

TITLE III: ADMINISTRATION

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CHAPTER 30: TOWN COUNCIL

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GENERAL PROVISIONS

§ 30.01 DESIGNATION OF LEGISLATIVE BODY AND TOWN EXECUTIVE.

The Town Council elected under this chapter is the town legislative body. The President of the Town Council selected under § 30.06 of this chapter is the town executive.
(IC 36-5-2-2)

§ 30.02 TERMS OF MEMBERS.

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(A) The current Town Council shall continue to serve in such capacity until their terms shall expire at noon on January 1, 1996.

(B) The term of each Councilmember elected by the election held on the first Tuesday after the first Monday in November, 1995 shall commence at noon on January 1, 1996 and shall continue for the four years following. Each election of a Councilmember provided for herein shall be for a term of four years which shall run concurrently with the four year terms of all other Councilmembers elected at the election immediately preceding the commencement of their respective term.

(C) In the event that a Councilmember shall, for any reason, become disqualified, or otherwise unable to complete the four year term to which he was elected, a successor shall be selected according to the laws of the state to complete the unexpired four year term.

(Ord. 8209, passed 12-20-82; Am. Ord. 9205, passed 12-29-92)

Statutory reference:

Terms of members, see IC 36-5-2-3

§ 30.03 DISTRICTS.

(A) The Town Council may, by ordinance, divide the town into districts for the purpose of conducting elections of town officers. The ordinance must divide the town in the manner prescribed in IC 36-5-1-10.1. The ordinance may be appealed in the manner prescribed by IC 34-4-17.5-1 through 34-4-17.5-8. If the town is located in two or more counties, the appeal may be filed in the circuit or superior court of any of those counties.

(B) The division permitted by division (A) shall be made in 1982 and every ten years after that. The division may also be made in any other year, except that it may not be made after January 1 in a year in which an election of town officers is to be held.

(IC 36-5-2-4.1)

§ 30.04 ELECTION.

(A) A Town Council shall consist of five individuals duly nominated and elected pursuant to §§ 12.01, 30.02 and 30.04 and state law.

(B) Each Councilmember shall be elected at large by all of the voters of the town.

(C) The time for holding the election of the Town Councilmembers shall be the first Tuesday after the first Monday in November, 1995 and thereafter election of the Town Councilmembers shall be held on the first Tuesday after the first Monday of every fourth year.

(Ord. 8209, passed 12-20-82; Am. Ord. 9205, passed 12-29-92; Am. Ord. 0405, passed 11-8-04)

Statutory reference:

Elections, see IC 36-5-2-5

§ 30.05 RESIDENCY.

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

(B) An at large member of the Town Council forfeits his office if he ceases to be a resident of the town.
(IC 36-5-2-6)

§ 30.06 PRESIDENT OF COUNCIL.

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

§ 30.07 CLERK.

(A) The Town Clerk-Treasurer is the clerk of the Town Council.
(B) Whenever the Town Council has an even number of members for any reason, the Clerk- Treasurer is an ex officio member for the purpose of casting the deciding vote to break a tie.
(IC 36-5-2-8)

§ 30.08 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.
(IC 36-5-2-8)

PASSAGE OF ORDINANCES

§ 30.20 QUORUM.

A majority of all the elected members of the Town Council constitutes a quorum.
(IC 36-5-2-9.2)

§ 30.21 MAJORITY VOTE; TWO-THIRDS VOTE.

(A) A requirement that an ordinance, resolution, or other action of the Town Council be passed by a majority vote means at least a majority vote of all the elected members.
(B) A requirement that an ordinance, resolution, or other action of the Town Council be passed by a two-thirds vote means at least a two-thirds vote of all the elected members.
(IC 36-5-2-9.4)

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

(IC 36-5-2-9.6)

(D) 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.

(IC 36-5-2-9.8)

§ 30.22 PUBLICATION.

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

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

(1) It is published under IC 36-1-5; or

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

(C) 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 IC 36-7.

(IC 36-5-2-10)

§ 30.23 RECORDING 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 executive;

(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.

(IC 36-5-2-10.2)

CHAPTER 31: OFFICERS AND EMPLOYEES

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GENERAL PROVISIONS

§ 31.01 COMPENSATION.

(A) The Town Council shall, by ordinance, fix the compensation of its own members, the Town Clerk-Treasurer, and the Town Marshal. The Town Council shall provide reasonable compensation for other town officers and employees.

(B) The compensation of an elected town officer may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the year 1980.

(C) (1) The Town Council may provide that town officers and employees receive additional compensation for services that:

- (a) Are performed for the town;
- (b) Are not governmental in nature; and
- (c) Are connected with the operation of a municipally owned utility or function.

(2) Subject to the approval of the Town Council, the administrative agency operating the utility or function shall fix the amount of the additional compensation, which shall be paid from the revenues of the utility or function.

(IC 36-5-3-2)

Cross-reference:

Allowance of payment of salaried employee's wages, see § 32.24

§ 31.02 ADVANCE OF VACATION PAY.

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

(IC 36-5-4-7)

§ 31.03 DELIVERY OF RECORDS TO SUCCESSOR.

Each town officer shall deliver town records and property in his custody to his successor in office when that successor qualifies.

(IC 36-5-4-10)

§ 31.04 REVOCATION OF LICENSES.

The President of the Town Council may revoke or suspend any license issued by the town if the person holding the license has violated the terms and conditions of the license or of the law under which it was issued.

(IC 36-5-4-11)

§ 31.05 LAW ENFORCEMENT CONTINUING EDUCATION FUND.

(A) A law enforcement continuing education fund is established in the town pursuant to IC 5-2-8-1 through 5-2-8-6.

(B) All receipts and disbursements of the fund shall be regulated by and in conformity with IC 5-2-8-1 through 5-2-8-6.

(Ord. 9103, passed 4-8-91)

§ 31.06 PRIVATE VEHICLE MILEAGE.

(A) Reimbursement mileage shall not include travel to and from the official's or employee's home and the governmental office in which he or she works.

(B) Whenever more than one employee or official attends the same conference or training session, only one shall be reimbursed for mileage, unless extenuating circumstances are justified in writing to the Town Council.

(C) Rate of reimbursement for a calendar year shall be the rate in effect on January 1 of the year, as established by the United States Internal Revenue Service.

(D) Reimbursement rate includes all transportation expenses related to transportation except required highway tolls and parking fees.

(E) Reimbursement claims shall be submitted on State Board of Accounts-approved forms, and accompanied by paid receipts for tolls and parking.
(Ord. 0503, passed 10-10-05)

§ 31.07 BUS, RAIL AND AIR TRAVEL.

(A) Reimbursement for bus, rail and air travel for town-required business shall be at the actual rate for coach class.

(B) Reimbursement claims shall be submitted on State Board of Accounts-approved forms, and shall be accompanied by an itemized receipt showing the class of seat and the specific charges.

(Ord. 0503, passed 10-10-05)

§ 31.08 SUBSISTENCE ALLOWANCE.

(A) The maximum subsistence allowance for lodging and food which may be paid to an employee or official in official travel status shall be as follows:

(1) Lodging: per day or 24-hour actual single-room rate in the hotel or motel;

(2) Food: not included in registration fees, \$50 per diem.

(B) The town shall not reimburse payments for in-room movies, in-room beverage or snack bars, alcoholic drinks, tips and personal phone calls.

