

TITLE III: ADMINISTRATION

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CHAPTER 30: GENERAL PROVISIONS

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§ 30.01 COMPENSATION OF OFFICERS AND EMPLOYEES.

Officers and employees of the town shall be compensated at a rate as established by Town Council ordinance from time to time.

CHAPTER 31: TOWN COUNCIL

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GENERAL PROVISIONS**§ 31.01 TERM OF OFFICE.**

Except as otherwise provided in I.C. 36-5-2-3(b), (c), (d), or (e), the term of office of a member of the Town Council is four years, beginning at 12:00 p.m., January 1, after the member's election and continuing until the member's successor is elected and qualified.

(I.C. 36-5-2-3(a))

§ 31.02 RESIDENCY REQUIRED.

(A) A member of the Town Council must reside within:

- (1) The town, as provided in Indiana Constitution, Article 6, § 6; and
- (2) The district from which the member was elected, if applicable.

(B) A member of the Town Council who is elected by the voters of a district forfeits office if the member ceases to be a resident of the district.

(C) A member of the Town Council who is elected by the voters of the entire town but is elected or selected as a candidate from a district forfeits office if the member ceases to be a resident of the district.

(D) An at-large member of the Town Council forfeits office if the member ceases to be a resident of the town.

(I.C. 36-5-2-6)

§ 31.03 POWERS AND DUTIES.

The Town Council may:

- (A) Adopt ordinances and resolutions for the performance of functions of the town;
- (B) Purchase, hold, and convey any interest in property for the use of the town; and
- (C) Adopt and use a common seal.

(I.C. 36-5-2-9)

§ 31.04 PRESIDENT.

The Town Council shall select one of its members to be its President for a definite term, which may not exceed his or her term of office as a member of the Town Council.

(I.C. 36-5-2-7)

MEETINGS; GENERAL PROVISIONS

§ 31.15 OPEN MEETINGS.

All meetings of the Town Council shall be held in accordance with state law regarding open meetings, being I.C. 5-14-1.5 *et seq.*

§ 31.16 EXECUTIVE SESSIONS.

(A) As used in this section, ***PUBLIC OFFICIAL*** means a person:

- (1) Who is a member of a governing body of a public agency; or
- (2) Whose tenure and compensation are fixed by law and who executes an oath.

(B) Executive sessions may be held only in the following instances:

- (1) Where authorized by federal or state statute;
- (2) For discussion of strategy with respect to any of the following:
 - (a) Collective bargaining;

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(b) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing; as used in this division, litigation includes any judicial action or administrative law proceeding under federal or state law;

(c) The implementation of security systems;

(d) The purchase or lease of real property by the Town Council up to the time a contract or option to purchase or lease is executed by the parties. However, all the strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries; or

(e) School consolidation.

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems;

(4) Interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by the State Economic Development Corporation, the Office of Tourism Development, the State Finance Authority, an Economic Development Commission, a local economic development organization (as defined in I.C. 5-28-11-2(3)), or a governing body of a political subdivision;

(5) To receive information about and interview prospective employees;

(6) With respect to any individual over whom the Town Council has jurisdiction:

(a) To receive information concerning the individual's alleged misconduct; and

(b) To discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is a physician or a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute;

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs;

(9) To discuss a job performance evaluation of individual employees. This division (B)(9) does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process;

(10) When considering the appointment of a public official, to do the following:

(a) Develop a list of prospective appointees;

(b) Consider applications;

(c) Make one initial exclusion of prospective appointees from further consideration; and

(d) Notwithstanding I.C. 5-14-3-4(b)(12), the Town Council may release and shall make available for inspection and copying in accordance with I.C. 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three unless there are fewer than three prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train School Board members with an outside consultant about the performance of the role of its members as public officials;

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under I.C. Title 25; and

(13) To discuss information and intelligence intended to prevent, mitigate, or respond to the threat of terrorism.

(14) To train members of a Board of Aviation Commissioners appointed under I.C. 8-22-2 or members of an Airport Authority Board appointed under I.C. 8-22-3 with an outside consultant about the performance of the role of the members as public officials. A board may hold not more than one executive session per calendar year under this division.

(C) A final action must be taken at a meeting open to the public.

(D) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under division (B) above. The requirements stated in § 31.19 for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The Town Council shall certify by a statement in the memoranda and minutes of the Town Council that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(E) The Town Council may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this division (E).

(I.C. 5-14-1.5-6.1)

§ 31.17 NOTICE OF MEETINGS.

(A) Regular meetings of the Town Council shall be held at a time and place established by the Town Council.

(B) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting shall be given by the Town Council by posting a copy of the notice at the principal office of the Town Council, or if no such office exists, at the building where the meeting is to be held.

§ 31.18 AGENDA.

(A) The Town Council, when utilizing an agenda, shall post a copy of the agenda at the entrance to the location of the meeting prior to the meeting. A rule, regulation, ordinance, or other final action adopted by reference to agenda number or item alone is void.

(I.C. 5-14-1.5-4(a))

(B) The Town Council shall designate a person who shall prepare the agenda for each meeting.

§ 31.19 RECORD OF MEETINGS.

(A) As the meeting progresses, the following memoranda shall be kept:

- (1) The date, time, and place of the meeting;
- (2) The members of the Town Council recorded as either present or absent;
- (3) The general substance of all matters proposed, discussed, or decided;
- (4) A record of all votes taken, by individual members if there is a roll call; and

(5) Any additional information required under I.C. 5-14-1.5-3.5 or I.C. 5-14-1.5-3.6 or any other statute that authorizes a governing body to conduct a meeting using an electronic means of communication.

