

TITLE III: ADMINISTRATION

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CHAPTER 30: GENERAL PROVISIONS

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§ 30.01 COMPENSATION OF OFFICERS AND EMPLOYEES.

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

(Prior Code, § 30.01) (Ord. 2021-12-1, passed - -2021; Ord. 2022-2-3, passed 2-28-2022)

Cross-reference:

Budgets, see §§ 33.20 through 33.22

§ 30.02 DISTRICTS FOR TOWN ELECTIONS.

(A) The town shall be divided into four districts for purposes of conducting elections of Town Council members, which districts are described as follows.

(1) *District One.* Commencing at the northern boundary of the corporate limits of the town where the west side of Central Avenue, if extended north, intersects with the northern corporate boundary; thence running south along the west side of Central Avenue until it intersects with the north side of North Street; thence turning west and running west along the north side of North Street until it intersects with the western corporate boundary of the town; thence turning north and running along the western, northwestern and northern corporate boundaries of the town to the point of beginning.

(2) *District Two.* Commencing at the northern boundary of the corporate limits of the town where the east side of Central Avenue, if extended north, intersects with the northern corporate boundary; thence running south along the east side of Central Avenue until it intersects with the north side of North Street; thence turning east and running east along the north side of North Street/Old U.S. 50 until it intersects with the eastern corporate boundary of the town; thence turning north and running along the eastern, northeastern and northern corporate boundaries of the town to the point of beginning.

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(3) *District Three.* Commencing on the western boundary of the corporate limits of the town where the western corporate boundary intersects with the south side of North Street; thence running east along the south side of North Street until it intersects with the west side of Central Avenue; thence turning south and running along the west side of Central Avenue until it intersects with the southern corporate boundary of the town; thence turning west and running along the southern, southwestern and western corporate boundaries of the town to the point of beginning.

(4) *District Four.* Commencing on the eastern boundary of the corporate limits of the town where the eastern corporate boundary intersects with the south side of Old U.S. 50/North Street; thence running west along the south side of Old U.S. 50/North Street to its intersection with the east side of Central Avenue; thence turning south and running along the east side of Central Avenue until it intersects with the southern corporate boundary of the town; thence turning east and running along the southern, southeastern and eastern corporate boundaries of the town to the point of beginning.

(B) The Town Council shall continue to have one member for each of the above-established four districts and one member serving at large.

(C) Each member of the Town Council shall be elected at large by a vote of all the registered voters in the town, but shall represent the district from which he or she runs.

(D) To be eligible to run for the office of Town Council member from each of the four districts for the town, a person must be a resident of the town and resided in that district, be a citizen of the United States of America and be of legal voting age.

(E) To be eligible to run for the at large seat on the Town Council, the person must be a resident of the town, be a citizen of the United States of America and be of legal voting age.

(F) Only persons who are registered voters, as recorded on the permanent voting records of the county and who reside within the boundaries of the town, may vote at a town election.
(Prior Code, § 30.02) (Ord. 2006-11, passed 12-11-2006)

§ 30.03 INTERNAL CONTROL POLICY.

(A) The town adopts as policy the internal control standard as set forth by the State Board of Accounts Uniform Internal Control Standards for political subdivisions manual as expressly written and published by the State Board of Accounts in September 2015, as amended from time to time.

(B) Responsibility for implementing the standards outlined in division (A) above shall be placed on and held by the Town Council.

(C) As required by statute, all erroneous or irregular variances, losses, shortages or thefts of local government funds or property shall be reported immediately to the State Board of Accounts. The Town

Council will establish an appropriate materiality threshold (dollar amount of variance, loss, shortage or theft that requires reporting) and may approve or modify the threshold amount as deemed appropriate. The Council will communicate the materiality threshold in a detailed policy that shall distinguish between cash and other types of assets, maintenance of documentation and resolution of incidents that do not meet the materiality threshold.

(D) All town personnel will receive appropriate training on the internal controls standards and procedures. *PERSONNEL* is defined as an officer or employee whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds that belong to the federal government, state government, a political subdivision, or another governmental entity. As required by statute, the Clerk-Treasurer will file annual certification of training with the State Board of Accounts.

(E) The Town Council will develop, maintain and train personnel on internal controls standards and policies and all new personnel shall receive training timely. All town officers, elected officials and employees are required to comply with the policy. The policy will be integrated into the employee handbook. Employees who fail to comply with this policy are subject to disciplinary action, up to but not limited to termination of their employment.
(Ord. 2016-6-1, passed 6-13-2016)

§ 30.04 ELECTRONIC MEETING POLICY.

(A) *Electronic meetings.*

(1) The provisions of I.C. 5-14-1.5-3.5, as amended, including definitions, are hereby adopted and apply to this section.

(2) A Council member or other board member of a commission or board established in the town who is not physically present at a meeting may participate in a meeting by any electronic means of communication that allows all participating Council members to simultaneously communicate with each other and allows the public to simultaneously attend and observe the meeting. This does not apply to executive sessions.

(3) A Council member may not participate in a meeting by electronic communication if the governing body is attempting to take final action to:

- (a) Adopt a budget;
- (b) Make a reduction in personnel;
- (c) Initiate a referendum;
- (d) Establish or increase a fee;

- (e) Establish or increase a penalty;
- (f) Use the governing body's eminent domain authority;
- (g) Establish, raise or renew a tax; or
- (h) Any other reason stated in I.C. 5-14-1.5-3.5, as amended.

(B) *Participation.*

(1) A board or Council member may participate in a scheduled meeting electronically only if at least 50% of sitting board members will be physically present at the meeting. If at least 50% of members are not in attendance at a meeting where a member or members wish to participate electronically, the meeting must be canceled or postponed.

(2) If a board member is to participate and vote in a meeting, that member must be able to be seen and heard by the public through means provided by the board at the location of the physical meeting. If a board member cannot be both seen and heard at the meeting by the public, the board member may participate in the discussions of the board, but cannot vote.

(3) All votes taken during a meeting governed by this section shall be taken by roll call.

(4) If a member wishes to participate by electronic communication, that member must notify the Council President and Clerk or the relevant board chairperson within three business days of the meeting to be attended so that arrangements can be made to, facilitate the electronic communication. The Council President, board chair or the member designated by law to officiate at the meeting may waive this three-day notice requirement if proper arrangements can be made in a timely fashion to assure electronic participation as contemplated by this section and state law.

(5) A member of Council or a board may not attend more than 50% of the Council's meetings in a calendar year by means of electronic communication unless the member's electronic participation is due to military service, illness or other medical condition, death of a relative, or an emergency involving actual or threatened injury to persons or property.

(6) A technological failure in an electronic means of communication that disrupts the off-site member's participation with the rest of the board does not prohibit the governing body from continuing with a meeting so long as a quorum remains and all other legal requirements are met for the conduct of business.

(7) The Town Council shall adopt a written policy in accordance with this section and state law establishing the procedures that apply to a member's participation electronically. In Council meetings or other meetings of the town's boards and commissions. Such a policy may include regulations limiting the number of members who may participate by electronic communication in any single meeting; limiting

the total number of meetings that the governing body may conduct in a calendar year by electronic means; and requiring a member, except in cases involving an emergency as defined by I.C. 5-14-1.5-5(d), to notify the presiding officer within a certain period of time of that member's intention to attend electronically; or other regulations which are consistent with this section and state law.

(C) *Minutes.*

(1) Minutes of a meeting in which a member participates by electronic means shall state the name of each member of the governing body who:

- (a) Was physically present at the place where the meeting was conducted;
- (b) Participated in the meeting using any electronic means; and
- (c) Was absent.

(2) Minutes of a meeting in which a member participates by electronic means shall also identify the electronic means by which:

- (a) Members of the governing body participated in the meeting; and
- (b) The public attended and observed the meeting.

(Ord. 2022-2-1, passed 2-28-2022)

CHAPTER 31: TOWN COUNCIL

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GENERAL PROVISIONS

§ 31.001 TERM OF OFFICE.

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

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

(B) (1) The legislative body for the town shall be increased from three Town Council members to five Town Council members, effective 1-1-2007.

(2) The town will create new districts for the increased legislative body and shall fill the two additional legislative members by appointment pursuant to I.C. 36-5-2-4.2.

(Prior Code, § 31.001) (Ord. 2006-10, passed 11-13-2006)

§ 31.002 RESIDENCY REQUIRED.

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

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

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

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

(D) An at large member of the Town Council forfeits office if the member ceases to be a resident of the town.
(I.C. 36-5-2-6) (Prior Code, § 31.002)

§ 31.003 POWERS AND DUTIES.

The Town Council may:

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

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

(C) Adopt and use a common seal.
(I.C. 36-5-2-9) (Prior Code, § 31.003)

§ 31.004 PRESIDENT.

The Town Council shall select one of its members to be its President for a definite term, which may not exceed his or her term of office as a member of the Town Council.
(I.C. 36-5-2-7) (Prior Code, § 31.004)

MEETINGS; GENERAL PROVISIONS

§ 31.015 OPEN MEETINGS.

