town in order to continue to be able to provide local government services to its residents and to comply with the new laws effective July 1, 2012 known as I.C. 36-1-20.2 and I.C. 36-1-21, respectively.

(B) On July 1, 2012, the town shall have a Nepotism and a Contracting with a Unit policy that complies with the minimum requirements of I.C. 36-1-20.2 (hereinafter "Nepotism Policy") and I.C. 36-1-21 (hereinafter "Contracting with a Unit by a Relative Policy") and implementation will begin.

(C) The town nepotism policy is hereby established effective July 1, 2012 by adopting the minimum requirements of I.C. 36-1-20.2, and including all future supplements and amendments thereto which become law from time to time, and making them a part hereof as if fully set out herein.

(D) The town's contracting with a unit by a relative policy is hereby established effective July 1, 2012 by adopting the minimum requirements of I.C. 36-1-21, and including all future supplements and amendments thereto which become law from time to time, and making them a part hereof as if fully set out herein.

(E) The town finds that both I.C. 36-1-20.2 and I.C. 36-1-21 specifically allow a unit to adopt requirements that are "more stringent or detailed" and that more detailed requirements are necessary.

(F) The town further finds that a single member of the legislative body cannot act for the body to make work assignments, fix compensation, hear grievances, determine advancement or conduct a performance evaluation without prior authority of a majority of the body and, therefore, without such authority by the majority he or she will not be in the direct line of supervision.

(G) The town finds that a single member of any other governing body in the town with authority over employees in the town, similarly cannot act for the governing body to make work assignments, fix compensation, hear grievances, determine advancement or conduct a performance evaluation without prior authority of a majority of the body, when a statute provides that a majority is needed to act, and therefore, without such authority by the majority the single member will not be in the direct line of supervision.

(H) All elected and appointed officials and employees of the town are hereby directed to cooperate fully in the implementation of the policies created, by this section and demonstrate compliance with these same policies.

(I) The failure to abide by or cooperate with the implementation, compliance, and certifications connected with the nepotism policy is a violation of this section and may result in the discipline, including termination, of an employee or a transfer from the direct line of supervision or other curative action. An elected or appointed official of the town who fails to abide by or cooperate with the implementation, compliance, and mandated certifications of the nepotism policy may be subject to action allowed by law.

(J) The failure to abide by or cooperate with the implementation, compliance, and certifications connected with the contracting with unit by a relative policy is a violation of this section and may result in the discipline, including termination, of an employee or other curative action. An elected or appointed official of the town who fails to abide by or cooperate with the implementation, compliance, and mandated certifications of either the nepotism policy or the contact with unit by a relative policy may be subject to action allowed by law.

(K) The policies created by this section are hereby directed to be implemented by providing a copy of this section to the town's employees and elected and appointed officials.

(L) Two copies of I.C. 36-1-20.2 and I.C. 36-1-21, and as supplemented or amended, are on file in the office of the Clerk or Clerk-Treasurer for the Town for public inspection as may be required by I.C. 36-1-5-4.

(Ord. 763, passed 6-4-12)

***LEAVES AND OTHER BENEFITS***

**§ 34.20 PROHIBITION ON PAY IN LIEU OF VACATION.**

Payment in lieu of vacation is prohibited under the conditions of this chapter and in keeping with the Indiana Statutes.

(`99 Code, § 2-66) (Ord. 638, passed 9-8-97)

**§ 34.21 PAID HOLIDAYS.**

(A) All full-time employees of the town are eligible for the following paid holidays observed by the town:

- (1) New Year's Day;
- (2) Friday before Easter Sunday;
- (3) Memorial Day;

- (4) Independence Day;
- (5) Labor Day;
- (6) Veterans' Day;
- (7) Thanksgiving Day, the fourth Thursday in November;
- (8) Friday after Thanksgiving;
- (9) Christmas Day.

(B) In addition to the paid holidays listed above, all full-time employees shall be eligible for two additional, paid holidays, one to be either the day before or the day after the Christmas Day holiday, and the other either the day before or the day after New Year's Day, as same shall be determined by the Town Council.

(C) To be eligible for holiday pay, an employee must work his or her last scheduled day before and the next scheduled day after the observed holiday. This policy does not apply to a pre-approved vacation or a compensatory or regularly scheduled day off. In the event an employee is ill on the last scheduled day before or next scheduled day after a holiday, the employee may be eligible for holiday pay, provided proof of the illness is presented in a form sufficient to the employee's supervisor. Employees on medical or other leaves of absence, including disciplinary leaves of absence, and employees who are scheduled to work on a holiday but call off are not eligible for holiday pay.