(C) Reimbursement claims shall be submitted on State Board of Accounts-approved forms, and shall be accompanied by itemized receipts.

(Ord. 0503, passed 10-10-05)

§ 31.09 PAYMENT OF CLAIMS.

(A) The Clerk-Treasurer may make claim payments in advance of approval by the Town Council for the following types of expenses:

(1) Property or services purchased or leased from:

(a) The United States government; or

(b) An agency or a political subdivision of the United States

Government;

(2) License fees or permit fees;

(3) Insurance premiums;

(4) Utility payments or utility connection charges;

(5) Federal grant program if:

(a) Advance funding is not prohibited; and

(b) 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) Payments for services previously approved or authorized in amounts less

than \$1,000.

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

(C) The Town Council or board having jurisdiction over the allowance of the claim shall review and allow the claim at the body's next regular or special meeting following the pre-approved payment of the expense.

(Ord. 2016-05, passed 6-13-16)

TOWN MANAGER

§ 31.20 AUTHORIZATION; TERM.

The Town Council may employ a Town Manager to be the administrative head of the town government and may fix his compensation and terms of employment. The Manager may be employed to serve:

(A) At the pleasure of the Town Council; or

(B) For a definite tenure not to exceed the longest remaining term in office of a member of the Town Council; in which case he may be dismissed only for cause.

(IC 36-5-5-2)

§ 31.21 QUALIFICATIONS; BOND.

(A) The Town Council may not employ one of its members as the Manager.
(IC 36-5-5-3)

(B) The Manager must, in the manner prescribed by IC 5-4-1-1.1 through 5-4-1-17, execute a bond for the faithful performance of his duties.

(IC 36-5-5-5)

§ 31.22 JOINT EMPLOYMENT.

The Town Council of two or more towns may employ the same person as the Manager of their respective towns.

(IC 36-5-5-4)

§ 31.23 ACTING MANAGER.

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

(IC 36-5-5-6)

§ 31.24 ISSUANCE OF WARRANTS PROHIBITED.

The Town Council may not authorize the Manager to issue or execute bonds, notes, or warrants of the town.

(IC 36-5-5-7)

§ 31.25 POWERS AND DUTIES.

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

- (A) Shall attend the meetings of the Town Council and recommend actions he considers advisable;
- (B) Shall hire town employees according to the pay schedules and standards fixed by the Town Council or by statute;
- (C) Shall suspend, discharge, remove, or transfer town employees, if necessary for the welfare of the town;
- (D) May delegate any of his powers to an employee responsible to him;
- (E) Shall administer and enforce all ordinances, orders, and resolutions of the Town Council;
- (F) Shall see that all statutes that are required to be administered by the Town Council or a town officer subject to the control of the Town Council are faithfully administered;
- (G) Shall prepare budget estimates and submit them to the Town Council when required;
- (H) Shall execute contracts on behalf of the town for materials, supplies, services, or improvements, after the completion of the appropriations, notice, and competitive bidding required by statute; and
- (I) May receive service of summons on behalf of the town.

(IC 36-5-5-8)

CLERK AND TREASURER

§ 31.40 SERVICE AS CLERK AND FISCAL OFFICER.

The Clerk-Treasurer elected under this chapter is both the town clerk and the town fiscal officer.
(IC 36-5-6-2)

§ 31.41 TERM.

The term of office of the Clerk-Treasurer is four years, beginning at noon on January 1 after his election and continuing until his successor is elected and qualified.
(IC 36-5-6-3)

§ 31.42 ELECTION.

The Clerk-Treasurer shall be elected by the voters of the whole town.
(IC 36-5-6-4)

§ 31.43 OATHS; DEPOSITIONS; ACKNOWLEDGMENTS.

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

§ 31.44 POWERS AND DUTIES.

The Clerk-Treasurer shall:

- (A) Receive and care for all town monies, and pay them out only on order of the Town Council;
- (B) Keep accounts showing when and from what sources he has received town monies, and when and to whom he has paid out town monies;
- (C) File each month with the Town Council a statement showing the receipts and disbursements of the town treasury for the preceding month and the balance remaining in each town fund;
- (D) Keep his records open for inspection by the Town Council or a person appointed by the Town Council for that purpose;
- (E) Maintain custody of the town seal and the records of the Town Council;
- (F) Issue all licenses authorized by statute;
- (G) Serve as clerk of the Town Council by attending its meetings and recording its proceedings; and
- (H) Perform all other duties prescribed by law.

(IC 36-5-6-6)

§ 31.45 DEPUTIES AND EMPLOYEES.

The Clerk-Treasurer may appoint the number of deputies and employees authorized by the Town Council. The Clerk-Treasurer's deputies and employees serve at his pleasure.
(IC 36-5-6-7)

TOWN MARSHAL

§ 31.60 APPOINTMENT; COMPENSATION.

The Town Council shall appoint a Town Marshal and fix his compensation.
(IC 36-5-7-2)

§ 31.61 REMOVAL; DISCIPLINE.

The Marshal serves at the pleasure of the Town Council. However, before terminating or suspending a 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 IC 5-2-1-9, the Town Council must conduct the disciplinary removal and appeals procedure prescribed by IC 36-8-1-1 through 36-8-2-13 for city fire and police departments.
(IC 36-5-7-3)

§ 31.62 POWERS AND DUTIES.

(A) The 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 Marshal or his deputy:

- (1) Shall serve all process directed to him by the town court or Town Council;
- (2) Shall arrest without process all persons who commit an offense within his 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 aid;
- (5) May execute search warrants and arrest warrants; and
- (6) May pursue and jail persons who commit an offense.

(IC 36-5-7-4)

Cross-reference:

Marshal to recommend member for Police Department Advisory Board, see § 33.066

§ 31.63 SERVICE AS STREET COMMISSIONER.

The Town Council may require the Marshal to serve as Street Commissioner.
(IC 36-5-7-5) (Am. Ord. 1004, passed 8-9-10)

§ 31.64 DEPUTY MARSHALS; HUMANE OFFICER.

(A) The Town Council may by ordinance authorize the Marshal to appoint deputy marshals. Deputy marshals have the powers and liabilities of the 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 has the duties prescribed by IC 36-8-1-1 through 36-8-14-4 for city humane officers.

(C) The Town Council shall fix the amount of bond, compensation, and term of service of deputy marshals. The 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 IC 5-2-1-9 may be dismissed only if the procedure prescribed by § 31.61 of this chapter is followed.

(IC 36-5-7-6)

CHAPTER 32: FINANCE AND REVENUE

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- 32.25 Cumulative Capital Development Fund
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- 32.28 Local Option Income Tax (LOIT) Special Distribution Fund

BUDGET

§ 32.01 PREPARATION OF BUDGET ESTIMATES.

Before the publication of notice of budget estimates required by IC 6-1.1-17-3, the town shall formulate a budget estimate for the ensuing budget year in the following manner, unless it provides by ordinance for a different manner.

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

(B) The Clerk-Treasurer 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 the Town Council shall meet with the department heads and the Clerk- Treasurer to review and revise their various estimates.

(D) After the President of the Town Council's review and revision, the Clerk-Treasurer shall prepare for the President of the Town Council a report of the estimated department budgets, miscellaneous expenses, and revenues necessary or available to finance the estimates.

(IC 36-5-3-3)

§ 32.02 TAX RATE; ANNUAL APPROPRIATIONS.