All meetings of the Town Council shall be held in accordance with state law regarding open meetings, being I.C. 5-14-1.5.
(Prior Code, § 31.020)

§ 31.016 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

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(2) Whose tenure and compensation are fixed by law and who executes an oath.

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

(1) Where authorized by federal or state statute;

(2) For discussion of strategy with respect to any of the following:

(a) Collective bargaining;

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

(c) The implementation of security systems; or

(d) The purchase or lease of real property by the Town Council up to the time a contract or option to purchase or lease is executed by the parties. However, all 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 Council has jurisdiction:

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

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

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

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

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

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

(a) Develop a list of prospective appointees;

(b) Consider applications;

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

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

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

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

(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).

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

(D) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under division (B) above. The requirements stated in § 31.019 of this subchapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The Town Council shall certify by a statement in the memoranda and minutes of the Town Council that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

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

(I.C. 5-14-1.5-6.1) (Prior Code, § 31.021)

§ 31.017 NOTICE OF MEETINGS.

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

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

(Prior Code, § 31.022)

§ 31.018 AGENDA.

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

(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 Council shall designate a person who shall prepare the agenda for each meeting.

(Prior Code, § 31.023)

§ 31.019 RECORD OF MEETINGS.

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

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

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

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

(I.C. 5-14-1.5-4(b) and (c)) (Prior Code, § 31.024)

§ 31.020 QUORUM.

A majority of all the elected members of the Town Council constitutes a quorum.
(I.C. 36-5-2-9.2) (Prior Code, § 31.025)

§ 31.021 CLERK OF COUNCIL; TIE-BREAKING VOTE.

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

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

(I.C. 36-5-2-8) (Prior Code, § 31.026)

MEETINGS; RULES OF PROCEDURE

§ 31.035 PRESIDING OFFICER.

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

(Prior Code, § 31.040)

Cross-reference:

Election of Council President, see § 31.004

Town Clerk-Treasurer serves as Clerk of Council, see § 31.021

§ 31.036 QUORUM FOR CONDUCTING BUSINESS.

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

(B) If no quorum is present, the Council shall not thereby stand adjourned, but the members present shall adjourn or recess the Council by a majority vote.
(Prior Code, § 31.041)

§ 31.037 ABSENCE OF PRESIDENT.

At any meeting of the Council where a majority shall be assembled, and if the President is temporarily absent but within or near the community, the Clerk of Council shall preside and call the roll, whereupon the Council shall elect a temporary Chairperson from its membership. In the event that the absence of the President shall be of a more permanent nature, a President Pro Tem shall be elected.
(Prior Code, § 31.042)

§ 31.038 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 Council members to exercise their right to appeal a decision of the Chair, the Council 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 Council room to be cleared, or to have any disorderly person or persons ejected, in case of any disturbances or disorderly conduct which prevent the meeting from being continued in an orderly manner.

(D) Nothing in this code shall preclude the President from making or seconding a motion or from voting on any matters coming before the Council.
(Prior Code, § 31.043)

§ 31.039 DUTIES OF COUNCIL 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 Council room during the session without permission from the presiding officer.

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

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

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

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

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

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

(I) The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his or her integrity, character or motives are assailed, questioned or impugned. (Prior Code, § 31.044)

§ 31.040 SECONDING OF MOTIONS REQUIRED.

No motion shall be put or debated in the Council or in committee unless it be seconded. When a motion is seconded, it shall be stated by the presiding officer before debate. (Prior Code, § 31.045)

§ 31.041 WITHDRAWAL OF MOTIONS.

After a resolution or a motion is stated by the President, it shall be deemed to be in the possession of the Council, but it may be withdrawn by the maker thereof with or without the consent of the Council member seconding the motion prior to the call for the vote by the President. (Prior Code, § 31.046)

§ 31.042 DIVISION OF QUESTIONS.

If any question under consideration contains several distinct propositions, the Council, by a majority vote of the members present, may divide the questions. (Prior Code, § 31.047)

§ 31.043 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.

(Prior Code, § 31.048)

§ 31.044 VOTE.

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

(B) The names of each member of the Council shall be listed on the official copy of every ordinance passed indicating specifically the names of those voting "aye" and those voting "nay."

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

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

(Prior Code, § 31.049)

Cross-reference:

Two-thirds vote; when required, see § 31.071

§ 31.045 PRECEDENCE OF MOTION.

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

- (A) To fix the time to which to adjourn;
- (B) To adjourn;
- (C) To take a recess;
- (D) To raise a question of privilege;

(E) To call for the orders of the day;

(F) To lay on the table;

(G) To call for the previous question;

(H) To postpone to a certain time;

(I) To refer to committee;

(J) To amend;

(K) To postpone indefinitely; and

(L) To the main motion.

(Prior Code, § 31.050)

§ 31.046 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.

(Prior Code, § 31.051)

§ 31.047 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.

(Prior Code, § 31.052)

§ 31.048 MOTION TO POSTPONE INDEFINITELY.

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

(Prior Code, § 31.053)

§ 31.049 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.

(Prior Code, § 31.054)

§ 31.050 AMENDMENTS.

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

(Prior Code, § 31.055)

§ 31.051 RECONSIDERATION.

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

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

(C) A motion to reconsider must be made and seconded by members who voted on the prevailing side of the question to be reconsidered, unless otherwise provided by law; provided, however, that where a motion has received a majority vote in the affirmative, but is declared lost solely on the ground that a greater number of affirmative votes is required by statute for the passage or adoption of the motion, then in that case a motion to reconsider may be made and seconded only by those who voted in the

affirmative on the question to be reconsidered, so long as the issue presented is the same, no new information is forthcoming, and the rights of third parties have not intervened.
(Prior Code, § 31.056)

§ 31.052 VISITORS AND PETITIONERS.

Except during the time allotted for public discussion and comments, no person other than a member of the Council shall address that body, except with the consent of a majority of the members present.
(Prior Code, § 31.057)

§ 31.053 REPORTS, COMMUNICATIONS, PETITIONS AND THE LIKE.

All communications, reports, petitions or any other papers addressed to the Council shall be made available to the Clerk of Council prior to the meeting. The Clerk of Council shall endeavor to distribute copies or read the material to the members of the Council.
(Prior Code, § 31.058)

§ 31.054 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 Council in all cases to which they are applicable and in which they are not inconsistent with the ordinances of the town, including these rules or the statutes of the state.
(Prior Code, § 31.059)

§ 31.055 TEMPORARY SUSPENSION OF RULES; AMENDMENT OF RULES.

The rules of the Council may be temporarily suspended, altered or amended, by concurrence of a majority vote of all the Council members then in office.
(Prior Code, § 31.060)

ORDINANCES AND RESOLUTIONS

§ 31.070 MAJORITY VOTE; WHEN REQUIRED.

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

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

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

(Prior Code, § 31.080)

Cross-reference:

Effect of abstentions, see § 31.044

§ 31.071 TWO-THIRDS VOTE; WHEN REQUIRED.

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

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

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

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

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

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

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

(Prior Code, § 31.081)

§ 31.072 DATE OF ADOPTION; PUBLICATION.

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

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

(1) It is published under division (C) below; 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 Council members, if the town has abolished legislative body districts under I.C. 36-5-2-4.1.

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

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

(D) This section (other than division (F) 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.

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

- (1) Be published one time in accordance with I.C. 5-3-1, and not later than 30 days after the ordinance is adopted by the Town Council in accordance with I.C. 5-3-1; and
- (2) Delay the implementation of the fee increase for 90 days after the date the ordinance is published under division (E)(1) above.

(F) Subject to division (J) below, the legislative body shall:

- (1) Subject to division (G) 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.

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

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

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

(J) The notice requirements of division (F) 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 (F) above as part of a risk-based remediation proposal:

(1) Approved by the Department; and

(2) Conducted under I.C. 13-22, 13-23, 13-24, 13-25-4 or 13-25-5.
(I.C. 36-5-2-10)
(Prior Code, § 31.082)

§ 31.073 RECORD OF ORDINANCES.

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

(1) The signature of the President of Council;

(2) The attestation of the Clerk-Treasurer; and

(3) The date of each recorded item.

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

(I.C. 36-5-2-10.2) (Prior Code, § 31.083)

CHAPTER 31: 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 Police Chief

- 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 Police Chiefs; Humane Officer

Code Enforcement Officer

- 32.35 Position created
- 32.36 Authority

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)) (Prior Code, § 32.01)

§ 32.02 ELECTION; TERM OF OFFICE.

(A) *Election.* The Clerk-Treasurer shall be elected under I.C. 3-10-6 or 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))

(Prior Code, § 32.02)

§ 32.03 POWERS AND DUTIES.

(A) The Clerk-Treasurer is both the Town Clerk and the Town Fiscal Officer.

