

**TITLE III: ADMINISTRATION**

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## CHAPTER 30: GENERAL PROVISIONS

### Section

- 30.01 Compensation of officers and employees
- 30.02 Election of legislative body members

### § 30.01 COMPENSATION OF OFFICERS AND EMPLOYEES.

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

***Cross-reference:***

*Budgets, see §§ 33.20 through 33.22*

### § 30.02 ELECTION OF LEGISLATIVE BODY MEMBERS.

The Town Board of Trustees has determined that it is advisable to abolish legislative body districts and that all members of the legislative body shall be elected at large.  
(Ord. 3-1996, passed 10-7-1996)

## CHAPTER 31: TOWN BOARD OF TRUSTEES

### Section

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***GENERAL PROVISIONS*****§ 31.001 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 Board of Trustees 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))

**§ 31.002 RESIDENCY REQUIRED.**

(A) A member of the Town Board of Trustees must reside within:

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

(B) A member of the Town Board of Trustees 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 Board of Trustees, 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 Board of Trustees forfeits office if the member ceases to be a resident of the town.

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

**§ 31.003 POWERS AND DUTIES.**

The Town Board of Trustees 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)

**§ 31.004 PRESIDENT.**

The Town Board of Trustees 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 Board of Trustees.

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

***MEETINGS; GENERAL PROVISIONS***

**§ 31.020 OPEN MEETINGS.**

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

**§ 31.021 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:

**Carbon - Administration**

- (1) Where authorized by federal or state statute;
- (2) For discussion of strategy with respect to any of the following:
  - (a) Collective bargaining;
  - (b) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing;
  - (c) The implementation of security systems; or
  - (d) The purchase or lease of real property by the Town Board of Trustees up to the time a contract or option to purchase or lease is executed by the parties. However, all strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.
- (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, the ports of the state, an Economic Development Commission, the State Department of Agriculture, 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 Board of Trustees 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 Board of Trustees 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. 25;

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

(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 (B)(14).

(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) of this section. The requirements stated in § 31.024 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 Board of Trustees shall certify by a statement in the memoranda and minutes of the Town Board of Trustees that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(E) The Town Board of Trustees 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)

**§ 31.022 NOTICE OF MEETINGS.**

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

(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 Board of Trustees by posting a copy of the notice at the principal office of the Town Board of Trustees, or if no office exists, at the building where the meeting is to be held.

**§ 31.023 AGENDA.**

(A) (1) The Town Board of Trustees, when utilizing an agenda, shall post a copy of the agenda at the entrance to the location of the meeting prior to the meeting.

(2) 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 Board of Trustees shall designate a person who shall prepare the agenda for each meeting.

**§ 31.024 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 Board of Trustees 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. 5-1.5-2-2.5.

(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 Board of Trustees'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))



**§ 31.025 QUORUM.**

A majority of all the elected members of the Town Board of Trustees constitutes a quorum.  
(I.C. 36-5-2-9.2)

**§ 31.026 CLERK OF BOARD OF TRUSTEES; TIE-BREAKING VOTE.**

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

(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***

**§ 31.040 PRESIDING OFFICER.**

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

***Cross-reference:***

*Election of Board of Trustees President, see § 31.004*

*Town Clerk-Treasurer serves as Clerk of Board of Trustees, see § 31.026*

**§ 31.041 QUORUM FOR CONDUCTING BUSINESS.**

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

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

**§ 31.042 ABSENCE OF PRESIDENT.**

At any meeting of the Board of Trustees where a majority shall be assembled, and if the President is temporarily absent, but within or near the community, the Clerk of Board of Trustees shall preside



and call the roll, whereupon the Board of Trustees 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.

**§ 31.043 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 Board of Trustees members to exercise their right to appeal a decision of the Chair, the Board of Trustees members 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 Board of Trustees 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 Board of Trustees.

**§ 31.044 DUTIES OF BOARD OF TRUSTEES MEMBERS.**

(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 Board of Trustees 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) A member, when called to order by the Chair, shall thereupon discontinue speaking. 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 Board of Trustees 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 Board of Trustees 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.

**§ 31.045 SECONDING OF MOTIONS REQUIRED.**

No motion shall be put or debated in the Board of Trustees or in committee unless it be seconded. When a motion is seconded, it shall be stated by the presiding officer before debate.

**§ 31.046 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 Board of Trustees, but it may be withdrawn by the maker thereof with or without the consent of the Board of Trustees member seconding the motion prior to the call for the vote by the President.

**§ 31.047 DIVISION OF QUESTIONS.**

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

**§ 31.048 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.

**§ 31.049 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 Board of Trustees. When the Clerk of Board of Trustees has commenced to call the roll of the Board of Trustees for the taking of a vote by



“Ayes” and “Nays”, all debate on the question before the Board of Trustees 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 Board of Trustees by answering “Aye” or “Nay”, as the case may be.