The Clerk-Treasurer shall present the report of budget estimates to the Town Council under IC 6-1.1-17-1 through 6-1.1-17-19. 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. The Town Council, in the appropriation ordinance, may change any estimated item from the figure submitted in the report of the Clerk-Treasurer. The Town Council shall promptly act on the appropriation ordinance.

(IC 36-5-3-4)

§ 32.03 REVISING APPROPRIATIONS.

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 IC 6-1.1-17-1 through 6-1.1-17-19. The Town Council may, by ordinance, decrease any appropriation set by ordinance.

(IC 36-5-3-5)

FINANCIAL ADMINISTRATION

§ 32.20 ISSUE AND SALE OF BONDS.

(A) The Town Council may issue bonds for the purpose of procuring money to be used in the exercise of the powers of the town and for the payment of town debts. However, a town may not issue bonds to procure money to pay current expenses.

(B) Bonds issued under this section are payable in the amounts and at the times determined by the Town Council.

(C) Bonds issued under this section are subject to the provisions of IC 5-1-1-1 through 5-1-14-2 and IC 6-1.1-20-1 through 6-1.1-20-9 relating to the filing of a petition requesting the issuance of bonds and giving notice of the petition, the giving of notice of a hearing on the appropriation of the proceeds of bonds, the right of taxpayers to appear and be heard on the proposed appropriation, the approval of the appropriation by the state board of tax commissioners, the right of taxpayers to remonstrate against the issuance of bonds, and the sale of bonds at public sale for not less than their par value.
(IC 36-5-2-11)

§ 32.21 APPROPRIATION REQUIRED FOR DISBURSEMENTS.

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.

§ 32.22 ISSUE OF WARRANTS.

- (A) The Town Council or any other 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 such other board.
- (B) A town officer who violates this section forfeits his office.
(IC 36-5-4-3)

§ 32.23 APPROVAL OF CLAIMS.

- (A) The Town Council or any other board of the town may allow a claim:
- (1) Only at a meeting of the Town Council or such other board; and
 - (2) Only if the claim was filed in the manner prescribed by IC 5-11-10-2 at least five days before the meeting.
- (B) A town officer who violates this section forfeits his office.
(IC 36-5-4-4)
- (C) A warrant for payment of a claim against the town may be issued only if the claim is:
- (1) Itemized and certified under IC 5-11-10-1;
 - (2) Filed with the Clerk-Treasurer; and
 - (3) Allowed by the Town Council or by the board of the town having jurisdiction over allowance of the claim.
(IC 36-5-4-6)

§ 32.24 ALLOWANCE OF PAYMENT OF SALARIED EMPLOYEE'S WAGES AND UTILITY BILLS.

(A) Due to the fact that it is necessary that certain claims be paid by the Town Clerk-Treasurer for and on behalf of the town prior to the monthly meeting of the Town Council which the necessary payments include biweekly payments to salaried employees of the town as well as utility payments, it is necessary that the Clerk-Treasurer is authorized by ordinance adopted and passed by the regularly elected Councilmembers to make such payments prior to the following monthly meeting of the Town Council.

(B) The Town Council is authorized to enact such an ordinance allowing the Clerk-Treasurer to pay claims for utility bills and the wages of salaried employees prior to the following monthly meeting of the Town Council according to the provisions of IC 5-11-10-1 and 36-1-3-1 through 36-1-3-9.

(C) The Clerk-Treasurer is authorized to pay claims and make payments for utility services and the regular wages of salaried employees according to the salary schedule of such employees as adopted by the Town Council through the adoption of its annual budget as the claims and payments shall become due, notwithstanding that the claims, at the time due, may not have been previously approved by the Town Council. All such claims paid and payments made shall then be submitted to the Town Council for approval at the next regularly scheduled meeting of the Town Council.

(Ord. 8207, passed 8-9-82)

Cross-reference:

Compensation of officers and employees, see § 31.01

§ 32.25 CUMULATIVE CAPITAL DEVELOPMENT FUND.

(A) There is hereby established a Cumulative Development Fund.

(B) An ad valorem property tax levy will be imposed and the revenues from the levy will be retained in the Cumulative Capital Development Fund.

(C) The maximum rate of levy under division (B) will not exceed \$0.03 on each \$100 of assessed valuation and said tax rate will be levied beginning with taxes for 2016, payable 2017.

(D) The Cumulative Capital Development Fund is established until such time as the Fund is rescinded.

(E) The funds accumulated in the Cumulative Capital Development Fund will be used for Cumulative Firefighting Building, Equipment, Police Radio Fund (IC 36-8-14), Cumulative Building Fund (IC 36-9-16-2), Cumulative Capital Improvement Fund (IC 36-9-16-3), Cumulative Street Fund (IC 36-9-16.5), General Improvement Fund (IC 36-9-17), Cumulative Drainage Fund (IC 36-9-27-100), Cumulative Building Fund-Parks (IC 36-10-3-21), and Cumulative Building Fund-Sewers (IC 36-9-26).

(F) Notwithstanding division (E) above, funds accumulated in the town Cumulative Capital Development Fund may be sent for purposes other than those stated in division (E) if the purpose is to protect the public health, welfare or safety in an emergency situation which demands immediate action. Money may be spent under the authority of this section only after the Town Council President issues a declaration that the public health, welfare or safety is in immediate danger that requires the expenditure of money in the fund.

(Ord. 9805, passed 7-13-98; Am. Ord. 2016-07, passed 7-11-16)

§ 32.26 RAINY DAY FUND.

(A) *Name and purpose.* A fund titled “A Rainy Day Fund” shall be created and utilized to receive transfers of unused and unencumbered funds under the following sources:

(1) IC 36-1-8-5, wherein a town may transfer to the Rainy Day Fund not more than 10% of the town’s annual budget that is unused or unencumbered.

(2) All supplemental distributions of CAGIT under IC 6-3.5-1.1-21.1, COIT under IC 6-3.5-6-17.3, shall also be deposited in the Rainy Day Fund.

(3) Proceeds or receipts of miscellaneous revenues (360), and interest or investments (361), other financing sources (390), including (391) interfund operating transfers, and (395) sale of investments.

(B) *Disbursements and use of proceeds of the Rainy Day Funds.* Use of the Rainy Day Fund shall be used for any purpose permitted by state statues for other revenues of the town.

(C) *Appropriations.* The Rainy Day Fund is subject to the same appropriation process as other funds that receive tax money. The Town Council shall make a finding that any proposed use of the Rainy Day Fund is consistent with the intent of the fund before making an appropriation.

(D) *Transfers.* Transfers to the Rainy Day Fund shall be made after the last day of the year and before March 1, of the subsequent calendar year in accordance with IC 36-1-8-5.1.

(Ord. 0401, passed 4-12-04)

§ 32.27 MAJOR MOVES CONSTRUCTION FUND.

(A) *Fund established.* The Town of Long Beach, Indiana, does hereby establish a cumulative non-reverting Major Moves Construction Fund.

(B) *Source of funds.* All funds in the Major Moves Construction Fund shall be funded by revenue distributed to the town pursuant to IC 8-14-14-6 and IC 8-14-16-3.

(C) *Administration of Fund.* Funds received by the town and deposited in the Major Moves Construction Fund shall be used and dedicated by the Town Council for uses as set forth in IC 8-14-6-5, including any amendments thereto as follows:

(1) Construction of highways, roads and bridges.