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

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

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

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

(1) Receive and care for all town money and pay the money out only on order of the Town Council;

(2) Keep accounts showing when and from what sources the Clerk-Treasurer has received town money, and when and to whom the Clerk-Treasurer has paid out town money;

(3) Prescribe payroll and account forms for all town offices;

(4) Prescribe the manner in which creditors, officers and employees shall be paid;

(5) Manage the finances and accounts of the town and make investments of town money;

(6) Prepare for the Town Council the budget estimates of miscellaneous revenue, financial statements and the proposed tax rate;

(7) Maintain custody of the town seal and the records of the Town Council;

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

(9) Serve as Clerk of the Town Council by attending its meetings and recording its proceedings;

(10) Administer oaths, take depositions and take acknowledgment of instruments that are required by statute to be acknowledged, without charging a fee;

(11) Serve as clerk of the town court under I.C. 33-35-3-2, if the judge of the court does not serve as clerk of the court or appoint a clerk of the court under I.C. 33-35-3-1; and

(12) Perform all other duties prescribed by statute.
(I.C. 36-5-6-6)
(Prior Code, § 32.03)

§ 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 Council.

(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)
(Prior Code, § 32.04)

§ 32.05 OFFICE SPACE.

If office space exists in a building owned or leased by the town, the Town Council shall provide suitable office space for the Clerk-Treasurer and staff and records of the Clerk-Treasurer.
(I.C. 36-5-6-5.1) (Prior Code, § 32.05)

TOWN POLICE CHIEF**§ 32.20 APPOINTMENT; COMPENSATION.**

The Town Council shall appoint the Town Police Chief and shall fix his or her compensation.
(I.C. 36-5-7-2) (Prior Code, § 32.20)

§ 32.21 REMOVAL FROM OFFICE; DISCIPLINE.

(A) The Town Police Chief serves at the pleasure of the Town Council.

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

(I.C. 36-5-7-3) (Prior Code, § 32.21)

§ 32.22 POWERS AND DUTIES.

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

(B) The Town Police Chief or his or her deputy:

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

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

(3) Shall suppress breaches of the peace;

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

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

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

(I.C. 36-5-7-4) (Prior Code, § 32.22)

§ 32.23 SERVICE AS STREET COMMISSIONER AND FIRE CHIEF.

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

(I.C. 36-5-7-5) (Prior Code, § 32.23)

§ 32.24 DEPUTY POLICE CHIEFS; HUMANE OFFICER.

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

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

(C) The Town Council shall fix the amount of bond, compensation and term of service of Deputy Police Chiefs. The Town Police Chief may dismiss a Deputy Police Chief at any time. However, a Deputy Police Chief 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) (Prior Code, § 32.24)

CODE ENFORCEMENT OFFICER**§ 32.35 POSITION CREATED.**

The position of Code Enforcement Officer is hereby created within the town as a position appointed by the Town Council.

(Prior Code, § 32.35) (Ord. 2009-1, passed 3-9-2009)

§ 32.36 AUTHORITY.

(A) The Code Enforcement Officer shall be and is hereby authorized to enforce ordinance violations in the town. The authority shall extend to, but shall not be limited to, violations of Ord. 2006-2, 2007-2, 2007-3, 2007-4, 2007-7, 2008-2, 2008-3 and 2008-4 and to any other ordinance regulating the public health, safety and welfare, the conduct of persons or the use of possessions or property.

(B) Although the Code Enforcement Officer is authorized to exercise authority on behalf of the town, as set forth in division (A) above, this section does not revoke the authority of other town officers or agents previously authorized to enforce town codes.

(Prior Code, § 32.36) (Ord. 2008-05, passed 7-14-2008; Ord. 2009-1, passed 3-9-2009; Ord. 2009-6, passed 9-14-2009)

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
- 33.08 Promotion of economic development

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 agency
- 33.36 Purchase of supplies manufactured in the United States
- 33.37 Use of credit cards by town employees

Funds

- 33.50 American Rescue Plan Coronavirus Local Fiscal Recovery Fund

Capital Asset Threshold; Classification Policy

- 33.65 General
- 33.66 Definition
- 33.67 Threshold levels; valuation of capital assets; asset definitions by major category
- 33.68 Capital asset acquisitions, transfers and dispositions
- 33.69 Periodic inventories
- 33.70 Responsibilities of officials

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

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

(I.C. 36-5-4-2) (Prior Code, § 33.01)

§ 33.02 ISSUE OF WARRANTS.

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

(B) A town officer who violates this section forfeits his or her office.

(I.C. 36-5-4-3) (Prior Code, § 33.02)

§ 33.03 ALLOWANCE OF CLAIMS.

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

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

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

(B) A town officer who violates this section forfeits his or her office.

(I.C. 36-5-4-4) (Prior Code, § 33.03)

§ 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 of this subchapter, a warrant for payment of a claim against a town may be issued only if the claim is:

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

- (2) Filed with the Town Fiscal Officer;
- (3) Certified by the Fiscal Officer before payment that each invoice is true and correct; and
- (4) Allowed by the Town Council or by the board of the town having jurisdiction over allowance of the payment of the claim.

(C) The certification by the Fiscal Officer under division (B)(3) above must be on a form prescribed by the State Board of Accounts.
(I.C. 36-5-4-6) (Prior Code, § 33.04)

§ 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) (Prior Code, § 33.05)

§ 33.06 CLAIM PAYMENTS IN ADVANCE OF ALLOWANCE.

(A) The following claims for expenses may be paid in advance of Town Council approval subject to the restrictions of this section:

- (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) Promotional funding, including but not limited to community event funding, town sponsorships and advertising;

(13) Office, cleaning, repair and maintenance supplies for daily operations; and

(14) Expenses that must be paid because of emergency circumstances.

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

(C) The Town Council shall review and allow the claim at the next regular or special meeting following the pre-approved payment of the expense authorized by this section.

(Prior Code, § 33.06) (Ord. 2021-08-1, passed 8-9-2021)

Statutory reference:

Similar provisions, see I.C. 36-5-4-12

§ 33.07 TRANSFER OF FUNDS.

Notwithstanding I.C. 8-14-1 and 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 Council that specifies the amount of the transfer, the funds involved, the date of the transfer and the general purpose of the transfer. However, the total amount of all money transferred by the town under this section may not exceed \$40,000.

(I.C. 36-5-4-13(b)) (Prior Code, § 33.07)

§ 33.08 PROMOTION OF ECONOMIC DEVELOPMENT.

(A) The Town Council is hereby authorized to provide funding from the town's Riverboat Fund Account for one or more of the following economic development purposes:

(1) Promoting significant opportunities for the gainful employment of the town's residents;

(2) Attracting a major new business enterprise for the town; or

(3) Retaining or expanding a significant business enterprise in the town.

(B) Funds may be expended, at the discretion of Council, for any of the following, or for contributions related to reimbursement for costs or expenses for any of the following, to promote economic development as provided herein:

- (1) Acquisition of land;
- (2) Acquisition of property interests;
- (3) Site improvements;
- (4) Infrastructure improvements;
- (5) Buildings;
- (6) Structures;
- (7) Rehabilitation, renovation, or enlargement of buildings or structures;
- (8) Machinery and/or;
- (9) Equipment.

(Prior Code, § 33.08) (Ord. 2011-7, passed 9-12-2011)

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 Council 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) (Prior Code, § 33.20)

Cross-reference:

Compensation of officials and employees, see § 30.01

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

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

(B) The Town Council shall promptly act on the appropriation ordinance.
(I.C. 36-5-3-4) (Prior Code, § 33.21)

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

After the passage of the appropriation ordinance, the Town Council may make further or additional appropriations by ordinance, unless their result is to increase the tax levy set under I.C. 6-1.1-17. The Town Council may, by ordinance, decrease any appropriation set by ordinance.
(I.C. 36-5-3-5) (Prior Code, § 33.22)

PURCHASING

§ 33.35 PURCHASING AGENCY.

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

(B) The purchasing agency shall have all the powers and duties authorized under I.C. 5-22, as may be supplemented from time to time by ordinances adopted by the Town Council.

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

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

(E) Each purchasing agent may purchase supplies with an estimated cost of less than \$25,000 on the open market without inviting or receiving quotes or bids.
(Prior Code, § 33.35) (Ord. 1998-7, passed 7-20-1998)

§ 33.36 PURCHASE OF SUPPLIES MANUFACTURED IN THE UNITED STATES.

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

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

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

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

(D) The purchase of supplies manufactured in the United States is not in the public interest.
(Prior Code, § 33.36) (Ord. passed 7-20-1998)

§ 33.37 USE OF CREDIT CARDS BY TOWN EMPLOYEES.

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

CREDIT CARD.

(a) Any card or devise that is issued to the town by a credit company to enable town employees and officials to purchase, on credit, any and all items, services, or goods in the open market.

(b) Only the Town Council may authorize the issuance of a credit card in the name of the town. Upon issuance, the Town Clerk-Treasurer shall be responsible for the authorization of a town employee's use of a credit card under this policy.

(B) *Accounting system.* The Town Clerk-Treasurer shall be responsible to maintain an accounting system or log for the use of credit cards which includes the name of the employee, their position of employment, the estimated amounts to be charged, the town fund and account number to be charged, the date the credit card is issued and returned, and any other details required by the Town Clerk-Treasurer. The accounting system may be modified by the Town Clerk-Treasurer from time to time as necessary.