(D) Employees who are required to work on an observed holiday will be paid at a rate of one-and-a-half times their regular rate of pay for each hour worked. In addition, full time employees shall receive up to eight hours of compensatory time, at the rate of one hour compensatory time for each hour worked, to be used at a later date.

(E) The Town Council will designate the observed holidays. Full time employees whose regularly scheduled day off falls on a holiday, at their option, may choose to be paid an additional eight hours for the holiday, or may receive eight hours of compensatory time off to be used at a later date.

(F) Employees who have already worked 80 hours in the pay period prior to working a holiday shift, and who are eligible for overtime pay, shall be entitled to overtime pay for the shift worked. ('99 Code, § 2-67) (Ord. 602, passed 2-7-94; Am. Ord. 635, passed 1-7-97; Am. Ord. 638, passed 9-8-97; Am. Ord. 711, passed 4-2-07; Am. Ord. 729, passed 12-29-08; Am. Ord. 736, passed 8-3-09; Am. Ord. 794, passed 3-10-14)

#### **§ 34.22 SICK LEAVE.**

(A) *Allowances.*

- (1) Only full-time employees are entitled to paid sick leave.

(2) Sick leave will be earned at a rate of ten days a year, beginning on the employee's first anniversary of employment, and is accrued upon each anniversary date in a lump sum.

(B) *Sick bank and extended sick leave.*

(1) If not used, sick leave will accumulate and be banked in a personal sick bank, to a maximum of 30 days, for use in the event of an extended illness with approval of the Council.

(2) In the event of an extended illness, an employee may request from the Council the ability to tap into the accumulated sick bank.

(3) After using accumulated sick bank days, an employee may request an additional 30 days at a rate of half pay.

(4) To apply for sick bank, additional or accumulated carryover sick days, the employee must meet the following criteria:

(a) The applicant must make application to the Town Council through the appropriate department head or responsible elected official.

(b) All sick days, vacation leave days, compensatory time, holiday leave, and personal days previously accrued by the applicant must be exhausted.

(c) The request for additional sick leave must be made in writing to the Town Council.

1. It will be reviewed within 48 hours by the Council's representatives, along with the appropriate elected official or designated department head.

2. A written confirmation will follow.

(5) The Town Council requires the applicant to submit a written statement from the applicant's doctor, indicating the prognosis for returning to work.

(6) The applicant must be absent from work for more than a week.

(7) In determining the applicant's eligibility for extended sick leave, the Council will consider the following factors as they apply to the applicant.

(a) The type of sickness or illness;

(b) The prognosis;

(c) The length of time estimated to be off work;

(d) Employee history (provided by department head);

(e) A re-evaluation of each case will occur by the Council at the end of each 30-day cycle.

(8) In the event of an extended illness, employees can, with the approval of the Council, transfer accumulated sick time to another employee.

(9) Paid sick leave is intended for use in instances of a bona fide illness or injury of the employee, or for the care of a spouse, child or parent who has a bona fide illness or injury.

(a) Paid sick leave is intended for use consistent with the federal mandates in the Family Medical Leave Act.

(b) Maternity does not qualify for sick bank usage.

(C) *Proof of illness or injury.*

(1) The responsible elected official or designated department head may request that an employee substantiate their own illness or injury, or that of a child, parent or spouse, after utilizing three sick days on any consecutive occurrence, or any single consecutive occurrence throughout the given year after using three sick days.

(2) To substantiate an illness or injury, the responsible elected official or department head may require that the employee produce a medical excuse from their doctor.

(D) *Family Medical Leave Act.*

(1) In addition, leave will be granted, with or without pay, consistent with the requirements of the Family Medical Leave Act.

(2) After that time, the Town Council shall review the doctor's evaluation and prognosis, and determine whether an extension should be granted.

(E) *Dismissal or termination.*

(1) The use of sick leave for any reason not authorized by this policy may result in dismissal or termination.

(2) Employees will not be paid for accumulated banked sick leave upon termination. ('99 Code, §§ 2-70—2-73) (Ord. 585, passed 12-7-92; Am. Ord. 638, passed 9-8-97; Am. Ord. 736, passed 8-3-09; Am. Ord. 783, passed 6-3-13)

§ 34.23 VACATION LEAVE.

(A) Eligibility.

(1) Full-time employees are entitled to vacation leave after six months of uninterrupted, full-time service.