(2) As long as LaPorte County is a member of the Northwest Indiana Regional Development Authority, Fund money may be expended for any purpose for which the Regional Development Authority may expend money under IC 36-7.5.

(3) Provide funding for economic development projects as defined in IC 6-3.5-7-13.1(c)(1) or IC 6-3.5-7-13.1(c)(2)(A) through 6-3.5-7-13.1(c)(2)(K).

(4) Provide matching funds for federal grants for any of these permissible uses of Major Moves Construction Fund money.

(5) Provide funding for interlocal agreements under IC 36-1-7 for any of these permissible uses of Major Moves Construction Fund money.

(Ord. 0702, passed 2-12-07)

§ 32.28 LOCAL OPTION INCOME TAX (LOIT) SPECIAL DISTRIBUTION FUND.

There is hereby established Fund Number 257 titled “LOIT Special Distribution Fund.” The purpose of this fund shall be to receive a one-time special LOIT distribution from the State of Indiana. The fund proceeds shall be used in accordance with Senate Enrolled Act 67. Seventy-five percent of the one-time special distribution shall be used exclusively for infrastructure as specified in I.C. 6-3.6-9-17(h)(1)(A) and the remaining 25% will be non-restricted and may be used for any purpose by the town.
(Ord. 2016-06, passed 6-13-16)

CHAPTER 33: DEPARTMENTS, BOARDS, AND COMMISSIONS

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Advisory Plan Commission, see § 154.149

Board of Zoning Appeals, see § 154.152

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PARK AND RECREATION BOARD

§ 33.001 PURPOSE.

In order to promote good citizenship and to stimulate public health, safety, and welfare, this subchapter is enacted to provide greater opportunity for the establishing of park and recreation programs. Because recreation is a fundamental need, essential to the well-being of all people, and because parks are primary facilities for public recreation, therefore it is the purpose of this subchapter to consolidate those services to the end that overlapping costs be eliminated and governmental responsibility for park and recreation services be increased.

(Ord. passed 9-8-75)

§ 33.002 MEMBERSHIP.

The Board shall be composed of four members appointed by the Town Council. The members shall be appointed on the basis of their interest in and knowledge of parks and recreation. Not more than two members may be affiliated with the same political party. The Town Council may waive the political party affiliation of a member pursuant to the provisions of I.C. § 36-10-3-4.1.

(Ord. passed 9-8-75; Am. Ord. 2015-01, passed 1-12-15)

§ 33.003 REMOVAL OF BOARD MEMBER FOR CAUSE.

(A) A Board member may be removed only for cause, upon specific written charges filed against him. The charges shall be filed with the appointing authority who shall fix a date for a public hearing and give public notice at least ten days in advance of the hearing.

(B) The member is entitled to present evidence and argument and be represented by an attorney.

(Ord. passed 9-8-75)

§ 33.004 TERM OF OFFICE.

Upon the establishment of a Board, the term of the members initially appointed shall be one, two, three, and four years. Thereafter, as a term expires, each new appointment shall be for a four year term. All terms shall expire on the first Monday in January, but an appointee shall continue in office until his successor is appointed.

(Ord. passed 9-8-75)

§ 33.005 INITIAL APPOINTMENTS; REAPPOINTMENTS.

The president of the Town Council shall make his initial appointments within 90 days of the adoption of the subchapter and all reappointments to the Board by the first Monday in April of each year, or the incumbent shall continue to serve another four year term.

(Ord. passed 9-8-75)

§ 33.006 VACANCY ON BOARD.

If a vacancy on the Board occurs, the president of the Town Council shall appoint a member for the unexpired term of the vacating member.
(Ord. passed 9-8-75)

§ 33.007 BOARD MEETINGS; TIME AND PLACE.

The meetings of the Board shall be public. The Board shall fix the time and place of its meetings, but it shall meet at least quarterly.
(Ord. passed 9-8-75)

§ 33.008 SPECIAL MEETINGS; NOTICE.

(A) Special meetings of the Board shall be public and may be called by written request to the secretary, either by the president or by any two members. The secretary shall send to all members, at least two days in advance of a special meeting, a written notice fixing the time, place, and purpose of the meeting.

(B) Written notice of a special meeting is not required if the time of the special meeting is fixed at a regular meeting or if all members are present at the special meeting.
(Ord. passed 9-8-75)

§ 33.009 QUORUM.

A majority of the members shall constitute a quorum and action of the Board is not official unless authorized by at least three members present and acting.
(Ord. passed 9-8-75)

§ 33.010 COMPENSATION.

The members of the Board may receive a salary not to exceed \$300 per annum. When the Board determines that it is desirable for members or employees to attend a state, regional, or national conference dealing with park and recreation problems, it may authorize the payment of the actual expenses involved in attending such meeting, if the amount has been made available in the Board's appropriation.
(Ord. passed 9-8-75)

§ 33.011 FIRST REGULAR ANNUAL MEETING; ELECTION OF OFFICERS.

(A) At its first regular meeting in each year, the Board shall elect a president and a vice-president. The vice-president shall have authority to act as the president of the Board during the absence or disability of the president.

(B) The Board may select a secretary either from within or without its own membership.
(Ord. passed 9-8-75)

§ 33.012 POWER OF BOARD.

The Board shall have the general power to perform all acts necessary to acquire and develop sites and facilities and to conduct such programs as are generally understood to be park recreation functions. In addition to all other powers necessary to achieve the general objectives of the Board, the Board shall have, for park and recreation purposes, the power and duty to:

(A) Exercise general supervision of and make regulations for the Department and establish rules governing the use of the park and recreation facilities by the public.

(B) Provide police protection for its property and activities, either by requesting assistance from state, city, town, or county police authorities, or by having specified employees deputized as police officers. Such deputized employees, however, shall not be eligible for police pension benefits or other emoluments of police officers.

(C) Make contracts and leases for facilities and services, but shall have no authority to contract with a person, corporation, or private agency for the operation of a park recreation program, except as hereinafter provided.

(1) To lease any buildings or grounds belonging to the town, city, or county within the limits of any park, for a period not to exceed 25 years, to a private person, firm, or corporation.

(2) Such lease shall authorize the lessee to provide upon the premises educational, research, veterinary, or other proper facilities for the exhibition of wild or domestic animals in wildlife parks, dining facilities, a bathhouse, skating facilities, dancing facilities, or those amusement rides for children and adults generally found in amusement parks, including, but not in limitation thereof, a merry-go-round, a roller coaster, a ferris wheel, miniature trains, automobiles, airplanes, and dodgem cars; provided, that no lease for more than one year shall be made, except to the highest and best bidder, after notice of such lease shall have been given by at least one publication in some newspaper of general circulation published in such city, town, or county, which publication shall have been made at least one week before the date of such lease.

(3) The provisions of this division shall apply only to cities, towns, or counties which border on Lake Michigan.

(D) Acquire and dispose of real and personal property.

(E) Exercise the power of eminent domain under the authority of any laws generally made available to towns and municipalities for this purpose.

(F) Appoint such administrative officers of the department as are necessary, to fix their duties and compensation, and delegate authority to perform ministerial acts in all cases except where final action of this Board is necessary.

(G) Establish standards and qualifications for the appointment of all personnel, fix their compensation, and approve their appointments without regard to political considerations.

(H) Contract for special and temporary services and for professional assistance.