(C) *Purposes for credit cards.* Town credit cards shall be used for purchases relating to the performance of town business only. No personal use of a town credit card is allowed, even if an employee offers to reimburse the town for the employee's personal use of a town credit card.

(D) *Employee responsibility.* The town employee utilizing a town credit card is responsible to provide sufficient accounting information to the Town Clerk-Treasurer so that expenditures from appropriations can be tracked to provide timely and accurate accounting information for monitoring the accounting system.

(E) *Supporting documentation.* Sufficient supporting documentation shall be made available by the town employee to the Town Clerk-Treasurer so as to approve claims for payment of credit card bills, such as paid bills and receipts. Credit card statements or credit card slips alone are not sufficient documentation. Said documentation shall be provided to the Clerk-Treasurer at a place or by means designated by the Clerk-Treasurer within 72 hours of the completion of the transaction

(F) *Late payment fees.* Any late payment fees of interest or penalties due to late filing or furnishing of documentation by a town employee issued a credit card shall be the responsibility of that employee and may be deducted from that employees pay at the next pay period following the late fee charge.

(G) *Annual fees.* The Council hereby authorizes the town to incur an annual fee for any credit card obtained by the Council, should such fee apply.
(Ord. 2013-9, passed 11-12-2013)

FUNDS

§ 33.50 AMERICAN RESCUE PLAN CORONAVIRUS LOCAL FISCAL RECOVERY FUND.

(A) Pursuant to State Examiner Directive 2021-1, the Town Council does hereby create the American Rescue Plan Coronavirus Local Fiscal Recovery Fund, a special, non-reverting fund that is designated as the ARP Coronavirus Local Fiscal Recovery Fund.

(B) The purpose of the fund is to be used for only the following reasons as set forth in § 603(c) of the Social Security Act as added by § 9901 of the American Rescue Plan in accordance with guidance issued by the United States Treasury and the State Board of Accounts:

(1) To respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or its negative economic impacts, including assistance to households, small businesses and nonprofits, or aid to impacted industries such as tourism, travel and hospitality;

(2) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the town that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;

(3) For the provision of government services to the extent of the reduction in revenue of the town due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the town prior to the public health emergency;

(4) To make necessary investments in water, sewer or broadband infrastructure; and/or

(5) Funds made available may be transferred to a private non-profit organization (as that term is defined in paragraph 17 of § 401 of the McKinney-Vento Homeless Assistance Act, being 42 U.S.C. § 11360(17)), a public benefit corporation involved in the transportation of passengers or cargo, or a special purpose unit of state or local government.

(C) Any funds to be expended shall be appropriated by the Town Council prior to expenditure.

(D) All expenditures of funds shall be approved by the Town Council with any and all claims to be paid from ARP Coronavirus Local Fiscal Recovery Fund.

(E) The Town Council will establish a plan which will outline the conditions and rules upon which the funds in the ARP Coronavirus Local Fiscal Recovery Fund are to be requested and used.

(F) Any unused funds shall be paid back to the United States Treasury if so required.

(G) The Clerk-Treasurer shall keep accurate and complete financial records of the receipt and expenditure of any and all funds deposited and paid from the ARP Coronavirus Local Fiscal Recovery Fund. The Clerk-Treasurer may retain the professional services of a third party or company to assist with this accounting.

(H) No money received in the ARP Coronavirus Local Fiscal Recovery Fund shall be used for any type of deposit into any pension fund.

(I) The plan for the funds received by the town from the American Rescue Plan Act of 2021 (ARP) shall be as follows:

(1) The funds received shall be used to combat the negative impacts of the COVID-19 pandemic on the town government, its citizens, and its businesses and to make necessary investments in infrastructure as permitted by § 603(c) of the Social Security Act as added by § 9901 of the American Rescue Plan and in accordance with guidance issued by the United States Treasury and the State Board of Accounts; and

(2) This plan may be modified by the Town Council as additional guidance is issued.
(Ord. 2021-, passed - -2021)

CAPITAL ASSET THRESHOLD; CLASSIFICATION POLICY

§ 33.65 GENERAL.

(A) The capital asset threshold will be \$5,000. An asset with a value under \$5,000 will be expensed in the year of purchase. The infrastructure portion of this policy is also effective March 1, 2022.

(B) This policy is intended to classify capital assets, including fixed assets and infrastructure, for accuracy in financial reporting through the State Board of Accounts. For purposes of this subchapter, capital assets do not include data processing programs, software programming or computer operations procedures.

(Ord. 2022-2-2, passed 2-28-2022)

§ 33.66 DEFINITION.

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

CAPITAL ASSETS. Includes land, land improvements, monuments, buildings and building improvements, construction in progress, machinery, equipment, vehicles and infrastructure. All items with a useful life of more than one year and having an initial unit cost of \$5,000 or more shall be capitalized including, but not limited to, acquisitions by lease-purchase agreements and donated items. A ***CAPITAL ASSET*** meeting the criteria set out herein will be reported in the government-wide financial statements.

(1) Assets that are not required to be capitalized (i.e., items under \$5,000) shall be expensed in the year of acquisition. An inventory shall be kept on all computers and other equipment with a capitalized cost of under \$5,000.

(2) Exceptions are:

(a) Items costing less than the above limits which are permanently installed as a part of the cost of original construction or installation of a larger building or equipment unit will be included in the cost of the larger unit;

(b) Modular equipment added subsequent to original equipment construction of a larger building or equipment unit which may be put together to form larger units costing more than the prescribed limits will be charged to capital assets even though the cost of individual items is less than such units; and

(c) Cabinets, shelving, bookcases and similar items, added subsequent to original construction, which are custom made for a specific place and adaptable elsewhere, will be capitalized.

(3) This policy is intended to classify capital assets, including fixed assets and infrastructure, for accuracy in financial reporting through the State Board of Accounts.

(4) For purposes of this subchapter, *CAPITAL ASSETS* do not include data processing programs, software, programming or computer operations procedures.
(Ord. 2022-2-2, passed 2-28-2022)

§ 33.67 THRESHOLD LEVELS; VALUATION OF CAPITAL ASSETS; ASSET DEFINITIONS BY MAJOR CATEGORY.

(A) *Threshold levels for capital assets.* The following schedule will be followed for the different types of capital assets other than infrastructure assets:

| <i>Type</i> | <i>Amount</i> |
|--------------------------|---------------|
| Building | \$5,000 |
| Building improvements | \$5,000 |
| City utility assets | \$5,000 |
| Construction in progress | All |
| Land | All |
| Land improvements | \$5,000 |
| Machinery and equipment | \$5,000 |
| Vehicle | \$5,000 |

(B) *Valuation of capital assets.*

(1) Generally, the cost recorded for each capital asset shall be the purchase price or construction cost of the asset, but shall also include any other reasonable and necessary costs incurred to place the asset in its intended location ready for its intended use.

- (2) Such costs could include the following:
- (a) Legal and title fees, closing costs;
 - (b) Appraisal and negotiation fees, surveying fees;
 - (c) Damage payments;
 - (d) Land preparation costs, demolition costs;
 - (e) Architect, engineering and accounting fees;
 - (f) Insurance premiums during construction; and
 - (g) Transportation charges, interest costs during construction.

(3) Donated or contributed assets should be recorded at the fair market value of the item donated on the date of the donation

(C) *Asset definitions by major category.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Additionally, it is important to the maintenance of accurate records that each asset category be precisely defined and that all persons responsible for records maintenance be fully aware of the categorization system. This section further clarifies the asset definition by major category.

BUILDINGS. All structures designed and erected to house equipment or to provide space for the provision of services or the completion of municipal functions are included. This would also include fixtures within buildings and attachments to buildings such as porches, stairs, fire escapes, canopies, areaways, lighting fixtures and flagpoles. Plumbing systems, lighting systems, heating, cooling, ventilation and air handling systems, alarm systems, surveillance systems, passenger and freight elevators, escalators, build-in casework, walk-in coolers and freezers, fixed shelving and other fixed equipments are included with the **BUILDING**, if owned. Communication antennas and/or towers are not included as **BUILDINGS**; these are parts of equipment units that they serve.

EQUIPMENT. Includes all other types of physical property within the scope of the fixed asset management system not previously classified. The term **EQUIPMENT** includes, but is not limited to, the following:

- (a) Office mechanical equipment, office furniture, appliances, furnishings and the accessories to these items;
- (b) Maintenance equipment;

- (c) Communication equipment;
- (d) Laboratory equipment;
- (e) Weapons and other equipment used in law enforcement;
- (f) Street cleaning and other equipment used in street maintenance and upgrading;
- (g) The swimming pool, playground equipment, mowers and other equipment used by Park Department;
- (h) Sanitation equipment; and
- (i) The term *EQUIPMENT* shall not include supplies.

IMPROVEMENTS OTHER THAN BUILDINGS.

(a) Examples of town assets in this category are walks, parking areas and drives, fencing and other similar items.

(b) Examples of town utilities assets in this category are water supply mains, collections sewers, wells, dams, fences, intake pipes, manholes and fire hydrants.

INFRASTRUCTURE.