(B) The memoranda are to be available within a reasonable period of time after the meeting for the purpose of informing the public of the Town Council's proceedings. The minutes, if any, are to be open for public inspection and copying.

(I.C. 5-14-1.5-4(b) and (c))

§ 31.20 QUORUM.

A majority of all the elected members of the Town Council constitutes a quorum.

(I.C. 36-5-2-9.2)

§ 31.21 CLERK OF COUNCIL; TIE-BREAKING VOTE.

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

(B) The Clerk-Treasurer is an ex officio member for the purpose of casting the deciding vote to break a tie.

(I.C. 36-5-2-8)

MEETINGS; RULES OF PROCEDURE**§ 31.35 PRESIDING OFFICER.**

The Council President shall take the chair at the hour appointed, or to which the Council shall have adjourned, and shall immediately call the members to order; whereupon, the Clerk of Council shall proceed to call the roll of members. If a quorum is present, the Clerk of Council shall so announce and the Council shall proceed with the order of business.

§ 31.36 QUORUM FOR CONDUCTING BUSINESS.

(A) A quorum shall consist of a majority of the entire Council, including the Council President. A quorum shall be necessary to transact the business of the Town Council.

(B) If no quorum is present, the Council shall not thereby stand adjourned, but the members present shall adjourn or recess the Council by a majority vote.

§ 31.37 ABSENCE OF PRESIDENT.

At any meeting of the Council where a majority shall be assembled, and if the President is temporarily absent but within or near the community, the Clerk of Council shall preside and call the roll, whereupon the Council shall elect a Temporary Chairperson from its membership. In the event that the absence of the President shall be of a more permanent nature, a President Pro Tem shall be elected.

§ 31.38 DUTIES OF THE PRESIDENT.

(A) The President shall serve as the Chair, shall preserve order and decorum and may speak to points of order in preference to other members, and shall decide all questions of order subject to appeal.

(B) If the President refuses to allow the Councilmembers to exercise their right to appeal a decision of the Chair, the Councilmembers may consider and pass upon the matter in spite of the Chair's failure to grant them appeal.

(C) The President shall have the power to require the Council room to be cleared, or to have any disorderly person or persons ejected, in case of any disturbances or disorderly conduct which prevent the meeting from being continued in an orderly manner.

(D) Nothing in this code shall preclude the President from making or seconding a motion, or from voting on any matters coming before the Council.

§ 31.39 DUTIES OF COUNCILMEMBERS.

(A) While the President is stating the motion, or deciding a point of order, the members shall be seated and no member shall leave the Council room during the session without permission from the presiding officer.

(B) Every member, prior to his or her speaking, making a motion or seconding the same, shall address the presiding officer and shall not proceed with his or her remarks until recognized and named by the Chair.

(C) A member so recognized by the Chair shall confine himself or herself to the question under debate.

(D) No member shall speak more than once on the same question, except by permission of the Chair, and then not until every other member desiring to speak shall have had an opportunity to do so.

(E) No member shall speak longer than five minutes at any one time, except by consent of the Chair.

(F) While a member is speaking, no member shall hold any private discussion, nor pass between the speaker and the Chair.

(G) (1) A member, when called to order by the Chair, shall thereupon discontinue speaking.

(2) The order or ruling of the Chair shall be binding and conclusive, subject only to the right to appeal.

(H) Any member may appeal to the Council from a ruling of the Chair and, if the appeal is seconded, the member making the appeal may briefly state his or her reason for the same, and the Chair may briefly explain his or her ruling; but there shall be no debate on the appeal and no other member shall participate in the discussion. The Chair shall then put the question, "Shall the decision of the Chair be overruled?" Otherwise, it shall be sustained.

(I) The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his or her integrity, character, or motives are assailed, questioned, or impugned.

§ 31.40 SECONDING OF MOTIONS REQUIRED.

(A) No motion shall be put or debated in the Council or in committee unless it be seconded.

(B) When a motion is seconded, it shall be stated by the presiding officer before debate.

§ 31.41 WITHDRAWAL OF MOTIONS.

After a resolution or a motion is stated by the President, it shall be deemed to be in the possession of the Council, but it may be withdrawn by the maker thereof with or without the consent of the Councilmember seconding the motion prior to the call for the vote by the President.

§ 31.42 DIVISION OF QUESTIONS.

If any question under consideration contains several distinct propositions, the Council, by a majority vote of the members present, may divide the questions.

§ 31.43 RECORD OF MOTIONS.

In all cases where a resolution or motion is entered in the journal, the names of the members moving and seconding the same shall be entered.

§ 31.44 VOTE.

(A) The ayes and nays shall be taken upon the passage of all ordinances and on all propositions to create any liability against the town, or for the expenditure or appropriation of its money, and upon any question and in all other cases at the request of any member of the Council. When the Clerk of Council has commenced to call the roll of the Council for the taking of a vote by “Ayes” and “Nays,” all debate on the question before the Council shall be deemed concluded, and during the taking of the vote a member shall be permitted to briefly explain his or her vote and shall respond to the calling of his or her name by the Clerk of Council by answering “Aye” or “Nay,” as the case may be.

(B) The names of each member of the Council shall be listed on the official copy of every ordinance passed indicating specifically the names of those voting “Aye” and those voting “Nay.”