(I) Make recommendations and an annual report to the Town Council for the town, concerning the operation of the Board and the status of park and recreation programs within its jurisdiction.

(J) Sue and be sued collectively by its legal name according to the town, "Town of Long Beach Park and Recreation Board;" service of process being had upon the president of the Board; but no costs shall be taxed against the Board or its members in any action.

(K) Invoke any legal, equitable, or special remedy for the enforcement of the provisions of this subchapter, or the Board's own action thereunder.

(L) Prepare and submit an annual budget in the same manner as other departments of the town government as prescribed by the State Board of Accounts.
(Ord. passed 9-8-75)

§ 33.013 GIFTS AND BEQUESTS.

(A) A Board may accept gifts, donations, and subsidies for park and recreation purposes. No gift or transfer of public property to the Board shall be made without its approval.

(B) Any gift or grant of money shall be deposited in a special nonreverting fund to be available for expenditure by the Board for purposes specified by the grantor. The disbursing officer of the town shall draw warrants against such special nonreverting fund only upon vouchers signed by the president and secretary of the Board.
(Ord. passed 9-8-75)

§ 33.014 TAXING DISTRICT FOR SPECIAL BENEFIT TAXES; OPERATING AND CAPITAL EXPENDITURES.

(A) All the territory included within the limits of any such town, city, or county shall constitute a taxing district for the purpose of levying special benefit taxes for park and recreation purposes as provided in this subchapter.

(B) The Town Council as it might determine, shall provide the revenues necessary for the operation of the Department or for capital expenditures not provided by the issuance of bonds, or both, by a special levy to be used for such purposes exclusively or by special appropriation, or both.
(Ord. passed 9-8-75)

§ 33.015 USE OF APPROPRIATION.

The Department is authorized to expend, under regular town, city, or county procedures as provided by law, all sums appropriated to it for purposes and activities authorized by this subchapter.
(Ord. passed 9-8-75)

§ 33.016 PARK FREE OF CHARGE; REASONABLE FEES; DISBURSAL.

(A) Insofar as possible, park and recreation facilities and programs shall be available to the public citizenry of the town free of charge; but where necessary in order to provide a particular activity, the Board may charge a reasonable fee.

(B) Moneys procured from such activity shall be deposited at least once each month with the fiscal officer of the town. The fiscal officer shall deposit such moneys either in a special nonreverting operating fund or in the nonreverting capital fund as directed by the Board. The Town Council may provide, by ordinance, that expenditures may be made from the special nonreverting operating fund without appropriation. Moneys in the form of fees procured from golf courses, swimming pools, skating rinks, or other similar facilities requiring major expenditures for management and maintenance shall not be deposited in this fund. Moneys from either fund shall be disbursed only on approved claims allowed and signed by the president and secretary.

(Ord. passed 9-8-75)

§ 33.017 APPOINTMENT OF SUPERINTENDENT; COMPENSATION.

The Board shall appoint a Superintendent of Parks and Recreation and fix his compensation commensurate with his qualifications.

(Ord. passed 9-8-75)

§ 33.018 DUTIES OF SUPERINTENDENT.

Under the direction of the Board, the Superintendent shall:

(A) Propose annually a plan for the operation of the Department.

(B) Administer the plan as approved by the Board.

(C) Supervise the general administration of the Department.

(D) Keep the records of the Department and be responsible for the custody and preservation of all papers and documents of the Department.

(E) Where the Board determines there is a need, recommend persons for appointment as assistants.

(F) Subject to the approval of the Board, appoint the employees of the Department, according to the standards and qualifications fixed by the Board and without regard to political affiliation.

(G) Prepare and present to the Board an annual report.

(H) Perform such other duties as the Board may direct.

(Ord. passed 9-8-75)

§ 33.019 ASSISTANTS RESPONSIBLE TO SUPERINTENDENT.

The assistants shall be directly responsible to the Superintendent and shall exercise such authority and shall perform such duties as specified by the Superintendent.

(Ord. passed 9-8-75)

§ 33.020 BONDS OF OFFICERS AND EMPLOYEES.

(A) Each officer and each employee who may be charged with the duty of handling any funds in the performance of his duties as authorized or directed by the provisions of this subchapter shall execute an official bond for the term of his office or employment before entering upon the duties of his office or employment, or if the tenure is indeterminate, then the bond shall be for a term of one year and each year thereafter so long as the employment continues.

(B) All bonds required shall be individual surety company public official bonds conditioned on faithful performance of duties. The penal amounts of the bonds in this case shall be fixed by the Town Council.

(C) All such bonds shall be filed and recorded in the office of the County Recorder in which the department is located.

(Ord. passed 9-8-75)

§ 33.021 ADVISORY COUNCIL AND SPECIAL COMMITTEES; DUTIES; REPORTS.

(A) The Board may create an advisory council and special committees composed of citizens interested in the problems of parks and recreation.

(B) The advisory council or a special committee shall:

(1) Study the subjects and problems specified by the Board and recommend to the Board additional problems in need of study.

(2) Advise the Board concerning these subjects, particularly as they relate to different areas and groups in the community.

(3) Upon the invitation of the Board, sit with and participate, without the right to vote, in the deliberations of the Board.

(C) The advisory council or a special committee shall report to the Board only; and shall make inquiries and reports only in those areas specified by the Board's resolution creating the council or committee.

(Ord. passed 9-8-75)

§ 33.022 ACQUISITION OF LAND FOR PARK IMPROVEMENT OR USE.

Whenever this Board shall deem it necessary or advisable to acquire land for any of the purposes mentioned in this subchapter, either by purchase or appropriation, same may be done by the proper notice and publication, setting forth the land to be acquired and the reason for same. The resolution being subject to adoption at an open and public hearing, at which time all remonstrators and interested parties shall have a right to voice their opinions.

(Ord. passed 9-8-75)

FIRE COMMISSION

§ 33.030 ESTABLISHED.

There is established a five member Fire Commission (hereinafter referred to as “Commission” in this subchapter) to act in an advisory capacity to the Long Beach Town Council (hereinafter referred to as “Town Council”) and the Long Beach Volunteer Fire Department, Inc. (hereinafter referred to as “Department” in this subchapter), or its successor. (Ord. 1004, passed 8-9-10)

§ 33.031 APPOINTMENT OF MEMBERS.

(A) The Commission shall consist of five members, two of whom shall be members of the Town Council and shall be appointed by the President of the Town Council, and two of whom shall be the Chief (hereinafter referred to as “Chief” in this subchapter) of the Department, or its successor in contract relation to the Town of Long Beach, Indiana (hereinafter referred to as “town”), and President of the Department, or its successor, and the fifth shall be a resident of the town but shall not be a member of the Department, or its successor, nor a Town Council member, and shall be selected by the aforementioned four Commission members.

(B) The initial Commission shall consist of five members, selected as set forth hereinabove for the balance of the calendar year in which this subchapter is adopted.

(C) After the expiration of the initial terms of the initial members of the Commission, any subsequent appointments of members to the Commission shall be appointed for a term of one calendar year on or before January 15th of each said calendar year. If a member shall be replaced prior to the expiration of its term, its appointed successor shall complete the balance of that calendar year term.

(D) All five members of the Commission shall be appointed as hereinabove provided and shall consist of five adult individuals who shall be at least 21 years of age. (Ord. 1004, passed 8-9-10)

§ 33.032 DUTIES.