(a) Generally, includes assets that have long useful lives and are normally stationary in nature. *INFRASTRUCTURE* includes, but is not limited to, the following: roads; streetlights; traffic signals; drainage systems; and water systems. *INFRASTRUCTURE ASSETS* do not include buildings, drives, parking lots or any other property used in association with buildings.

(b) Additions and improvements to *INFRASTRUCTURE*, which increase the capacity or efficiency of the asset, shall be capitalized. Maintenance and repairs are necessary to maintain the existing asset and, therefore, are not capitalized. For example, patching, resurfacing, snow removal and the like are considered maintenance activities and will be expensed. Also, normal department operating activities such as feasibility studies, and preliminary engineering and design reviews will be expensed and not capitalized as an element of the *INFRASTRUCTURE ASSET*.

(c) Alleys will not be included as part of the *INFRASTRUCTURE*. The land under alleys will be added to total land.

LAND. Specified land, lots, parcels or acreage, including rights-of-way, owned by the town and its various departments, boards or authorities, regardless of the method or date of acquisition.

Easements will not be included as the town does not own them, but as an interest in land owned by another that entitles its holder to a specified limited use.
(Ord. 2022-2-2, passed 2-28-2022)

§ 33.68 CAPITAL ASSET ACQUISITIONS, TRANSFERS AND DISPOSITIONS.

(A) Capital asset acquisitions.

(1) The method of acquisition is not a determining factor. Each department should report items acquired by:

- (a) Regular purchase;
- (b) Lease purchase;
- (c) Construction by town personnel;
- (d) Construction by an outside contractor;
- (e) Resolution/condemnation;
- (f) Donation/contribution;
- (g) Addition to an existing asset;
- (h) Transfer from another department;
- (i) Trade or barter; and
- (j) Annexation.

(2) Lease equipment should be capitalized if the lease agreement meets any one of the following criteria:

- (a) The lease transfers ownership of the property to the lessee by the end of the lease term;
- (b) The lease contains a bargain purchase option;
- (c) The lease term is equal to 75% of the estimated economic life of the leased property;

and

(d) The present value of the minimum lease payments at the inception of the lease, excluding executory costs, equals at least 90% of the fair value of the leased property.

(3) Leases that do not meet any of the above criteria should be recorded as an operating lease and reported in the notes of the financial statements.

(B) *Asset transfers and dispositions.*

(1) Property should not be transferred from one department to another, sold, given away or otherwise disposed of without prior approval of the department head.

(2) When any transfer as described above is required, the department head or his or her designee shall complete a vehicle/equipment out processing checklist and deliver the completed form to the Town Clerk-Treasurer's office. This process shall be completed for any transfer which involves any movement of an asset by virtue of change in location, either by account, department, building, floor or room or the retirement or disposal of property.

(3) The completed vehicle/equipment out processing checklist shall include the following:

(a) Sufficient detail to properly identify the asset involved, including the asset's tag number or town identification;

(b) Legible and accurate entries;

(c) Correct and accurate information; and

(d) The signature of the department head verifying the accuracy of the information involved.

(4) If a capital asset is stolen, the department involved shall notify the Police Department as well as the Clerk-Treasurer's office of the theft, in writing.
(Ord. 2022-2-2, passed 2-28-2022)

§ 33.69 PERIODIC INVENTORIES.

(A) A physical inventory of all capital assets (any item over \$5,000) shall be conducted in each department on or about December 31 of every year.

(B) The Clerk-Treasurer's office shall conduct spot checks on this inventory on a random basis to assure accurate information is reported.

(C) Department heads shall be accountable for the capital asset inventory charged to their departments by verifying a list of their capital assets at year-end.
(Ord. 2022-2-2, passed 2-28-2022)

§ 33.70 RESPONSIBILITIES OF OFFICIALS.

(A) *Responsibilities of Clerk-Treasurer's office.* The Fiscal Office shall ensure that the capital asset report is updated annually to accurately reflect additions, retirements and transfers of capital assets for financial accounting purposes.

(B) *Responsibilities of the heads of departments.*

(1) It is the responsibility of the head of the department to act as or designate a steward for each piece of property. Generally, the steward would be the person who has routine control and use of a given piece of property. The steward shall do the following:

(a) Answer questions regarding the location, availability, condition and usage of the specific asset or assets for which he or she is responsible;

(b) Arrange appropriate preventative maintenance or essential repairs for any capital asset which are necessary to keep the asset in good working order;

(c) Ensure that the asset is used for the purpose for which it was intended and that there is no personal or unauthorized use;

(d) Report to the department head or Town Manager or Clerk-Treasurer any property damage or theft of any capital asset; and

(e) Serve as the department contact for the named item during the physical inventory process.

(2) Upon receipt of a new capital asset, the department head or his or her designee shall:

(a) Record the receipt of any new assets;

(b) Examine the new asset to make certain that no damage was incurred during shipment;
and

(c) Inspect the asset to assure that the asset was received in working order.
(Ord. 2022-2-2, passed 2-28-2022)

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

Cross-reference:

Code Enforcement Officer, see §§ 32.35 and 32.36

Procedure for enforcement of violations, see § 35.08

§ 34.01 ESTABLISHMENT.

The Town Council may establish, by ordinance or code, an Ordinance Violations Bureau.
(I.C. 33-36-2-1) (Prior Code, § 34.01)

§ 34.02 VIOLATIONS CLERK DESIGNATED.

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

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

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

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

(Prior Code, § 34.02)

§ 34.03 DUTIES OF CLERK.

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

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

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

(I.C. 33-36-2-3) (Prior Code, § 34.03)

§ 34.04 SCHEDULE OF FINES.

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

(B) (1) Civil penalties shall be paid to, receipted by and accounted for by the Clerk under procedures provided for by the State Board of Accounts.

(2) Payment of civil penalties under this chapter may be made in person, by mail or to an agent or agents designated by the Town Council.

(I.C. 33-36-3-1) (Prior Code, § 34.04)

§ 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 of this chapter.

(I.C. 33-36-3-2) (Prior Code, § 34.05)

§ 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) (Prior Code, § 34.06)

§ 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) (Prior Code, § 34.07)

§ 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 33-37-7-6 when determining the percentage of ordinance violations prosecuted in certain courts.

(I.C. 33-36-3-6) (Prior Code, § 34.08)

§ 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) (Prior Code, § 34.09)

CHAPTER 35: TOWN PLANS AND POLICIES

Section

General Provisions

- 35.01 County's Hazard Mitigation Plan
- 35.02 Copy costs
- 35.03 NIMS adopted
- 35.04 Travel policy
- 35.05 Public records
- 35.06 Financial software systems
- 35.07 Personnel policies adopted by reference
- 35.08 Establishing a procedure for enforcement of violations
- 35.09 Materiality policy

Tort Claims Against Town

- 35.20 Clerk-Treasurer to receive notice
- 35.21 Form and service of notice

Plans

- 35.35 Economic Development Plan
- 35.36 American with Disabilities Transition Plan and Title VI Implementation Plan

GENERAL PROVISIONS

§ 35.01 COUNTY'S HAZARD MITIGATION PLAN.

The County All Hazard Mitigation Plan is hereby adopted as an official plan of the town.
(Prior Code, § 35.01) (Res. 2009-1, passed 1-12-2009; Res. 2016-1, passed 1-11-2016)

§ 35.02 COPY COSTS.

The town does hereby establish the charge of \$0.10 per page for each standard size or legal size copy made for the public.

(Prior Code, § 35.02) (Ord. 2008-02, passed 5-12-2008)

§ 35.03 NIMS ADOPTED.

(A) All departments shall utilize the National Incident Management System (NIMS) prescribed by the Department of Homeland Security.

(B) The Town Council directs all departments to train their personnel on the NIMS and to update the Comprehensive Emergency Management Plan to reflect the use of NIMS.

(Prior Code, § 35.03) (Res. passed 10-9-2006)

§ 35.04 TRAVEL POLICY.

(A) *Established.* A travel policy for the town is hereby established.

(B) *Reimbursement policy for travel and related expenses.*

(1) *Generally.* Expenses described in division (B)(2) below which are incurred by a town employee or elected official related to town duties, responsibilities or actions while participating in activities on behalf of the town shall be reimbursable as hereinafter provided.

(2) *Expenses.*

(a) Private vehicles: mileage for travel related to official town business shall be reimbursable at the current mileage rate set by the Internal Revenue Service.

(b) Parking fees or tolls incurred and paid while a town employee is on official town business shall be reimbursable. However, the same shall not include traffic and parking tickets issued by any Police Department for an ordinance or state violation.

(c) Meals, lodging and other reasonable expenses necessary and relevant to travel outside a 50-mile radius of the corporate limits of the city on official business shall be reimbursable. Meal expenses shall be paid at a maximum rate of \$50 per day, including tips (limited to 15% of the meal cost). Amounts over \$50 require specific approval by the Town Council. When breakfast and lunch are provided by an outside party at no charge, the daily maximum per diem rate is reduced to no more than \$25 per day, including tip.

(d) An amount equivalent to coach air fares or fares which are commonly understood to be coach rates, or any lower fare, available, shall be reimbursed.