(C) An abstention is neither an affirmative vote nor a negative vote. Regardless of the number of abstentions, and except as otherwise provided by law, an affirmative vote of the majority of the Council members is required to pass a motion, ordinance, resolution, or other action of the Town Council.

(D) The President shall announce the result of the Council’s vote and the votes shall be entered in the journal of the proceedings.

§ 31.45 PRECEDENCE OF MOTION.

When a question is before the Council, no motion shall be received, except as specified in this section, and which shall have precedence in the following order:

- (A) To fix the time to which to adjourn;
- (B) To adjourn;
- (C) To take a recess;
- (D) To raise a question of privilege;
- (E) To call for the orders of the day;
- (F) To lay on the table;
- (G) To call for the previous question;
- (H) To postpone to a certain time;
- (I) To refer to committee;
- (J) To amend;
- (K) To postpone indefinitely; and
- (L) To the main motion.

§ 31.46 UNDEBATABLE MOTIONS AND EXCEPTIONS TO ORDER.

The motion to adjourn or to lay on the table shall be decided without debate, and the motion to fix the time to which to adjourn and the motion to adjourn shall always be in order, except:

- (A) When a member is in possession of the floor;
- (B) When the roll call votes are being called;
- (C) While the members are voting;
- (D) When adjournment was the last preceding motion; or
- (E) When it has been decided that the previous question shall be taken.

§ 31.47 MOTION TO ADJOURN.

A motion to adjourn cannot be amended; but a motion to adjourn to a given day or time shall be open to amendment and debate.

§ 31.48 MOTION TO POSTPONE INDEFINITELY.

When a question is postponed indefinitely, it shall not be taken up again before the next regular meeting.

§ 31.49 MOTION TO AMEND.

A motion to amend an amendment shall be in order, but a motion to amend an amendment to an amendment shall not be entertained.

§ 31.50 AMENDMENTS.

Only one amendment at a time may be offered to any question before the Council. The vote shall first be taken on the amendment and, if the amendment passes, then further amendments may be proposed. Finally, a vote shall be taken on the principal motion as finally amended.

§ 31.51 RECONSIDERATION.

(A) A vote or question may be reconsidered at any time during the same meeting, or at the first regular meeting held thereafter. A motion for reconsideration, once having been made and decided in the negative, shall not be renewed. A matter once having been decided and a motion to reconsider the matter having been defeated, it may nonetheless come before the Council at a future time by way of a motion to rescind or as a new motion. If the Chair determines that new facts are to be presented to the Council, or that there is a likelihood that the Council will reverse its previous decision, the Chair shall rule the motion in order. If a motion is continuously brought before the Council and rejected, the Chair may rule its reintroduction under a motion to rescind or as a new motion to be out of order.

(B) No motion to reconsider the approval or denial of the recommendation of an advisory body required to hold public hearings shall be entertained except at the same meeting at which the original action was taken or after the matter has been referred to the advisory body for a further hearing and recommendation.

(C) A motion to reconsider must be made and seconded by members who voted on the prevailing side of the question to be reconsidered, unless otherwise provided by law; provided, however, that where a motion has received a majority vote in the affirmative, but is declared lost solely on the ground that a greater number of affirmative votes is required by statute for the passage or adoption of the motion, then in that case a motion to reconsider may be made and seconded only by those who voted in the affirmative on the question to be reconsidered, so long as the issue presented is the same, no new information is forthcoming, and the rights of third parties have not intervened.

§ 31.52 VISITORS AND PETITIONERS.

Except during the time allotted for public discussion and comments, no person other than a member of the Council shall address that body, except with the consent of a majority of the members present.

§ 31.53 REPORTS, COMMUNICATIONS, PETITIONS, AND THE LIKE.

(A) All communications, reports, petitions, or any other papers addressed to the Council shall be made available to the Clerk of Council prior to the meeting.

(B) The Clerk of Council shall endeavor to distribute copies or read the material to the members of the Council.

§ 31.54 ADOPTION OF RULES OF ORDER.

The rules of parliamentary practice comprised in the latest published edition of *Robert's Rules of Order, Revised*, shall govern the Council in all cases to which they are applicable and in which they are not inconsistent with the ordinances of the town, including these rules, or the statutes of the state.

§ 31.55 TEMPORARY SUSPENSION OF RULES; AMENDMENT OF RULES.

The rules of the Council may be temporarily suspended, altered, or amended by concurrence of a majority vote of all the Councilmembers then in office.

ORDINANCES AND RESOLUTIONS

§ 31.70 MAJORITY VOTE; WHEN REQUIRED.

(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.

(I.C. 36-5-2-9.4(a))

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

(I.C. 36-5-2-9.6)

§ 31.71 TWO-THIRDS VOTE; WHEN REQUIRED.

(A) 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.

(I.C. 36-5-2-9.4(b))

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

(C) Division (B) above does not apply to the following:

(1) A zoning ordinance or an amendment to a zoning ordinance adopted under I.C. 36-7; or

(2) An ordinance to increase the number of Town Council members adopted under I.C. 36-5-2-4.2, unless the ordinance also establishes new legislative body districts.

(I.C. 36-5-2-9.8)

§ 31.72 DATE OF ADOPTION; PUBLICATION.

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

(B) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by I.C. 5-3-1 *et seq.* unless:

(1) It is published under division (C); or

(2) It declares an emergency requiring its immediate effectiveness and is posted in:

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(a) One public place in each district in the town; or

(b) A number of public places in the town equal to the number of Town Councilmembers, if the town has abolished legislative body districts under I.C. 36-5-2-4.1.