The duties of the Commission shall be as follows:

(A) To advise and make recommendations to the Town Council and/or Department, or its successor, regarding all matters concerning fire protection and first responder medical protection for the town.

(B) To receive all complaints from the residents of the town concerning the Department, and its Chief and to make recommendations for corrective action to the Town Council and/or Department, or its successor.

(C) To investigate all complaints concerning malfeasance or misfeasance of members of the Department, or its successor, and the Chief, and to make remedial recommendations to the Town Council and/or Department, or its successor.

(D) To propose rules and regulations for the government of the Department and Commission subject to the approval of the Town Council.

(E) To serve as a mediator between the Town Council and the Department, or its successor regarding any matters contained in any applicable Fire Protection Agreement or other

matters relating to the relationship between the town, its residents and the Department, or its successor.

(F) To hold meetings at such times as may be deemed necessary throughout the year as the necessity may be determined by the Commission, the Town Council or the Department, or its successor. The meetings shall be held in compliance in all respects with the laws of the state including the "Open Door" law.

(Ord. 1004, passed 8-9-10)

DEPARTMENT OF WATER WORKS

§ 33.045 ESTABLISHED.

A Department of Water Works is created pursuant to IC 8-1.5-4-1-19, the provisions of which are adopted, which shall be known as the Town Water Department, hereinafter referred to as the Department in this subchapter.

(Ord. 8210, passed 12-20-82; Am. Ord. passed 7-13-92)

Cross-reference:

Waterworks system; rates and charges, see Ch. 50

§ 33.046 BOARD OF DIRECTORS.

The Department shall be controlled by a Board of Directors, hereinafter referred to as the Board in this subchapter, consisting of five members appointed by the President of the Town Council all of whom shall be residents of the water works district. The president of the Town Council, may remove a director at any time when, in his judgment, it is for the best interest of the Department.

(Ord. 8210, passed 12-20-82; Am. Ord. passed 7-13-92)

§ 33.047 TERMS OF BOARD MEMBERS.

The terms of the individual Board members shall be for four years and until their successors are appointed and qualified, provided however the terms of the initial directors shall be as follows: The term of one director shall expire on December 31, 1985. The terms of two directors shall expire on December 31, 1982 and the terms of two directors shall expire on December 31, 1983. Directors may be reappointed to succeed themselves.

(Ord. 8210, passed 12-20-82; Am. Ord. passed 7-13-92)

§ 33.048 MEMBERSHIP.

The make-up of the five member Board shall be such that no more than three directors shall be of the same political party and one of the five directors shall be a member of the Town

Council. Further, each director shall give a bond which shall be fixed by the Town Clerk-Treasurer, and subject to his approval.

(Ord. 8210, passed 12-20-82; Am. Ord. passed 7-13-92)

§ 33.049 COMPENSATION.

Each director of the Board shall be paid a salary as fixed and determined by the Town Council for the services rendered in the supervision of the Town Water Department but in no event shall such compensation exceed the amount of \$1,500 per director per year.

(Ord. 8210, passed 12-20-82; Am. Ord. passed 12-28-87; Am. Ord. passed 7-13-92; Am. Ord. 0802, passed 3-10-08)

§ 33.050 DUTIES AND OBLIGATIONS.

The Board shall perform all of the duties and obligations conferred upon such Board by IC 18-1.5-3, 18-1.5-4, and Ordinance 8021 which was established under Burns Indiana Statutes, Titles 8, 18, and 19 and such other statutes and ordinances which shall be so construed so as to apply to the Board created hereunder and to all amendments hereinafter made to such statutes and ordinances.

(Ord. 8210, passed 12-20-82; Am. Ord. passed 7-13-92)

§ 33.051 ENFORCEMENT.

(A) The Board shall have the power to compel users and consumers of the water within the water district to conform and comply with all rules and regulations of the Department.

(B) The Board shall also have the power to bring any action in the name of such town which it deems proper to recover damages for the breach of any agreement, expressed or implied, relating to or growing out of the construction, operation, management, alteration, or repair of the water works system or any part thereof, all relating to or growing out of acquiring the ownership or possession of any lands or other property in connection therewith or for injury to the personal or real property appertained to water works system within the water district. The Board may also bring suit for the specific performance of any agreement or avail itself in the name of the town of any legal or equitable remedy necessary to protect and enforce the rights and perform the duties of the Department.

(Ord. 8210, passed 12-20-82; Am. Ord. passed 7-13-92)

§ 33.052 RIGHT OF ENTRY.

The Board shall have the power to enter upon any land, streets, highways, rights-of-way, or other properties belonging to or under the control of such town or any department thereof or other public place within such town or any department thereof or other public place within such water district for the purpose of erecting, constructing, installing for the purpose of erecting,

constructing, installing, or building any part or extension of the water works system when they shall be by resolution of such Board deemed necessary.
(Ord. 8210, passed 12-20-82; Am. Ord. passed 7-13-92)

§ 33.053 REVENUES; BOND ORDINANCE.

The Board at its first meeting subsequent to the effective date of this subchapter, shall adopt a resolution providing that the revenues of the Department shall be divided as per the requirements of any applicable bond ordinance heretofore adopted relating and pertaining to the Department. Nothing herein shall, in any way, be deemed to require or authorize the Department to deviate from the terms, conditions, powers, duties, responsibilities and liabilities set forth in any such bond ordinance.
(Ord. 8210, passed 12-20-82; Am. Ord. passed 7-13-92)

§ 33.054 WATER DEPARTMENT CASH RESERVE ACCOUNT.

The Town Clerk-Treasurer shall maintain a separate account known as the Water Department Cash Reserve Account. The Board shall transfer all surplus earnings as defined by IC 8-1.5-3-11(c) to such account monthly. The funds in such account may be utilized in accordance with IC 8-1.5-3-11(d) and (e).
(Ord. 8210, passed 12-20-82; Am. Ord. passed 7-13-92)

§ 33.055 CLAIMS AGAINST DEPARTMENT.

Any claim against the Department shall not be a claim against the town. No claim shall be paid by the Board from the maintenance and operation account of the Department until the person making such claim shall furnish sufficient reasonable proof of the validity and reasonableness of that claim. No payment of any nature shall be made from the operation and maintenance account except upon order of a majority of the Board on an account maintained by the Clerk-Treasurer for that purpose. The Board shall make an annual report to the Town Council of all receipts and disbursements of funds belonging to the utility. Funds in the depreciation account in the bond and interest account shall be deposited with the Clerk-Treasurer and maintained as a separate fund subject to the order of the Board.
(Ord. 8210, passed 12-20-82; Am. Ord. passed 7-13-92)

§ 33.056 MEETINGS; OFFICERS; QUORUM; RECORDS.

(A) The Board shall meet no less than one time per month. The meeting shall be on a regular business day of the month and shall be conducted pursuant to the normal form of Roberts Rules of Order and shall be held in a public place as designated by the members of the Board and shall be open to the public at all times and subject to IC 5-14-1.5.

(B) The Board is empowered to elect a president, a secretary, and a treasurer of the Board as duties shall be as are usually performed by such officers.

(C) Three or more Board members present at any meeting shall constitute a quorum sufficient for the transaction of business and a decision of that majority of members of the Board shall be binding upon such Board.

(D) The Board shall keep and maintain, in writing, a complete record of all its meetings and transactions.