(e) Meeting expenses, seminar expenses and related items incurred while on official town business, shall be reimbursable, whether or not inside the town's corporate limits.

(f) Non-reimbursable expenses include, but are not limited to, in-room movies, alcohol, saunas, massages, golf, personal telephone calls, either long-distant or local and any other service or entertainment not directly serving a town related business purpose.

(g) Any expenses resulting from companion travel which companion is not on official town business, and which causes any expense over and above the expense reasonably incurred by the town employee, shall not be reimbursable.

(h) All expenses set forth under this division (B)(2) are subject to the claim submission requirements set forth in division (B)(3) below.

(3) *Claim submission requirements.*

(a) Any claim for reimbursement of travel expenses incurred while on official town business must be itemized and documented by receipts and presented as a claim for payment in the normal course of business. In the event receipts are unavailable, lost or destroyed, the employee may obtain reimbursement by signing an affidavit that the expense was incurred on behalf of the town and by submitting a claim as herein provided.

(b) Prior to submission for reimbursement, a claim must first be reviewed and authorized by the Clerk-Treasurer to confirm that the claims submitted fall within the guidelines of this section and are within the appropriate budget.

(c) Registration fees, hotel reservations and airline fares connected with seminars, workshops, schools or other town-required travel may be paid in advance if supported by a fully itemized claim approved by the Clerk-Treasurer. Any savings resulting from changes in schedule or transportation shall be delivered to the office of the Clerk-Treasurer within ten business days of travel completion accompanied by written documentation.

(d) Any allowable expenses charged by an employee on his or her personal charge cards will be reimbursed for the face value of the purchase after submission of the claim to the Clerk-Treasurer and the Town Council in the normal course of business. Late or interest charges will not be reimbursed for any reason. Credit card charges are also governed by the provisions of the town's ordinance on credit card use.

(Prior Code, § 35.04) (Ord. 2005-4, passed 11-14-2005; Ord. 2013-8, passed 11-12-2013)

§ 35.05 PUBLIC RECORDS.

The following records shall be excepted from public disclosure under I.C. 5-14-3-3 and may not be disclosed by the town, its Council members, Clerk-Treasurer and the like:

(A) Investigatory records of law enforcement agencies;

(B) The work product of an attorney representing the town pursuant to appointment;

(C) Test questions, scoring keys and other examination data used in administering an examination of employment both before the examination is given and if it is to be given again;

(D) Scores of tests, if the person is identified by name and has not consented to the release of his or her scores;

(E) Records relating to negotiations between the Department of Commerce, the State Development Finance Authority, the Film Commission, the State Business Modernization and Technology Corporation or other economic development commissions with industrial, research or commercial prospects, if the records are created while negotiations are in progress;

(F) Records that are kept within the town's various departments, including employee notes, logs which are advisory or deliberative material, including material developed by a private contractor under a contract with the town, which records are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision-making;

(G) Diaries, journals or other personal notes serving as the functional equivalent of a diary or journal;

(H) (1) Personnel files of public employees and files of applicants for public employment, except for:

(a) The name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience or dates of first and last employment of present or former officers or employees of the town;

(b) Information relating to the status of any formal charges against the employee; and

(c) Information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

(2) However, all personnel file information shall be made available to the affected employee or his or her representative. This division (H)(2) does not apply to disclosure of personnel information

generally on all employees or for groups of employees without the request being particularized by employee name.

(I) Administrative or technical information that would jeopardize a recordkeeping or security system;

(J) Computer programs, computer codes, computer filing systems and other software that are owned by the town or entrusted to it and portions of electronic maps entrusted to the town by a utility, software company and the like;

(K) Records specifically prepared for discussion or development during discussion in an executive session under I.C. 5-14-1.5-6.1;

(L) The identity of a donor of a gift made to the town if:

(1) The donor requires nondisclosure of his, her or its identity as a condition of making the gift; or

(2) After the gift is made, the donor or a member of the donor's family requests nondisclosure.

(M) (1) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the Bureau of Motor Vehicles' staff or members of the driving licensing advisory committee.

(2) However, upon written request to the Commissioner of the Bureau of Motor Vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver. (Prior Code, § 35.05) (Ord. 2003-6, passed 10-13-2003)

§ 35.06 FINANCIAL SOFTWARE SYSTEMS.

The Town Council adopts Keystone Consulting Services, Inc., financial software systems and requests that the State Board of Accounts approve all forms which have been previously submitted by the City of Seymour and any updates and revisions provided in the future for use by the town. (Prior Code, § 35.06) (Res. 2000-4, passed 10-9-2000)

§ 35.07 PERSONNEL POLICIES ADOPTED BY REFERENCE.

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

(Prior Code, § 35.07) (Ord. passed - -; Ord. passed - -; Ord. 1996-1, passed 1-15-1996; Ord. passed 12-30-1996; Ord. passed 12-30-1996; Ord. 1997-1, passed - -1997; Ord. 1997-2, passed 12-29-1997;

Res. 2003-3, passed 9-8-2003; Ord. passed 2-9-2004; Ord. passed 8-14-2006; Ord. passed 1-12-2009; Ord. 2011-1, passed 1-10-2011; Ord. 2012-4, passed 6-11-2012; Ord. 2012-6, passed 12-27-2012; Ord. 2013-10, passed 12-23-2013; Ord. 2014-5, passed 12-29-2014; Res. passed - -2015; Ord. 2015-3, passed 12-29-2015; Ord. 2016-12-1, passed 12-27-2016; Res. passed - -2017; Ord. passed 2-13-2017; Ord. 2017-12-1, passed 12-11-2017; Res. 2018-7-1, passed 7-9-2018; Res. 2018-8-1, passed 8-13-2018; Res. 2018-9-1, passed 9-10-2018; Ord. 2018-12-1, passed 12-10-2018; Res. 2019-9-1, passed 9-9-2019; Ord. 2019-12-1, passed 12-12-2019; Res. 2020-9-1, passed 9-14-2020; Ord. 2020-12-1, passed 12-14-2020; Res. 2021-4-1, passed 4-26-2021; Ord. 2021-6-1, passed 8-8-2021; Ord. 2021-9-1, passed 8-8-2021)

§ 35.08 ESTABLISHING A PROCEDURE FOR ENFORCEMENT OF VIOLATIONS.

(A) Whenever a violation of any provision of this code of ordinances necessitates the commencement of an enforcement action, the enforcement action shall be filed in the Circuit or Superior Courts of Dearborn County having jurisdiction of the offenses.

(B) All references to the Aurora City Court contained in the code of ordinances are hereby vacated and the code is amended to replace all such references to the Aurora City Court with direct reference to the Circuit or Superior Courts of Dearborn County, Indiana.

(C) Whenever a person aggrieved by a finding of violation of the code of ordinances is provided with a right to appeal the finding under the code, that appeal shall be perfected by filing an appropriate petition in the Circuit or Superior Courts of Dearborn County, Indiana.

(D) The amendments set forth herein shall apply to all enforcement actions and to all appellate rights arising from the code of ordinances and shall be effective immediately upon adoption of this section. (Prior Code, § 35.08) (Ord. 2012-1, passed 2-13-2012)

Cross-reference:

Ordinance Violations Bureau, see §§ 34.01 through 34.09

§ 35.09 MATERIALITY POLICY.

(A) (1) The materiality threshold for the town shall be \$100.

(2) If the erroneous or irregular variance, loss, shortage and/or theft is not cash or a cash-equivalent, the value of the item at the time of the variance, loss, shortage and/or theft shall be used to determine whether the materiality threshold has been met.

(B) (1) All erroneous or irregular variances, losses, shortages and/or thefts of \$100 or more shall be reported immediately to the State Board of Accounts (SBOA).

(2) In addition, all erroneous or irregular variances, losses, shortages and/or thefts which occur more than one time per month and which in the aggregate total \$100 or more shall be reported immediately to the SBOA.

(C) A public officer who has knowledge of or reasonable cause to believe that there has been a misappropriation of public funds or assets of the public office shall immediately send written notice of the misappropriation to the SBOA and the County Prosecuting Attorney.

(D) The town shall maintain records and documentation concerning erroneous or irregular variances, losses, shortages and/or thefts in accordance with generally-accepted accounting principles and the internal control standards provided by the SBOA.

(E) (1) The town shall investigate all erroneous or irregular variances, losses, shortages and/or thefts, regardless of whether they meet the materiality threshold established by this policy.

(2) Upon conclusion of each such investigation, the town shall:

(a) Implement procedures designed to prevent the recurrence of such incidents; and

(b) Take appropriate disciplinary action as necessary against the employee responsible for the incident.

(Ord. 2016-6-2, passed 6-13-2016)

TORT CLAIMS AGAINST TOWN

§ 35.20 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.

(Prior Code, § 35.20)

§ 35.21 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.

(Prior Code, § 35.21)

*PLANS***§ 35.35 ECONOMIC DEVELOPMENT PLAN.**

The Redevelopment Commission Declaration Resolution 2021-07-01 and the associated Economic Development Plan are hereby adopted by reference.
(Res. 2021-07-01.TC, passed 7-26-2021)

§ 35.36 AMERICANS WITH DISABILITIES TRANSITION PLAN AND TITLE VI IMPLEMENTATION PLAN.