(B) The names of each member of the Board of Trustees 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 Board of Trustees members is required to pass a motion, ordinance, resolution or other action of the Town Board of Trustees.

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

***Cross-reference:***

*Two-thirds vote; when required, see § 31.081*

**§ 31.050 PRECEDENCE OF MOTION.**

When a question is before the Board of Trustees, 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.

**§ 31.051 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.

**§ 31.052 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.

**§ 31.053 MOTION TO POSTPONE INDEFINITELY.**

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

**§ 31.054 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.

**§ 31.055 AMENDMENTS.**

(A) Only one amendment at a time may be offered to any question before the Board of Trustees.



(B) The vote shall first be taken on the amendment and, if the amendment passes, then further amendments may be proposed.

(C) Finally, a vote shall be taken on the principal motion as finally amended.

#### **§ 31.056 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 Board of Trustees 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 Board of Trustees, or that there is a likelihood that the Board of Trustees will reverse its previous decision, the Chair shall rule the motion in order. If a motion is continuously brought before the Board of Trustees 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.

#### **§ 31.057 VISITORS AND PETITIONERS.**

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

#### **§ 31.058 REPORTS, COMMUNICATIONS, PETITIONS AND THE LIKE.**

All communications, reports, petitions or any other papers addressed to the Board of Trustees shall be made available to the Clerk of Board of Trustees prior to the meeting. The Clerk of Board of Trustees shall endeavor to distribute copies or read the material to the members of the Board of Trustees.



**§ 31.059 ADOPTION OF ROBERT'S RULES OF ORDER, REVISED.**

The rules of parliamentary practice comprised in the latest published edition of *Robert's Rules of Order*, revised, shall govern the Board of Trustees 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.

**§ 31.060 TEMPORARY SUSPENSION OF RULES; AMENDMENT OF RULES.**

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

***ORDINANCES AND RESOLUTIONS***

**§ 31.080 MAJORITY VOTE; WHEN REQUIRED.**

(A) A requirement that an ordinance, resolution or other action of the Town Board of Trustees 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 Board of Trustees is required to pass an ordinance, unless a greater vote is required by statute.  
(I.C. 36-5-2-9.6)

***Cross-reference:***

*Effect of abstentions, see § 31.049*

**§ 31.081 TWO-THIRDS VOTE; WHEN REQUIRED.**

(A) A requirement that an ordinance, resolution or other action of the Town Board of Trustees 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 Board of Trustees on the same day or at the same meeting at which it is introduced.

(C) Division (B) 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 Board of Trustees 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)

**§ 31.082 DATE OF ADOPTION; PUBLICATION.**

(A) An ordinance, order or resolution passed by the Town Board of Trustees is considered adopted when it is signed by the President of Board of Trustees. 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 for a violation must, before it takes effect, be published in the manner prescribed by I.C. 5-3-1 unless:

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

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

(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 Board of Trustees members, if the town has abolished legislative body districts under I.C. 36-5-2-4.1.

(C) This section (other than division (E) below) 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.

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

(1) Be published one time in accordance with I.C. 5-3-1, and not later than 30 days after the ordinance is adopted by the Town Board of Trustees 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 (D)(1) of this section.

(E) Subject to division (I) below, the legislative body shall:

(1) Subject to division (F) below, give written notice to the Department of Environmental Management not later than 60 days before amendment or repeal of an environmental restrictive ordinance; and

(2) Give written notice to the Department of Environmental Management not later than 30 days after passage, amendment or repeal of an environmental restrictive ordinance.



(F) Upon written request by the legislative body, the Department of Environmental Management may waive the notice requirement of division (E)(1) above.

(G) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of division (E) above.

(H) The failure of an environmental restrictive ordinance to comply with division (G) above does not void the ordinance.

(I) The notice requirements of division (E) above apply only if the municipal corporation received under I.C. 13-25-5-8.5(f) written notice that the Department is relying on the environmental restrictive ordinance referred to in division (E) above as part of a risk based remediation proposal:

(1) Approved by the department; and

(2) Conducted under I.C. 13-22, I.C. 13-23, I.C. 13-24, I.C. 13-25-4 or I.C. 13-25-5.  
(I.C. 36-5-2-10)

**§ 31.083 RECORD OF ORDINANCES.**

(A) Within a reasonable time after an ordinance of the Town Board of Trustees 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 Board of Trustees;

(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
- 32.25 Body armor

#### *Waterworks Superintendent and Board of Trustees President*

- 32.40 Combining offices

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

*Clerk-Treasurer as Ordinance Violations Clerk, see § 34.02*

### **CLERK-TREASURER**

#### **§ 32.01 RESIDENCY REQUIREMENT.**

The Clerk-Treasurer must reside within the town as provided in State Constitution Article 6, § 6. 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 or I.C. 3-10-7 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 Board of Trustees;

(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 Board of Trustees 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 Board of Trustees;

(8) Issue all licenses authorized by statute and collect the fees fixed by ordinance;



(9) Serve as Clerk of the Town Board of Trustees 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) (1) 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 Board of Trustees.