(Ord. 8210, passed 12-20-82; Am. Ord. passed 7-13-92)

§ 33.057 PREPARATION OF BUDGET.

The Board shall, on or before December 31 of each calendar year, prepare a projected budget for all costs of the operation of the Town Water Department and present same to the Town Council for review.

(Ord. 8210, passed 12-20-82; Am. Ord. passed 7-13-92)

§ 33.058 LEGAL COUNSEL.

The Board shall have the authority to appoint an attorney to act as its legal counsel and advisor on any and all issues that may become before the Board and the Board shall have the right to fix a reasonable compensation for the attorney subject to the approval of the Town Council.

(Ord. 8210, passed 12-20-82; Am. Ord. passed 7-13-92)

§ 33.059 PROPERTY UNDER CONTROL OF DEPARTMENT.

All property, real or personal, mixed or intangible, now under the control of the Water Department Utility Service Board shall pass to the Board of Directors of the Town Water Department which is created by this subchapter upon the effective date of this subchapter.

(Ord. 8210, passed 12-20-82; Am. Ord. passed 7-13-92)

POLICE DEPARTMENT ADVISORY BOARD

§ 33.065 ESTABLISHED.

(A) It is found and determined by the Town Council that it is advisable and necessary to establish a three-member Police Department Advisory Board to act in an advisory capacity to the Town Council and to the Town Marshal.

(B) There is established a three-member Police Department Advisory Board to act in an advisory capacity to the Town Council and to the Town Marshal.

(Ord. 8503, passed 10-14-85; Am. Ord. 8503A, passed 7-8-91)

§ 33.066 APPOINTMENT OF MEMBERS.

The Police Department Advisory Board shall consist of three members, two of whom shall be recommended by the President of the Town Council, and one of whom shall be recommended by the Marshal, which members shall be appointed by the Town Council as follows:

(A) Upon the resignation of the current members of the Police Advisory Board, the initial Board shall consist of three members appointed as follows: Three members shall be appointed for one-year terms each.

(B) After the expiration of the initial terms of the initial members of the Board, any subsequent appointments of members to the Board shall be appointed for a term of one year.

(C) All three members of the Police Department Advisory Board shall be appointed by the Town Council, and shall consist of three adult individuals who shall meet all of the following qualifications:

(1) Each member shall have his primary residence within the boundaries of the town.

(2) Each member shall be at least 21 years of age.

(3) No member shall be a current member of the Town Council, nor a member of the immediate family of any current member of the Town Council.

(4) No member may be the acting Marshal of the town, nor a member of the immediate family of the acting Marshal of the Town.

(5) No member may be a current employee of the Police Department, nor a member of the immediate family of an employee of the Police Department.

(6) No member may be an employee or elected official of the town, nor a member of the immediate family of an employee or elected official of the town, including the acting Town Attorney.

(Ord. 8503, passed 10-14-85; Am. Ord. 8503A, passed 7-8-91)

§ 33.067 DUTIES.

The duties of the Police Department Advisory Board shall be as follows:

(A) To receive all complaints from the residents of the town concerning Police Department personnel and the Marshal, and to make recommendations for corrective action to the Town Council.

(B) To investigate all complaints concerning malfeasance of police officers and the Town Marshal, and to make recommendations concerning disciplinary action to the Town Council and the Town Marshal.

(C) To propose rules and regulations for the government of the Advisory Board, subject to the approval of the Town Council.

(D) To hold meetings at such times and upon proper notice as may be required pursuant to the duties enumerated above, but in no event shall the Police Advisory Board meet less than annually. The meetings shall be held in compliance in all respects with the laws of the state, including the "open door" law.

(Ord. 8503, passed 10-14-85; Am. Ord. 8503A, passed 7-8-91; Am. Ord. 8503AA, passed 10-9-95)

POLICE RESERVES

§ 33.080 NECESSITY.

It is hereby found and determined by the Town Council that, in the interest of the safe, efficient and orderly operation of the Police Department, the Department should be authorized to hire police reserves.

(Ord. 9004, passed 7-9-90)

§ 33.081 AUTHORIZATION TO HIRE POLICE RESERVES.

It is, therefore, authorized that the town may hire police reserves, subject to the terms and conditions of this subchapter, as well as all applicable state statutes.

(Ord. 9004, passed 7-9-90)

§ 33.082 APPOINTMENT OF RESERVES.

Police reserves shall be appointed by the same authority that appoints regular members of the Police Department.

(Ord. 9004, passed 7-9-90)

§ 33.083 RULES, REGULATIONS AND CONDITIONS.

(A) Police reserves may not be members of the regular Police Department, but shall have the same police powers as regular members, except as limited by the rules and regulations of the Police Department and this subchapter.

(B) To the extent that necessary funds are available and properly appropriated, police reserves may, but are not required to:

(1) Receive a uniform allowance.

(2) Receive compensation for time lost from other employment because of court appearance.

(3) Be insured for life, accident and sickness coverage.

(C) Police reserves are not eligible to participate in any pension program provided for regular members of the Police Department.

(D) A police reserve may not be appointed until he has completed the training and probationary period specified by the rules and regulations of the Police Department.

(E) Police reserves shall not be authorized by the Police Department to carry weapons or police identification while off duty.

(F) Each police reserve shall, at all times, work under the direct supervision of a regular officer.

(G) Police reserves shall not have, nor be authorized to exercise, police powers except during those times as they shall be on scheduled or authorized duty.

(H) Police reserves shall wear a uniform distinguishable from that of a regular police officer.

(I) Police reserves shall not work in place or in substitution of a regular police officer.

(Ord. 9004, passed 7-9-90)

POLICE COMMISSION

§ 33.090 NECESSITY.

It is determined by the Town Council that it is advisable and necessary to establish a four member Police Commission consisting of two current members of Town Council, plus the Chief Marshal and a citizen of the town, to facilitate communications between the Town Council and the Police Department.

(Ord. 9503, passed 10-9-95)

§ 33.091 ESTABLISHMENT.

A four member Police Commission is established to act in an advisory capacity to the Town Council and the Police Department.

(Ord. 9503, passed 10-9-95)

§ 33.092 APPOINTMENT OF MEMBERS.

The Police Commission shall consist of four members, two of whom shall be appointed by the President of the Town Council from the then current members of the Town Council, and one of whom shall be appointed from the citizenry of the town. The Chief Marshal shall act as the fourth member. Each member shall be appointed on an annual basis on or before the second Monday in January of each year for a one year term. There shall be no limitation on Commission members serving successive terms.

(Ord. 9503, passed 10-9-95)

§ 33.093 DUTIES.

The duties of the Police Commission shall be as follows:

(A) To advise and make recommendations to the Town Council in all matters concerning police protection or law enforcement for the town.

(B) To screen and make recommendations for any new applications for hire for the Police Department to the Town Council.

(C) To establish work schedules and to determine working hours for the members of the Police Department and Town Marshal with the advice and counseling of the Town Marshal and the approval of the Town Council.

(D) To propose rules and regulations for the government of the Police Commission and the Police Department subject to the approval of the Town Council.

(E) To prepare, adopt, promulgate, and supervise training and education programs for the Police Department.

(F) To help prepare, review, and make recommendations to the Town Council regarding the budget of the Police Department.

(G) Any and all other matters reasonably necessary to facilitate communication between the Police Department and Town Council to the extent they do not conflict with the duties of the Police Advisory Board.