(A) The town hereby adopts its ADA Transition Plan and Title VI Implementation Plan. A full copy of the ADA Transition Plan and the Title VI Implementation Plan can be found in the Clerk-Treasurer's office.

(B) The Town Council hereby directs that all town officials comply with the terms of the ADA Transition Plan and Title VI Implementation plan as herein approved.
(Res. 2021-9-1, passed 9-2-2021)

CHAPTER 36: BOARDS AND COMMISSIONS

Section

General Provisions

- 36.01 Park Advisory Board
- 36.02 Redevelopment Commission

Downtown Design Standards Commission

- 36.15 Organization
- 36.16 Powers and duties; conflict of laws
- 36.17 Certificate of compliance required
- 36.18 Application for certificate of compliance; appeal
- 36.19 Standards
- 36.20 Downtown Design District map

GENERAL PROVISIONS

§ 36.01 PARK ADVISORY BOARD.

(A) *Creation.* There is hereby established a Park Advisory Board.

(B) *Membership.* The Park Advisory Board shall be composed of seven members appointed by the Town Council. Members shall serve at the pleasure of the Council. At least one member shall be appointed from outside the town limits who resides in Clay Township. One other member who resides outside the town limits shall be appointed who resides in Caesar Creek Township.

(C) *Terms.* Upon establishment of the Board, the terms initially appointed shall be:

- (1) Two member(s) for a term of one year, appointed from one of the townships;
- (2) Two (s) member for a term of two years, one of which must be the remaining township member to serve on the Board;

(3) Two member(s) for a term of three years; and

(4) One member(s) for a term of four years. Thereafter, all terms shall be for a period of four years.

(D) *Expiration and reappointment.* As a term expires, each new appointment shall be made by the Town Council for a term of four years. All terms shall expire the first Monday in January, but members shall continue in office until his or her successor is appointed. If an appointment for a new term is not made by the first Monday in April, the incumbent shall serve another term. If a vacancy occurs, the town council shall appoint a new member for the remainder of the unexpired term.

(E) *Officers.* 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. The Board shall also select a secretary from within its own membership.

(F) *Powers and duties.*

(1) It shall be the responsibility of the Advisory Board to study, investigate, counsel and advise the Town Council on matters related to the care and maintenance of the park and recreational activities in the park and elsewhere in the town. However, final authority and control over all matters related to the park and town recreational activities shall remain with the Town Council. The Advisory Board may receive monetary donations from the community and individuals, and all monetary contributions shall be remitted to the Clerk-Treasurer for deposit as required by law, but for the sole purpose of development and/or maintenance of the park, or to fund park or other recreational activities approved by Town Council.

(2) In the performance of its duties, the Advisory Board, or members thereof, shall have the right to discuss all business related to parks and recreation with town employees, review records related to the same, hear complaints from citizens and make recommendations thereon to the appropriate town authorities.

(G) *Reports.* The Advisory Board shall issue a report regarding their monthly proceedings at each Town Council meeting or as directed by the Town Council.

(H) *Rules.* The Advisory Board may establish rules for the conduct of meetings. In the absence of rules, meetings will be conducted according to *Robert's Rules of Order*.

(I) *Open meetings.* The meetings of the Advisory Board shall be open to the public as required by the Indiana Open Door Law. The meetings shall be advertised and held on a regular basis as determined by the Board in consultation with the Town Council.

(Ord. 2017-06-04, passed 8-14-2017)

§ 36.02 REDEVELOPMENT COMMISSION.

(A) The Town Council now deems it to be in the best interest of the town and its citizens to afford a maximum opportunity for rehabilitation, redevelopment and/or economic development of areas by private enterprise and the town by establishing a Department of Redevelopment.

(B) The Town Council hereby establishes a Department of Redevelopment to be known as the Redevelopment Commission to be controlled by a board of five members and a non-voting advisor, who shall also be a member of the school board of a school corporation that includes all or part of the town.

(C) Pursuant to the state law, all of the territory within the corporate boundaries of the town will constitute a special taxing district to be known as the Redevelopment District for the purpose of levying and collecting special benefit taxes for redevelopment and economic development purposes as provided in state law. The Town Council finds and determines that all of the taxable property within the Redevelopment District will be considered to be benefited by the redevelopment projects and economic development projects carried out under state law to the extent of the special taxes levied under state law.

(D) (1) Pursuant to state law, the Town Council shall appoint the five members of the Redevelopment Commission.

(2) The Town Council hereby appoints one non-voting advisor in compliance with state law.

(3) The non-voting advisor is not a member of the Redevelopment Commission as such, but is entitled to attend and participate in the proceedings of all meetings of the Redevelopment Commission. The position is otherwise governed by the terms of I.C. 36-17-4-1 et seq.

(4) The Town Council also hereby creates an ex-officio advisor to the Redevelopment Commission who shall be a serving member of the Town Council. The ex-officio advisor is not a member of the Redevelopment Commission as such, but is entitled to attend and participate in the proceedings of all meetings of the Redevelopment Commission.

(E) Members of the Redevelopment Commission shall be at least 18 years of age and must be residents of the town. Members shall take and subscribe an oath of office before beginning the duties thereof and shall execute a bond as set forth in I.C. 36-7-14-7.

(F) (1) The term of office of the original members of the Redevelopment Commission, and of the ex-officio advisor shall commence from the date of their appointment and expire on January 1, 2015. Thereafter, Redevelopment Commission members and the ex-officio shall serve one-year terms.

(2) The term of office of the non-voting advisor is two years, and shall expire on January 1, 2016. Regular members and the non-voting advisor serve at the pleasure of the appointing authority. (Ord. 2013-7, passed 9-9-2013)

*DOWNTOWN DESIGN STANDARDS COMMISSION***§ 36.15 ORGANIZATION.**

(A) There is hereby established the Downtown Design Standards Commission. The Downtown Design Standards Commission shall consist of seven voting members. The voting members shall be appointed by the Town Council President, subject to the approval of the Common Council. All members shall serve for a term of two years, except as hereinafter provided; terms shall be staggered so that, at initial appointment of the Commission, three members shall serve an initial term of one year, while the remaining four seats are appointed for two-year terms. After initial appointment, all terms shall run for a period of two years. Any vacancies shall be filled within 90 days of said vacancy by the Town Council President subject to approval of the Common Council. Members appointed due to vacancy shall serve for the duration of the term of the member being replaced.

(B) Voting members shall be owners of property within the town boundaries who are interested in the preservation and development of the Downtown District.

(C) The Council President may appoint such advisory members as the Common Council considers appropriate.

(D) The Downtown Design Standards Commission shall issue certificates of compliance as to design proposals in the town. The Commission shall develop a list of benefits for this set of standards. The Commission shall develop a process for special exceptions and/or variances to be heard by a Technical Appeals Committee consisting of the Town Manager, the Director of Economic Development, and the Planning Director or their respective (individual) designees, and which shall utilize the standards and criteria set forth in I.C. 36-7-4-900 et seq. as provided herein.

(E) Members of the Commission shall serve without compensation but may be paid for reasonable expenses incurred in the performance of their duty.

(F) The Commission shall elect from its membership a Chairperson, Vice Chairperson and Secretary who shall serve for one year and who may be reelected. The Commission shall adopt rules for the transaction of its business not inconsistent with this subchapter. The rules must include the time and place of regular meetings and the procedure for the calling of special meetings. Meetings of the Commission must be open to the public in accordance with the Open Door Law and a public record shall be kept of the Commission's resolutions, proceedings and actions.

(G) The Commission shall hold regular meetings, at least monthly, except when it has no business pending. The Technical Appeals Committee will meet as necessary to consider appeals from decisions made by the Commission or requests for variances or special exceptions or other decisions regarding the issuance of certificates of compliance.

(H) Each official of the town who has responsibility for building inspection, building permits, planning or zoning, shall provide any such technical, administrative and clerical assistance as may be requested by the Commission. The Town Attorney is the attorney for the Commission. However, the Commission may employ other legal counsel authorized to practice law in Indiana if it considers it to be necessary or desirable.

(Ord. 2019-11-1, passed 11-11-2019)

§ 36.16 POWERS AND DUTIES; CONFLICT OF LAWS.

(A) The Commission shall establish, and amend as necessary, a map setting forth the boundaries of the Downtown Design District and establishing building standards and guidelines which shall be mandatory within the district when established.

(B) The established district guidelines are intended to preserve and protect the original, architecturally worthy buildings, structures, sites, monuments, streetscapes, squares and neighborhoods of the district. Individual site assessments and evaluations will be made and maintained to establish the architectural and historical worthiness of the buildings, structures, sites, monuments, streetscapes, squares and neighborhoods of the district. The building standards and guidelines referenced in division (A) above shall be completed and established by the Commission or its designee and approved by the Commission and by Town Counsel before the effective date of this subchapter. Individual site assessments and evaluations referenced in this division (B) shall be completed by the Commission or its designee as soon as practical or at minimum upon receipt of a request for a certificate of compliance by the Commission or its designee, the individual site assessment and evaluation shall be presented to the Commission for consideration in reaching a determination whether to issue a certificate of compliance.