(C) Except as provided in division (E), if a town publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this division, it takes effect two weeks after the publication of the book or pamphlet. Publication under this division, if authorized by the legislative body, constitutes presumptive evidence:

- (1) Of the ordinance in the book or pamphlet;
- (2) Of the date of adoption of the ordinances; and
- (3) That the ordinances have been properly signed, attested, recorded, and approved.

(D) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under I.C. 36-7.

(E) An ordinance increasing a building permit fee on new development must:

(1) Be published one time in accordance with I.C. 5-3-1 *et seq.*, and not later than 30 days after the ordinance is adopted by the Town Council in accordance with I.C. 5-3-1; and

(2) Delay the implementation of the fee increase for 90 days after the date the ordinance is published under division (E)(1) above.
(I.C. 36-5-2-10(a) - (e))

§ 31.73 RECORD OF ORDINANCES.

(A) Within a reasonable time after an ordinance of the Town Council 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 of Council;
- (2) The attestation of the Clerk-Treasurer; and
- (3) The date of each recorded item.

(B) The record or a certified copy of it constitutes presumptive evidence of the adoption of the ordinance.

(I.C. 36-5-2-10.2)

CHAPTER 32: TOWN OFFICIALS

Section

Clerk-Treasurer

- 32.01 Residency requirement
- 32.02 Election; term of office
- 32.03 Powers and duties
- 32.04 Deputies and employees
- 32.05 Office space

Town Marshal

- 32.20 Appointment; compensation
- 32.21 Removal from office; discipline
- 32.22 Powers and duties
- 32.23 Service as Street Commissioner and Fire Chief
- 32.24 Deputy Marshals; Humane Officer

CLERK-TREASURER

§ 32.01 RESIDENCY REQUIREMENT.

(A) The Clerk-Treasurer must reside within the town as provided in Indiana Constitution Article 6, § 6.

(B) The Clerk-Treasurer forfeits office if the Clerk-Treasurer ceases to be a resident of the town. (I.C. 36-5-6-3(a))

§ 32.02 ELECTION; TERM OF OFFICE.

(A) *Election.* The Clerk-Treasurer shall be elected under I.C. 3-10-6 *et seq.* or I.C. 3-10-7 *et seq.* by the voters of the whole town. (I.C. 36-5-6-4)

(B) *Term of office.* Except as provided in I.C. 36-5-6-3(c) or (d), the term of office of the Clerk-Treasurer is four years, beginning at 12:00 p.m. on January 1 after election and continuing until a successor is elected and qualified.
(I.C. 36-5-6-3(b))

§ 32.03 POWERS AND DUTIES.

(A) The Clerk-Treasurer is both the Town Clerk and the Town Fiscal Officer.
(I.C. 36-5-6-2)

(B) The Clerk-Treasurer may administer oaths, take depositions, and take acknowledgments of instruments required by statute to be acknowledged.
(I.C. 36-5-6-5)

(C) The Clerk-Treasurer shall do the following:

- (1) Receive and care for all town money and pay the money out only on order of the Town Council;
- (2) Keep accounts showing when and from what sources the Clerk-Treasurer has received town money, and when and to whom the Clerk-Treasurer has paid out town money;
- (3) Prescribe payroll and account forms for all town offices;
- (4) Prescribe the manner in which creditors, officers, and employees shall be paid;
- (5) Manage the finances and accounts of the town and make investments of town money;
- (6) Prepare for the Town Council the budget estimates of miscellaneous revenue, financial statements, and the proposed tax rate;
- (7) Maintain custody of the town seal and the records of the Town Council;
- (8) Issue all licenses authorized by statute and collect the fees fixed by ordinance;
- (9) Serve as Clerk of the Town Council by attending its meetings and recording its proceedings;
- (10) Administer oaths, take depositions, and take acknowledgment of instruments that are required by statute to be acknowledged, without charging a fee;

(11) Serve as Clerk of the Town Court under I.C. 33-35-3-2, if the Judge of the Court does not serve as Clerk of the Court or appoint a Clerk of the Court under I.C. 33-35-3-1; and

(12) Perform all other duties prescribed by statute.
(I.C. 36-5-6-6)

§ 32.04 DEPUTIES AND EMPLOYEES.

(A) The Clerk-Treasurer shall appoint the number of deputies and employees needed for the effective operation of the office, with the approval of the Town Council. The Clerk-Treasurer's deputies and employees serve at the Clerk-Treasurer's pleasure.

(B) If the town owns a utility and the Clerk-Treasurer is directly responsible for the billing and collection of that utility's rates and charges, the Clerk-Treasurer shall appoint those employees who are also responsible for that billing and collection. These employees serve at the Clerk-Treasurer's pleasure.
(I.C. 36-5-6-7)

(C) (1) The Clerk-Treasurer may hire or contract with competent attorneys or legal research assistants on terms the Clerk-Treasurer considers appropriate.

(2) Appropriations for the salaries of attorneys and legal research assistants employed under this division (C) shall be approved in the annual budget and must be allocated to the Clerk-Treasurer for the payment of attorneys' and legal research assistants' salaries.
(I.C. 36-5-6-8)

§ 32.05 OFFICE SPACE.

If office space exists in a building owned or leased by the town, the Town Council shall provide suitable office space for the Clerk-Treasurer and staff and records of the Clerk-Treasurer.
(I.C. 36-5-6-5.1)

TOWN MARSHAL

§ 32.20 APPOINTMENT; COMPENSATION.