(Ord. 9503, passed 10-9-95)

HUMAN RESOURCES ADVISORY COMMITTEE

§ 33.100 ESTABLISHMENT; MEMBERS.

The Town Council shall, at its first council meeting in January, appoint a five-member Human Resources Advisory Committee (HRAC) comprised of a Town Councilmember, the Clerk-Treasurer (or Town Manager), Town Marshal and two Long Beach residents. The term of service for the appointees shall be one year. The Committee shall be an advisory entity, convening as needed, but at least annually, to review and provide advice and recommendations on human resources issues. Personnel policies and related issues, including adherence to local, state and federal regulations, will be included in the scope of study for this Committee. The Clerk-Treasurer (or Town Manager) shall serve as the liaison between HRAC and the Town Council. The Town Council shall be the final authority on all town human resources issues. HRAC meetings will be formally announced and open to the public.

(Res. 12-002, passed 10-8-12)

§ 33.101 DUTIES.

Long Beach personnel policies shall be reviewed annually by the HRAC to evaluate applicable laws and statutes as well as established best practice. The Human Resources Advisory Committee shall seek input annually from all town employees in terms of recommendations or desired policy changes. Input shall be provided in a format approved by the Council. The HRAC will evaluate annual recommendations and provide input to the Council on potential changes. All staff recommendations shall, however, be provided to the Council along with suggested action by the Committee. Town Council minutes shall reflect that annual review to verify Committee and staff input has been performed.

(Res. 12-002, passed 10-8-12)

ORDINANCE VIOLATIONS BUREAU

§ 33.115 CREATION.

There is hereby established in the Office of the Clerk-Treasurer of the town an Ordinance Violations Bureau for the acceptance of written appearances, waivers of trial, admissions of violations, and payment of civil penalties of not more than the statutory limit set forth in I.C. § 33-36-2-3.

(Ord. 15-06, passed 7-13-15)

§ 33.116 VIOLATIONS CLERK.

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

(Ord. 15-06, passed 7-13-15)

§ 33.117 FINE SCHEDULE ADOPTED BY REFERENCE.

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

(Ord. 15-06, passed 7-13-15)

CHAPTER 34: TOWN POLICIES

Section

Personnel Policies

34.01 Adoption by reference

Purchasing Rules

34.10 Protection of offers; status of documents as public records
34.11 Discussions with offerors responding to a request for proposals
34.12 Delay of opening of offers
34.13 Evidence of financial responsibility
34.14 Use of RFP for purchases of designated types of supplies
34.15 Modification and termination of contracts
34.16 Purchase of services
34.17 Purchase of supplies manufactured in the United States

Law Enforcement Policies

- 34.30 Enforcement of public property ordinances on properties adjacent to Lake Michigan

PERSONNEL POLICIES

§ 34.01 ADOPTION BY REFERENCE.

(A) The document attached to Ordinance No. 2014-03 entitled “Town of Long Beach Employee Handbook,” as it may be amended from time to time, is adopted as Appendix A of this code by reference and is a part of this code as if set forth in full herein.

(B) The Appendix A attached to Ordinance No. 2014-03 contains the expression of the Town of Long Beach regarding certain personnel policies, including, but not limited to, the town’s Alcohol and Drug-Free Workplace Policy, a statement regarding nepotism pursuant to IC 36-1-20.2, and the town’s policy on Equal Employment Opportunity.
(Ord. 2014-03, passed 6-9-14)

PURCHASING RULES

§ 34.10 PROTECTION OF OFFERS; STATUS OF DOCUMENTS AS PUBLIC RECORDS.

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

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

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

(D) *Register of proposals.* The purchasing agent shall prepare a register of proposals for each request for proposals issued which shall contain information concerning the proposals available for public inspection and copying. Proposals may not be disclosed.
(Ord. 9806, passed 6-8-98)

§ 34.11 DISCUSSIONS WITH OFFERORS RESPONDING TO A REQUEST FOR PROPOSALS.

The purchasing agent may conduct discussions with, and best and final offers may be obtained from responsible offerors who submit proposals determined to be reasonably susceptible of being selected for a contract award.
(Ord. 9806, passed 6-8-98)

§ 34.12 DELAY OF OPENING OF OFFERS.

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

(Ord. 9806, passed 6-8-98)

§ 34.13 EVIDENCE OF FINANCIAL RESPONSIBILITY.

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

(B) *Purchases between \$25,000 and \$75,000.* The solicitation may include a requirement that an offeror provide evidence of financial responsibility. If evidence of financial responsibility is required, the solicitation must indicate the kind of evidence that will be acceptable. If a bond or certified check is required, it may not exceed 10% of the estimated cost of the purchase.

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

(Ord. 9806, passed 6-8-98)

§ 34.14 USE OF RFP FOR PURCHASES OF DESIGNATED TYPES OF SUPPLIES.

(A) It is either not practicable or not advantageous to purchase certain types of supplies by sealed competitive bidding; and

(B) Receiving proposals is the preferred method for purchasing the following types of supplies: vehicles; motorized equipment (vehicular or otherwise); road paving materials and services; any purchases expected to exceed \$25,000 or any other purchases specifically so designated by the Town Council.

(Ord. 9806, passed 6-8-98)

§ 34.15 MODIFICATION AND TERMINATION OF CONTRACTS.

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

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

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

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

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

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

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

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

(D) *Quantity variations.* The purchasing agent may include in a purchase contract provisions dealing with variations between the estimated quantities of work in a contract and the actual quantity delivered.

(Ord. 9806, passed 6-8-98)

§ 34.16 PURCHASE OF SERVICES.

(A) The town determines that the Clerk-Treasurer and/or Town Council may purchase services, except for the services of attorneys, in whatever manner the purchaser determines to be reasonable.

(B) The Clerk-Treasurer may not require any other department head of any town agency, department or office to purchase services in any particular manner unless so directed by the Town Council.

(Ord. 9806, passed 6-8-98)

§ 34.17 PURCHASE OF SUPPLIES MANUFACTURED IN 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 reasonable quantities;

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

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

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

(Ord. 9807, passed 6-8-98)

LAW ENFORCEMENT POLICIES

§ 34.30 ENFORCEMENT OF PUBLIC PROPERTY ORDINANCES ON PROPERTIES ADJACENT TO LAKE MICHIGAN.

(A) The Town of Long Beach, Indiana, recognizes and accepts the Indiana Department of Natural Resources' position as reflected in its publications including, but not limited to, its website, the ordinary high watermark is the line on Lake Michigan used to designate where the state's regulatory jurisdiction lies and, in certain instances, to determine where public ownership or use begins and/or ends.

(B) The ordinary high watermark is an elevation of 581.5 feet, as adopted by the U.S. Army Corps of Engineers, and the Indiana Natural Resources Commission found at 312 IAC 1-1-26.

(C) The Town Police Department shall only enforce the private property ordinances between Lake Shore Drive and Lake Michigan in the following locations:

(1) The entire length and width of all publicly owned beach accesses above the elevation of 581.5 feet.

(2) The entire length and width of all lots owned by the Town of Long Beach above the elevation of 581.5 feet.

(D) The Town Police Department shall continue to enforce all state and local statutes, ordinances, rules and regulations within its jurisdiction subject to the specific provisions of this policy.

(Res. 10-002, passed 7-12-10; Am. Res. 12-003, passed 11-12-12)