(2) Vacation leave may be taken any time after it has been earned, provided the scheduling of the leave has been approved by the responsible elected official or, where appropriate, department head.

(B) *Payment in lieu of vacation prohibited.* Payment in lieu of vacation is prohibited under the conditions of this policy and in keeping with Indiana statutes.

(C) *Schedule of paid vacation time.* Paid vacation time is earned according to the following schedule:

First year	.00923 hour per hours worked (one week)
Second year	.03846 hour per hours worked (two weeks)
Seventh year	.05769 hour per hours worked (three weeks)
Tenth year	.07692 hour per hours worked (four weeks)
Fifteenth year	.09615 hour per hours worked (five weeks)

(D) *Use and forfeiture of earned vacation time.*

(1) The employee must receive written approval from the responsible elected official or, where appropriate, department head for utilizing more than 20 consecutive days of earned vacation time.

(2) An employee may accumulate no more than 160 hours of vacation leave before the employee must schedule time off.

(3) If vacation time off has not been scheduled within 30 days, any time accumulated after that 30-day period will be forfeited to keep accumulated vacation leave below 160 hours.

(4) The Town Clerk-Treasurer shall notify any employee who reaches 160 hours in accumulated vacation leave.

(^99 Code, § 2-74) (Ord. 638, passed 9-8-97; Am. Ord. 736, passed 8-3-09; Am. Ord. 738, passed 10-5-09)

**Statutory reference:**

*Vacation leave, see I.C. 36-4-9*

**§ 34.24 MILITARY LEAVE.**

Any employee who is a member of the Reserved Armed Forces shall be entitled to a leave of absence without loss of pay for not more than 15 calendar days annually; provided the employee has submitted notification papers to his supervisor. Upon receipt of military pay voucher, the Clerk-Treasurer will pay the employee the difference between that amount and their regular pay. ('99 Code, § 2-75) (Ord. 638, passed 9-8-97)

**§ 34.25 OTHER LEAVE.**

(A) Compensatory time off may be accumulated by any full-time employee in lieu of paid overtime.

(1) No more than 24 hours of compensatory time may be accumulated before the employee must take pay for any overtime worked.

(2) Employees are responsible for notifying their responsible elected official or department head, during each pay period when overtime occurs, to elect compensatory time off or pay for the overtime accumulated during the pay period.

(B) Full-time employees shall be entitled to up to five days of bereavement leave each year.

(1) Bereavement leave shall accrue once an employee has been employed for one year.

(2) Bereavement leave shall be granted in the case of the death of an immediate family member of the employee. **IMMEDIATE FAMILY MEMBER** shall be defined as a spouse, cohabiting partner, son or daughter, brother or sister (by blood or marriage); a parent or grandparent (by blood or marriage).

(3) Unused bereavement leave will not "roll-over," but will be lost if not used prior to the employee's anniversary date.

(4) Employees who leave employment, whether voluntarily or involuntarily, will not be compensated for unused bereavement leave.

(5) Employees may be required to provide documentation in order to qualify for bereavement leave.

(C) Any other leave requested by an employee must be submitted in writing to the employee's supervisor for presentation to the Town Council. Any other leave is subject to the approval of the Town Council.

('99 Code, § 2-76) (Am. Ord. 736, passed 8-3-09; Am. Ord. 738, passed 10-5-09)

**§ 34.26 MEDICAL AND LIFE INSURANCE; COBRA BENEFITS.**

(A) The town will provide health, hospitalization and life insurance to all qualified full-time employees and will make insurance benefits available to all qualified dependents through payroll deductions.

(Ord. 638, passed 9-8-97)

(B) All full time town employees who have reached the age of 65 and on Medicare shall be reimbursed for his/her bills for Medicare and Supplemental Medicare insurance coverage (which includes prescriptions, vision and dental, in addition to regular health coverage). Any such qualified employee shall submit bills and proof of payment of same to the Clerk-Treasurer on a monthly basis, and the Clerk-Treasurer shall be authorized to make the reimbursement. Reimbursement shall not exceed a 10% yearly increase, and shall not exceed the cost of coverage available through the town's group medical, vision and dental program.

(Ord. 699, passed 3-6-06; Am. Ord. 731, passed 12-29-08; Am. Ord. 783, passed 6-3-13)

**§ 34.27 PUBLIC EMPLOYEE RETIREMENT PROGRAM.**

(A) The town will enroll its employees in the State Public Employee Retirement Program according to their status.