The Town Council shall appoint the Town Marshal and shall fix his or her compensation.
(I.C. 36-5-7-2)

§ 32.21 REMOVAL FROM OFFICE; DISCIPLINE.

The Town Marshal serves at the pleasure of the Town Council. However, before terminating or suspending a Town Marshal who has been employed by the town for more than six months after completing the minimum basic training requirements adopted by the Law Enforcement Training Board under I.C. 5-2-1-9, the Town Council must conduct the disciplinary removal and appeals procedures prescribed by I.C. 36-8 for municipal fire and police departments.

(I.C. 36-5-7-3)

§ 32.22 POWERS AND DUTIES.

(A) The Town Marshal is the chief police officer of the town and has the powers of other law enforcement officers in executing the orders of the Town Council and enforcing laws.

(B) The Town Marshal or his or her deputy:

(1) Shall serve all process directed to him or her by the Town Court or Town Council;

(2) Shall arrest without process all persons who commit an offense within his or her view, take them before a court having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;

(3) Shall suppress breaches of the peace;

(4) May, if necessary, call the power of the town to his or her aid;

(5) May execute search warrants and arrest warrants; and

(6) May pursue and jail persons who commit an offense.

(I.C. 36-5-7-4)

§ 32.23 SERVICE AS STREET COMMISSIONER AND FIRE CHIEF.

The Town Council may require the Town Marshal to serve as the Street Commissioner, Fire Chief of the Fire Department, or both.

(I.C. 36-5-7-5)

§ 32.24 DEPUTY MARSHALS; HUMANE OFFICER.

(A) The Town Council shall by ordinance fix the number of Deputy Marshals. The Town Council may by ordinance authorize the Town Marshal to appoint Deputy Marshals. Deputy Marshals have the powers and liabilities of the Town Marshal in executing the orders of the Town Council or enforcing laws.

(B) One Deputy Marshal may be designated as the Town Humane Officer. He or she has the duties prescribed by I.C. 36-8 for municipal humane officers.

(C) The Town Council shall fix the amount of bond, compensation, and term of service of Deputy Marshals. The Town Marshal may dismiss a Deputy Marshal at any time. However, a Deputy Marshal who has been employed by the town for more than six months after completing the minimum basic training requirements adopted by the Law Enforcement Training Board under I.C. 5-2-1-9 may be dismissed only if the procedure prescribed by § 32.21 is followed.

(I.C. 36-5-7-6)

CHAPTER 33: FINANCE

Section

Disbursement of Funds

- 33.01 Appropriation required
- 33.02 Issue of warrants
- 33.03 Allowance of claims
- 33.04 Warrants for payment of claims
- 33.05 Payment of compensation to officer or employee prior to vacation leave
- 33.06 Claim payments in advance of allowance
- 33.07 Transfer of funds

Budgets

- 33.20 Preparation of annual budget estimates
- 33.21 Preparation and approval of ordinance fixing tax rate; making annual appropriations
- 33.22 Increase or decrease of appropriations after approval of ordinance

Specific Funds

- 33.35 Riverboat Wagering Tax Revenue Sharing Fund
- 33.36 Rainy Day Fund
- 33.37 Fire Department Insurance Fund
- 33.38 Park and Recreation Operating Fund
- 33.39 Cumulative Capital Improvement Fund

Purchasing

- 33.50 Purchasing agency established
- 33.51 Purchase of supplies manufactured in the United States

Cross-reference:

- Business Regulations, see Title XI*
- Clerk-Treasurer, see §§ 32.01 through 32.05*
- Compensation of officers and employees, see § 30.01*
- Ordinance Violations Bureau, see Ch. 34*
- Town Policies, see Ch. 36*

DISBURSEMENT OF FUNDS**§ 33.01 APPROPRIATION REQUIRED.**

Unless a statute provides otherwise, town monies may be disbursed only after an appropriation made by ordinance of the Town Council and recorded in a book kept for that purpose by the Town Council. Each appropriation must be made from the fund against which the expenses arose.
(I.C. 36-5-4-2)

§ 33.02 ISSUE OF WARRANTS.

(A) The Town Council or a board of the town may order the issuance of warrants for payment of money by the town only at a meeting of the Town Council or board.

(B) A town officer who violates this section forfeits his or her office.
(I.C. 36-5-4-3)

§ 33.03 ALLOWANCE OF CLAIMS.

(A) Except as provided in section § 33.06, the Town Council or a board of the town may allow a claim:

(1) Only at a meeting of the Town Council or board; and

(2) Only if the claim was filed in the manner prescribed by I.C. 5-11-10-2 at least five days before the meeting.

(B) A town officer who violates this section forfeits his or her office.
(I.C. 36-5-4-4)

§ 33.04 WARRANTS FOR PAYMENT OF CLAIMS.

(A) As used in this section, ***CLAIM*** means a bill or an invoice submitted for goods or services.

(B) Except as provided in § 33.06, a warrant for payment of a claim against a town may be issued only if the claim is:

(1) Supported by a fully itemized invoice or bill under I.C. 5-11-10-1.6;

(2) Filed with the Town Fiscal Officer;

(3) Certified by the Fiscal Officer before payment that each invoice is true and correct; and

(4) Allowed by the Town Council or by the board of the town having jurisdiction over allowance of the payment of the claim.

(C) The certification by the Fiscal Officer under division (B)(3) above must be on a form prescribed by the State Board of Accounts.

(I.C. 36-5-4-6)

§ 33.05 PAYMENT OF COMPENSATION TO OFFICER OR EMPLOYEE PRIOR TO VACATION LEAVE.