(2) The Clerk-Treasurer's deputies and employees serve at the Clerk-Treasurer's pleasure.

(B) (1) 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.

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

**§ 32.21 REMOVAL FROM OFFICE; DISCIPLINE.**

(A) The Town Marshal serves at the pleasure of the Town Board of Trustees.

(B) 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 Board of Trustees 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 Board of Trustees 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 Board of Trustees;

(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 Board of Trustees may require the Town Marshal to serve as the Street Commissioner, Chief of the Fire Department, or both.

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

**§ 32.24 DEPUTY MARSHALS; HUMANE OFFICER.**

(A) The Town Board of Trustees shall by ordinance fix the number of deputy marshals. The Town Board of Trustees 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 Board of Trustees 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 Board of Trustees 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)

**§ 32.25 BODY ARMOR.**

(A) As used in this section, **BODY ARMOR** has the meaning set forth in I.C. 35-47-5-13(a).

(B) After 12-31-2010, a town shall provide the Town Marshal and active deputy marshals of the town with body armor for the torso. The town shall replace the body armor for the torso according to the replacement period recommended by the manufacturer of the body armor for the torso.

(C) The Town Marshal and active deputy marshals of the town may not be required to pay for maintenance of the body armor for the torso furnished under this section.

(D) (1) Body armor for the torso provided by a town under this section remains the property of the town.

(2) The town may sell the property when it becomes unfit for use, and all money received shall be paid into the General Fund of the town.

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



***WATERWORKS SUPERINTENDENT AND BOARD OF TRUSTEES PRESIDENT*****§ 32.40 COMBINING OFFICES.**

(A) The Town Board of Trustees has combined the Offices of Superintendent of the Waterworks and President of the Town Board of Trustees.

(B) The salary for the office shall be set by the Board of Trustees from time to time. Mileage will also be paid at the approved rate per mile in the event of emergency trips for supplies.

(Ord. 6a-1, passed 6-25-1981)

## 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

#### *Purchasing*

- 33.35 Purchasing agents designated

### ***DISBURSEMENT OF FUNDS***

#### **§ 33.01 APPROPRIATION REQUIRED.**

(A) Unless a statute provides otherwise, town monies may be disbursed only after an appropriation made by ordinance of the Town Board of Trustees and recorded in a book kept for that purpose by the Town Board of Trustees.

(B) 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 Board of Trustees 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 Board of Trustees 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 § 33.06, the Town Board of Trustees or a board of the town may allow a claim:

(1) Only at a meeting of the Town Board of Trustees 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 Board of Trustees 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) of this section 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 Board of Trustees 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 Board of Trustees shall review and allow the claim at the Board of Trustees'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; the local road and street account under I.C. 8-14-2; or 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 Board of Trustees 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.

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:

(A) 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;

(B) 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;

(C) The President of Board of Trustees shall meet with the department heads and the Fiscal Officer to review and revise their various estimates; and

(D) 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)

*Cross-reference:*

*Compensation of officials and employees, see § 30.01*



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

The Town Fiscal Officer shall present the report of budget estimates to the Town Board of Trustees under I.C. 6-1.1-17. After reviewing the report, the Town Board of Trustees 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. The Town Board of Trustees, in the appropriation ordinance, may change any estimated item from the figure submitted in the report of the Fiscal Officer. The Town Board of Trustees shall promptly act on the appropriation ordinance.

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

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

After the passage of the appropriation ordinance, the Town Board of Trustees 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. The Town Board of Trustees may, by ordinance, decrease any appropriation set by ordinance.

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

***PURCHASING***

**§ 33.35 PURCHASING AGENTS DESIGNATED.**

The following personnel are hereby designated as the purchasing agent for the town, with all the power and duties authorized under I.C. 5-22:

**(A) *General Fund.***

- (1) Board of Trustees members; and
- (2) Clerk-Treasurer.

**(B) *Water Utility.***

- (1) Board members and Clerk-Treasurer;
- (2) Meter reader, maintenance person; and
- (3) Water system operator.



(C) *Sewer Utility.*

- (1) Board members and Clerk-Treasurer;
  - (2) Certified operator; and
  - (3) Assistant operator, maintenance person.
- (Ord. 5-1998, passed 10-5-1998)

## 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 Board of Trustees 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 Board of Trustees 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 Board of Trustees 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 Board of Trustees, 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 Board of Trustees 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 Board of Trustees.