(B) Eligible employees include all qualified full-time employees of the Police Department, Clerk-Treasurer's office, and the Public Works Departments of the town. For the purposes of this section, Public Works Departments shall mean both the Streets Department and Water Utility so that all full-time employees of the Street Department and Water Utility are included as "Public Works Department" employees.

(C) Qualified employees are those made eligible by this section and accepted by the Public Employees Retirement Fund of Indiana and covered by the pension plan agreement with Public Employees Retirement Fund of Indiana.

(D) The town shall pay that portion of an eligible employee's gross wages in the Public Employees Retirement Fund mandated by state law to be paid by the employer. Eligible employees are required to contribute to the Public Employees Retirement Fund the mandatory amount set by state law. Eligible employees may elect to contribute to the Public Employees Retirement Fund an additional amount of their gross wages (over the mandatory state amount) as permitted by state law.

(`99 Code, § 2-81) (Ord. 638, passed 9-8-97; Am. Ord. 783, passed 6-3-13; Am. Ord. 785, passed 6-13-13)

**§ 34.28 DEFERRED COMPENSATION RETIREMENT PROGRAM.**

Employees of the town, both full-time and regular part-time employees may become voluntary participants of the town's I.R.C. Section 457 (Internal Revenue Code) deferred compensation retirement program.

(`99 Code, § 2-82) (Ord. 638, passed 9-8-97)

**§ 34.29 MILEAGE REIMBURSEMENT.**

(A) All elected town officials and full-time department heads and staff shall be entitled to reimbursement for official and necessary travel by private automobile on appropriate and official town business.

(B) The rate of reimbursement shall be a sum for mileage equal to that sum per mile paid to state officers and employees.

(`99 Code, § 2-62) (Ord. 638, passed 9-8-97; Am. Ord. 655, passed 12-6-99)

**§ 34.30 CLOTHING ALLOWANCE FOR POLICE DEPARTMENT.**

(A) It is hereby declared necessary and essential that a clothing allowance be created for certain members of the police force of the town and that each police officer coming within this provision have certain allowances for clothing as follows:

(1) The Marshal shall be entitled to a clothing allowance in the sum of \$1,200 per year.

(2) All other full-time officers shall be entitled to a clothing allowance in the sum of \$1,200 per year.

(B) The Marshal is hereby given the authority to supply the Clerk-Treasurer with a list of those individuals eligible for clothing allowance and may request the distribution of funds payable pursuant to this section throughout each calendar year as may be necessary for the replacement of clothing for the police personnel provided for and as reasonably necessary.

(C) Patches and badges and other police department equipment issued to part-time officers remain the permanent property of the town and must be returned to the marshal or the town by the employee upon termination.

(`99 Code, § 2-40) (Ord. 625, passed 3-4-96; Ord. 638, passed 9-8-97; Am. Ord. 659, passed 12-15-99; Am. Ord. 672, passed 8-27-01; Am. Ord. 680, passed 12-16-02)

## CHAPTER 35: ORDINANCE VIOLATIONS BUREAU

### Section

- 35.01 Violations Bureau established
- 35.02 Violations Clerk
- 35.03 Personnel and duties
- 35.04 Fine schedule adopted by reference

### § 35.01 VIOLATIONS BUREAU ESTABLISHED.

There is established an Ordinance Violations Bureau pursuant to state law, as amended, for the town.

(`99 Code, § 3-50) (Ord. 575, passed 12-2-91)

***Statutory reference:***

*Ordinance Violations Bureaus, see I.C. 33-36-1 et seq.*

### § 35.02 VIOLATIONS CLERK.

The Clerk-Treasurer is appointed and shall serve as Violations Clerk for the town, who shall administer the Bureau.

(`99 Code, § 3-51) (Ord. 575, passed 12-2-91)

### § 35.03 PERSONNEL AND DUTIES.

The Clerk-Treasurer, the Clerk-Treasurer's staff, the Radio Dispatcher on duty in the Police Department and other designated Clerk-Treasurer agents shall perform those functions of the Violations Clerk as prescribed by law in I.C. 34-4-32-5 including the acceptance of payment of penalties in the amounts prescribed for each violation.

(`99 Code, § 3-52) (Ord. 575, passed 12-2-91)

***Statutory reference:***

*Ordinance Violations Bureaus, see I.C. 33-36-1 et seq.*

**§ 35.04 FINE SCHEDULE ADOPTED BY REFERENCE.**

The schedule of civil penalties for violation of code provisions subject to the jurisdiction of the Ordinance Violations Bureau is hereby adopted by reference and made a part of this code, the same as if set forth in full herein.