One to three days before the vacation leave period of a town officer or employee begins, the town may pay him or her the amount of compensation he or she will earn while he or she is on vacation leave.

(I.C. 36-5-4-7)

§ 33.06 CLAIM PAYMENTS IN ADVANCE OF ALLOWANCE.

(A) The Clerk-Treasurer is authorized to make claim payments in advance of Town Council allowance for the following types of expenses:

(1) Property or services purchased or leased from the federal government or an agency or a political subdivision of the federal government;

(2) License fees or permit fees;

(3) Insurance premiums;

(4) Utility payments or utility connection charges;

(5) Federal grant programs, if advance funding is not prohibited and the contracting party provides sufficient security for the amount advanced;

(6) Grants of state funds authorized by statute;

(7) Maintenance agreements or service agreements;

(8) Lease agreements or rental agreements;

(9) Principal and interest payments on bonds;

(10) Payroll;

(11) State, federal, or county taxes;

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

(13) Expenses described in an ordinance.

(B) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the Fiscal Officer.

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

(I.C. 36-5-4-12)

§ 33.07 TRANSFER OF FUNDS.

Notwithstanding I.C. 8-14-1 and I.C. 8-14-2, the town may transfer money distributed to the town from the Motor Vehicle Highway Account under I.C. 8-14-1 and the Local Road and Street Account under I.C. 8-14-2 to any other town fund after the passage of an ordinance or a resolution by the Town Council that specifies the amount of the transfer, the funds involved, the date of the transfer, and the general purpose of the transfer. However, the total amount of all money transferred by the town under this section may not exceed \$40,000.

(I.C. 36-5-4-13(b))

BUDGETS

§ 33.20 PREPARATION OF ANNUAL BUDGET ESTIMATES.

(A) *Generally.* Before the publication of notice of budget estimates required by I.C. 6-1.1-17-3, the town shall formulate a budget estimate for the ensuing budget year in the following manner, unless the town provides by ordinance for a different manner.

(B) *Specifically.*

(1) Each department head shall prepare for his or her department an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure he or she anticipates.

(2) The Town Fiscal Officer shall prepare an itemized estimate of revenues available for the ensuing budget year, and shall prepare an itemized estimate of expenditures for other purposes above the money proposed to be used by the departments.

(3) The President of Council shall meet with the department heads and the Fiscal Officer to review and revise their various estimates.

(4) After the President's review and revision, the Fiscal Officer shall prepare for the President a report of the estimated department budgets, miscellaneous expenses, and revenues necessary or available to finance the estimates.

(I.C. 36-5-3-3)

**§ 33.21 PREPARATION AND APPROVAL OF ORDINANCE FIXING TAX RATE;
MAKING ANNUAL APPROPRIATIONS.**

(A) The Town Fiscal Officer shall present the report of budget estimates to the Town Council under I.C. 6-1.1-17.

(B) After reviewing the report, the Town Council shall prepare an ordinance fixing the rate of taxation for the ensuing budget year and an ordinance making appropriations for the estimated department budgets and other town purposes during the ensuing budget year.

(C) The Town Council, in the appropriation ordinance, may change any estimated item from the figure submitted in the report of the Fiscal Officer.

(D) The Town Council shall promptly act on the appropriation ordinance.

(I.C. 36-5-3-4)

**§ 33.22 INCREASE OR DECREASE OF APPROPRIATIONS AFTER APPROVAL OF
ORDINANCE.**

(A) After the passage of the appropriation ordinance, the Town Council may make further or additional appropriations by ordinance, unless their result is to increase the tax levy set under I.C. 6-1.1-17.

(B) The Town Council may, by ordinance, decrease any appropriation set by ordinance.

(I.C. 36-5-3-5)

*SPECIFIC FUNDS***§ 33.35 RIVERBOAT WAGERING TAX REVENUE SHARING FUND.**

(A) A Riverboat Wagering Tax Revenue Sharing Fund be established in accordance with I.C. 36-1-3-6.

(B) The funds shall be obtained through I.C. 4-33-13-5(e).

(C) The funds are to be distributed following I.C. 4-33-13-5(t).
(Ord. 2003-7, passed 9-2-2003)

§ 33.36 RAINY DAY FUND.

(A) A Rainy Day Fund is established for the town.

(B) The funds shall be obtained through the Indiana Code.

(C) The funds must be appropriated in the budget as per the Indiana Code.
(Ord. 2001-7, passed 12-4-2001)

§ 33.37 FIRE DEPARTMENT INSURANCE FUND.

(A) A Fire Department Insurance Fund is created.

(B) All insurance proceeds from Fire Department runs shall be deposited into the above-named Fund.

(C) The proceeds shall be divided evenly between the town and the township upon receipt.

(D) The proceeds can be dispersed with no appropriations.

(E) Upon termination of the Fund, the proceeds are to be dispersed to the General Fund.

(F) Follow the terms of the contract.
(Ord. 2001-6, passed 8-13-2001)

§ 33.38 PARK AND RECREATION OPERATING FUND.

(A) A Park and Recreation Operating Fund shall be established.

(B) An ad valorem property tax levy will be imposed and the revenue from the levy will be retained in the Park and Recreation Operating Fund.

(C) The maximum rate of levy under division (B) above will not exceed \$.15 per \$100 assessed valuation.

(E) This Fund takes effect upon approval by the State Board of Tax Commissioners.
(Ord. 1999-3, passed 7-13-1999)

§ 33.39 CUMULATIVE CAPITAL IMPROVEMENT FUND.