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

#### **§ 34.05 RIGHT TO TRIAL.**

(A) 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.

(B) 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, then 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. 33-37-7-5 or 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.**

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.

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

## CHAPTER 35: TOWN POLICIES

### Section

#### *Tort Claims Against Town*

- 35.01 Clerk-Treasurer to receive notice
- 35.02 Form and service of notice

#### *Drug-Free Workplace*

- 35.15 Policy statement
- 35.16 Testing provisions
- 35.17 Employees who voluntarily seek help

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

*Fair Housing, see Ch. 94*  
*Town Officials, see Ch. 32*

### **TORT CLAIMS AGAINST TOWN**

#### **§ 35.01 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.

#### **§ 35.02 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.



***DRUG-FREE WORKPLACE*****§ 35.15 POLICY STATEMENT.**

(A) It shall be the policy of the town to provide, within constitutional limitation, for a drug-free workplace.

(B) The town is committed to providing a safe and productive work environment for its employees. To accomplish this objective, appropriate policies are implemented from time to time which are consistent with the spirit and intent of this commitment. With this in mind, the town has developed this drug-free workplace policy, the purposes of which are to establish and maintain a work environment that is free from the effects of illegal drug use and alcohol abuse and to help employees overcome any alcohol or drug abuse problem they may have. This policy includes possible pre-employment drug screen testing of job applicants and random testing of employees. This policy is applicable to all employees regardless of title or position and includes temporary and part-time employees.

(Ord. 3-1998, passed 7-6-1998)

**§ 35.16 TESTING PROVISIONS.**

(A) The town may, before any applicant for employment is hired, test him or her for the presence of illegal drugs. Applicant testing may be done as a regular part of pre-employment screening as a condition of the job offer. Applicants include all regular full-time and part-time, all rehires unless reinstated within 30 days and all temporaries who will be on the town's payroll. Should an applicant test positive on an initial test, a confirmatory test will be made on the same sample. If the confirmatory test is also positive, the applicant will be denied employment. An applicant who declines to submit to testing when and if requested, will be denied employment. Applicants who are denied employment because of a positive test may re-apply for employment and be re-tested after one year from time of initial rejection.

(B) Whenever testing is required under the policy, the town will, when possible, direct the applicant to submit a urine sample. If a urine test is not possible, then a blood sample will be required.

(C) At the town's sole discretion, any employee who uses, sells, manufactures, participates in the distribution of, possesses or is found to be under the influence of illegal drugs on town property or while on town business, or who uses, possesses or is found to be under the influence of alcohol on town property, is subject to disciplinary action up to and including termination of employment.

(D) In addition, at the town's sole discretion, the town may provide any employee the option to voluntarily participate in an approved assistance or rehabilitation program. If the option is offered, any leave of absence will be consistent with the present policies and practices of the town. Any employee who voluntarily participates in an approved assistance or rehabilitation program will be fully responsible for his or her costs incurred in the treatment or related treatment if the costs are not covered through any group medical insurance in which the employee is enrolled.



(E) The town also reserves the right to make a search of the town's premises and other town owned property if a violation of this policy is suspected.

(F) Any employee who uses, sells, manufactures, participates in the distribution of or possesses illegal drugs may be reported to the appropriate law enforcement agency which may result in criminal prosecution.

(Ord. 3-1998, passed 7-6-1998)

**§ 35.17 EMPLOYEES WHO VOLUNTARILY SEEK HELP.**

(A) The town recognizes that substance abuse is a medical problem which can be successfully treated. Almost all substance abusers deny they have a problem and ordinarily they do not seek treatment voluntarily. This denial is the single most significant obstacle to successful treatment.

(B) Recognizing this reality, although the town encourages voluntary substance abuse treatment, the town may take disciplinary action against employees who violate this policy and who do not seek treatment. This action is designed to break through a denial barrier and convince substance abusing employees of the need for treatment.

(C) Early recognition and treatment of substance abuse is important for successful rehabilitation and for reduced personal, family and social disruption. The town encourages the earliest possible diagnosis and treatment for substance abuse and supports sound treatment efforts. However, the decision to seek diagnosis and accept treatment for substance abuse is the individual employee's responsibility.

(D) Employees who voluntarily request assistance in dealing with a substance abuse problem (prior to violation under this policy) will be offered a leave of absence option consistent with the present policies and practices of the town.

(E) Voluntary treatment for substance abuse will not prevent disciplinary action for violation of the town's drug-free workplace policy or other policies, nor will it relieve employees from responsibility for their job performance. Employees who undergo voluntary counseling or treatment and who continue to work must meet all established standards of conduct in job performance.

(Ord. 3-1998, passed 7-6-1998)