(A) In accordance with the requirements of I.C. 36-9-16-1 *et seq.*, there is hereby created a special fund to be known as the Cumulative Capital Improvement Fund of Spiceland, into which the cigarette taxes allotted to Spiceland, by reason of I.C. 6-7-1-30.1, as amended, shall be deposited. The fund shall be a cumulative fund and all the monies deposited into the fund shall be appropriated and used solely for capital improvements as defined in division (B), below, and none of the monies shall revert to the general fund or be used for any purposes other than capital improvements.

(B) The term **CAPITAL IMPROVEMENTS** means the construction or improvement of any property owned by the town, including but not limited to streets, thoroughfares and sewers and the retirement of general obligation bonds of the town, issued, and the proceeds used for the purpose of constructing capital improvements. The term **CAPITAL IMPROVEMENTS** shall not include salaries of any public officials or employees, except those which are directly chargeable to a capital improvement.
(Ord. 110A, passed 12-27-1965)

PURCHASING**§ 33.50 PURCHASING AGENCY ESTABLISHED.**

(A) The Town Council (the “purchasing agency”) is established as the purchasing agency for the town.

(B) 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 Council and policies adopted by the purchasing agency.

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

(D) The purchasing agency may designate, in writing, any employee of the town as a purchasing agent.

(Ord. 1998-4, passed 8-10-1998)

§ 33.51 PURCHASE OF SUPPLIES MANUFACTURED IN THE UNITED STATES.

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

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

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

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

(D) The purchase of supplies manufactured in the United States is not in the public interest.

(Ord. 1998-5, passed 7-10-1998)

CHAPTER 34: ORDINANCE VIOLATIONS BUREAU

Section

- 34.01 Establishment
- 34.02 Violations Clerk designated
- 34.03 Duties of Clerk
- 34.04 Schedule of fines
- 34.05 Right to trial
- 34.06 Denial; exercise of the right to trial
- 34.07 Failure to appear or to satisfy assessed civil penalty; report; prosecution
- 34.08 Court costs fee; admitted violations
- 34.09 Disposition of civil penalties and costs collected

§ 34.01 ESTABLISHMENT.

The Town Council may establish, by ordinance or code, an Ordinance Violations Bureau.
(I.C. 33-36-2-1)

§ 34.02 VIOLATIONS CLERK DESIGNATED.

(A) Upon the creation of a Bureau, the Town Council shall provide for the appointment of a Violations Clerk, who may be the Clerk-Treasurer of the municipality, to be the administrator of the Bureau.

(I.C. 33-36-2-1)

(B) If the Town Council does not establish an Ordinance Violations Bureau under § 34.01, the Clerk-Treasurer of the town is designated the Violations Clerk for purposes of this chapter.

(I.C. 33-36-2-2)

§ 34.03 DUTIES OF CLERK.

In ordinance violation cases, subject to the schedule prescribed under I.C. 33-36-3 by the Town Council, the Violations Clerk may accept the following:

- (A) Written appearances;
- (B) Waivers of trial;
- (C) Admissions of violations; and

(D) Payment of civil penalties up to a specific dollar amount set forth in an ordinance adopted by the legislative body, but not more than \$250.

(I.C. 33-36-2-3)

§ 34.04 SCHEDULE OF FINES.

(A) Upon the appointment or designation of the Violations Clerk as provided by § 34.01, the Town Council shall designate, by ordinance or code, a schedule of ordinance and code provisions that are subject to admission of violation before the Violations Clerk and the amount of civil penalty to be assessed to a violator who elects to admit a violation under this chapter.

(B) Civil penalties shall be paid to, receipted by, and accounted for by the Clerk under procedures provided for by the State Board of Accounts. Payment of civil penalties under this chapter may be made in person, by mail, or to an agent or agents designated by the Town Council.

(I.C. 33-36-3-1)

§ 34.05 RIGHT TO TRIAL.

A person charged with an ordinance or a code violation is entitled to a trial before a court as provided by law, unless the person waives the right to trial and enters an admission of the violation with the Violations Clerk. Upon an admission, the Clerk shall assess and receive from the violator the amount prescribed by the schedule of civil penalties established under § 34.04.

(I.C. 33-36-3-2)

§ 34.06 DENIAL; EXERCISE OF THE RIGHT TO TRIAL.

If a person charged with a violation wants to exercise the right to trial, the person shall appear before the Violations Clerk and deny the violation or enter a written denial with the Clerk.

(I.C. 33-36-3-3)

§ 34.07 FAILURE TO APPEAR OR TO SATISFY ASSESSED CIVIL PENALTY; REPORT; PROSECUTION.

(A) If a person does any of the following, the Violations Clerk shall report this fact to the official having the responsibility to prosecute ordinance violation cases for the town:

(1) Denies an ordinance or code violation under this chapter;

(2) Fails to satisfy a civil penalty assessed by the Violations Clerk after having entered an admission of violation; or

(3) Fails to deny or admit the violation under this chapter.

(B) Proceedings in court against the person shall then be initiated for the alleged ordinance violation.

(I.C. 33-36-3-5)

§ 34.08 COURT COSTS FEE; ADMITTED VIOLATIONS.

(A) An ordinance violation admitted under this chapter does not constitute a judgment for the purposes of I.C. 33-37. An ordinance violation costs fee may not be collected from the defendant under I.C. 33-37-4.

(B) An ordinance violation processed under this chapter may not be considered for the purposes of I.C. 33-37-7-6 when determining the percentage of ordinance violations prosecuted in certain courts.

(I.C. 33-36-3-6)

§ 34.09 DISPOSITION OF CIVIL PENALTIES AND COSTS COLLECTED.

(A) Subject to division (B), all sums collected by the Violations Clerk as civil penalties for ordinance violations shall be accounted for and paid to the town as provided by law.

(B) If a city or town that has not established a court under I.C. 33-35-1 or an ordinance violations bureau under I.C. 33-36-2 has entered into an interlocal agreement described in I.C. 33-36-2-4 with a municipal corporation, the sums collected by the violations clerk that involve the city or town that has not established a court or an ordinance violations bureau shall be accounted for and paid as provided in the interlocal agreement.

(I.C. 33-36-3-7)

CHAPTER 35: TOWN ORGANIZATIONS

Section

- 35.01 Election Board
- 35.02 Park and Recreation Board
- 35.03 County Planning Commission to act as town planning and zoning agency

§ 35.01 ELECTION BOARD.

The Town Council hereby establishes a Town Election Board.
(Res. 2007-1, passed 6-5-2007)

§ 35.02 PARK AND RECREATION BOARD.

(A) The terms and conditions provided in I.C. 36-10-3 and I.C. 36-10-5, as they pertain to towns of size similar to this town, are hereby adopted by reference.

(B) A Park and Recreation Board shall be established for the town, whose members shall be appointed and serve as provided for in I.C. 36-10-3 and I.C. 36-10-5.
(Ord. 1999-2, passed 7-12-1999)

§ 35.03 COUNTY PLANNING COMMISSION TO ACT AS TOWN PLANNING AND ZONING AGENCY.

The town does hereby become a part of the County Planning Commission, and the town hereby grants and confers to the Commission all of the power and authority commensurate with this objective.
(Ord. 110, passed 1-25-1965)

CHAPTER 36: TOWN POLICIES

Section

General Provisions

- 36.01 Availability of public records
- 36.02 Unopposed Councilmember elections

Tort Claims Against Town

- 36.15 Clerk-Treasurer to receive notice
- 36.16 Form and service of notice

GENERAL PROVISIONS

§ 36.01 AVAILABILITY OF PUBLIC RECORDS.

(A) The Clerk-Treasurer shall make available for public inspection and copying the memoranda or minutes of a meeting of the Town Council within 72 hours of the meeting of which that memoranda or minutes are a record.

(B) The memoranda or minutes of a Town Council meeting released for public inspection and copying prior to approval and signature by the Town Council shall be imprinted with the word, "DRAFT." The imprint, when applied, shall represent a disclaimer by the Clerk-Treasurer as to the accuracy of the information contained within the memoranda or minutes.

(Ord. 1996-3, passed - -1996)

§ 36.02 UNOPPOSED COUNCILMEMBER ELECTIONS.

All unopposed members of the Town Council of each ward are hereby declared officially elected to office, and no other names shall appear on election ballots except those for the Office of Clerk-Treasurer.

(Res. 1975-8, passed 10-16-1975)

TORT CLAIMS AGAINST TOWN**§ 36.15 CLERK-TREASURER TO RECEIVE NOTICE.**

The Town Clerk-Treasurer is hereby designated as the town official to receive notice of a tort claim under I.C. 34-13-3-1 *et seq.*

§ 36.16 FORM AND SERVICE OF NOTICE.

(A) The notice of a tort claim against the town must be in writing and must be delivered in person or by registered or certified mail.
(I.C. 34-13-3-12)

(B) The notice must comply with the provisions of I.C. 34-13-3-1 *et seq.*

CHAPTER 37: PERSONNEL

Section

- 37.01 Adoption by reference
- 37.02 Nepotism policy

§ 37.01 ADOPTION BY REFERENCE.

The town's personnel provisions are hereby adopted by reference and incorporated herein as if set out in full.

§ 37.02 NEPOTISM POLICY.

(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 provisions 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 contracting with a unit by a relative policy is hereby established effective July 1, 2012 by adopting the minimum requirements provisions 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 are necessary.

(F) The town further finds that a single member of the legislative body cannot act for the body to make work assignments, compensation, grievances, advancement or 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. See I.C. 36-4-6-11 and I.C. 36-5-2-9.4.

(G) The town finds that a single member of governing bodies with authority over employees in the town cannot act for the governing body to make work assignments, compensation, grievances, advancement or 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 demonstrating compliance with these same policies.

(I) Failure to abide by or cooperate with the implementation, compliance and certifications connected with the nepotism policy is a violation 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, with the compliance and with mandated certifications of the nepotism policy may be subject to action allowed by law.

(J) 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 and may result in the discipline, including termination, of an employee or a curative action. An elected or appointed official of the town who fails to abide by or cooperate with the implementation, with the compliance and with mandated certifications of either the nepotism policy or the contracting with a 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 any of the following actions: (a) posting a copy of this section in its entirety in at least one of the locations in the town where it posts employer posters or other notices to its employees; (b) providing a copy of this section to its employees and elected and appointed officials; (c) providing or posting a notice of the adoption of this section; or (d) any such other action or actions that would communicate the policies established by this section to its employees and elected and appointed officials. Upon taking any of these actions these policies are deemed implemented by the town.

(L) A copy of the provisions of I.C. 36-1-20.2 and I.C. 36-1-21 effective July 1, 2012 are annexed to Ord. 2012-2, passed June 5, 2012.

(M) 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. 2012-2, passed 6-5-2012)