(C) The Downtown Design Standards Commission shall be concerned with those elements of the development, redevelopment, rehabilitation and preservation that affect visual quality in the Downtown District. However, the Commission may not consider details in design, interior arrangements or building features, if those details, arrangements or features are not subject to public view and may not make any requirement except for the purpose of preventing development, alteration or demolition in the district which is obviously incongruous with the district.

(D) Conditions already in existence at the time of final approval of the standards and design guidelines set forth in § 36.19 of this subchapter shall be exempted from the operation of the standards and guidelines as established. However, in the event of the need for replacement, repair, renovation or alteration of any condition existing at the time of adoption of the standards and guidelines contemplated herein within the district, any such replacement, repair, renovation or alteration shall be subject to, and conform with, the design standards and guidelines which are finally approved.

(E) The district boundaries map and the design standards and guidelines developed and approved by the Commission, as well as subsequent amendments to either, must be submitted to, and approved

by ordinance of the Town Council before the district is established and the building guidelines, or subsequent amendments thereto, take effect.

(F) Nothing in this subchapter is intended in any way to amend, alter or affect the duties and responsibilities of property owners pursuant to any other federal or state law or local ordinance, including but not limited to local zoning and enforcement codes. Property lying within the boundaries of the downtown zoning districts, and enforcement codes which apply to the Downtown District, are subject to the regulations of the applicable zoning district, enforcement codes, building codes, and the standards and criteria of the Downtown District. If there is a conflict between the requirements of the Downtown District and any other local ordinance or state or federal code, the more restrictive requirements shall apply.

(Ord. 2019-11-1, passed 11-11-2019)

§ 36.17 CERTIFICATE OF COMPLIANCE REQUIRED.

(A) *Generally.* A certificate of compliance must be issued by the Commission before a permit is issued for, or work is begun, on any of the following:

(1) The demolition of any building;

(2) The moving of any building;

(3) A conspicuous change in the exterior appearance of original buildings by additions, construction, alteration (including the deletion of an external architectural and original feature) or maintenance involving exterior color changes;

(4) Any new construction of a principal building or accessory building or structure subject to view from a public way;

(5) A change in walls and fences or construction of walls and fences, if along public ways; or

(6) A conspicuous change in the exterior appearance of non-original buildings subject to view from the public way by additions, reconstruction, alteration or maintenance involving exterior color change.

(B) *Standard for approval.* In determining the compliance of any proposed work described in divisions (A)(1) through (A)(6) above, the Commission shall consider, in addition to any other pertinent factors, the visual compatibility, general design, arrangement, color, texture and materials in relation to the architectural or other design standards prescribed by the plan or any applicable zoning regulation, the design and character of the district, and the architectural factors of other structures in it. In determining compliance of any proposed demolition, the Commission shall consider, in addition to any

other pertinent factors, the character and significance of the subject structure in relation to the historic area and any other structures or sites in it, including its relative contribution to the district and architectural values and significance of the area. The Commission may also consider the standards set forth in § 36.18(G) and (H) of this subchapter in making a final decision.
(Ord. 2019-11-1, passed 11-11-2019)

§ 36.18 APPLICATION FOR CERTIFICATE OF COMPLIANCE; APPEAL.

An application for a certificate of compliance may be made in the office of the Town Manager, on forms provided for that purpose. Upon receipt, the Town Manager shall make arrangements for the completion of an individual site assessment/evaluation of the property, by the Commission or its designee, if an individual site assessment does not already exist. Once the individual site assessment and evaluation is complete, the Town Manager shall schedule the application for hearing at the next regularly scheduled meeting of the Commission, provided the assessment is completed at least ten days before the next regularly scheduled meeting of the Commission. Otherwise, the consideration of the application shall be held over to the next meeting of the Commission. The applicant shall be entitled to receive a copy of the individual site assessment. The Commission is empowered to make procedural and administrative rules to facilitate securing the individual site assessment, and the application and hearing process. Consideration of the application shall be subject to the following requirements.

(A) If the certificate is approved, the application shall be processed in the same manner as applications for building, demolition or zoning permits required by the town, if any, are processed. If no building, demolition, zoning or other permits are required by the town or any other governmental entity, the applicant may proceed with the work authorized by the certificate.

(B) The Commission must state its reason for a denial in writing and advise the applicant. An application that has been denied may not be processed as an application for a building, demolition or zoning permit and does not authorize any work by the applicant.

(C) Decisions regarding the issuance of a certificate of compliance, variances or special exceptions are subject to review by the Technical Appeals Committee as to its compliance in relation to the standards set forth in this subchapter. The Committee shall consider the standards set forth in § 36.17(B) of this subchapter and an appeal will only be initiated upon receipt of an application by the applicant which must be provided to the Town Manager within 15 calendar days of the Commission's written decision on a certificate of compliance. The written appeal shall set forth with particularity the specific findings of the Commission which the appellee wishes to appeal. Only unsuccessful applicants for a certificate of compliance or owners of property within the town boundaries who appear at a Commission meeting to dispute the issuance of a certificate of compliance have standing to file an appeal of the decision of the Commission, within the 15 calendar day time period set forth herein. The process for perfecting and appeal, the time-frame for hearing such appeal and the rules related to appeals shall be established by rule by the Commission and may be amended from time to time as may be required for

the efficient administration of appeals. In general, the process, time-frame and rules related to appeals shall be established in general compliance with the rules, process and procedures laid down for Boards of Zoning Appeal as set forth in I.C. 36-4-7-919 and 36-7-4-920.

(D) If the Commission finds the application to be inappropriate under the applicable standards, but that its denial would result in substantial hardship or deprive the owner of all reasonable use and benefit of the subject property, or that its effect upon the area would be insubstantial, the Commission may issue a certificate of compliance. In any case, the Commission may enter in to written commitments with the applicant in order to ensure that a certificate issued under this division (D) complies as closely as may be with the goals of the Downtown Design Standards Commission.

(E) The Commission shall issue a written decision setting forth the reasons for its decision to approve or deny any such application within ten days of the date of the determination.

(F) The hearing on the certificate of compliance may be continued by the Commission as necessary to gather additional information but a final decision must be reached within 90 days of the applicant's written request for a certificate of compliance.

(G) The Technical Appeals Committee shall consider the following factors when considering appeals from a decision by the Commission on the issuance of a certificate of compliance:

(1) Whether upholding the decision of the Commission would be injurious to the public health, safety, morals and general welfare of the community;

(2) Whether the decision results in substantial hardship or deprives the owner of all reasonable use and benefit of the subject property;

(3) Whether the decision of the Commission has a rational basis and relationship to the design standards upon which the Commission relied; and

(4) The effect of the decision on the use or value of the area adjacent to the property and across the Downtown District, particularly whether the decision generally preserves the visible character of the district.

(H) The Technical Appeals Committee shall consider the following factors when considering requests for variances or special exceptions from the design standards:

(1) The approval will not be injurious to the public health, safety, morals and general welfare of the Downtown District;

(2) The use and value of the Downtown District, and adjacent area, will not be affected in a substantially adverse manner;

(3) The need for the relief requested arises from some condition peculiar to the property involved;

(4) The strict application of the terms of the design standards will constitute an unnecessary hardship if applied to the property for which the relief is sought; and

(5) The approval does not interfere substantially with, or substantially contradict the design standards, or the Comprehensive Plan, adopted by the town.
(Ord. 2019-11-1, passed 11-11-2019)

§ 36.19 STANDARDS.

(A) Roofs.

(1) Retain or replicate original roof slopes, form, shape and materials;

(2) New materials may be appropriate if they are not visible from the street and do not impact the original building character;

(3) Retain original roof drainage system (gutters and downspouts) where possible;

(4) Direct downspouts to discharge away from the foundation;

(5) Provide sufficient positive slope on “flat” roofs to allow proper drainage;

(6) Retain original stone or tile coping (generally found at parapet walls) where present. Replace missing coping with new that replicates the original;

(7) Metal coping may be considered as an alternative coping material if it does not detract from the original appearance;

(8) If mechanical equipment and service equipment (solar devices, condensers, hatches and the like) are to be installed on the roof, placed where they are inconspicuous from view and do not damage or obscure original features; and

(9) Retain and maintain chimneys and other original rooftop components where they contribute to the overall character of the building.

(B) Storefronts.

(1) Maintain the original proportions, dimensions and elements when restoring, renovating or reconstructing a storefront;

(2) Retain or restore the glass transom panels, kick plates and entry doors at their original locations and proportions;

(3) Restore details to the original appearance utilizing physical or photographic evidence. Use simplified detail if original evidence does not exist;

(4) If the storefront has been covered with a later material, carefully remove to reveal the original elements, such as lintels, support walls, columns or piers to reestablish the original storefront "frame." Removal of a test area of the materials should be conducted first to determine if removal would cause irreparable damage to the underlying materials;

(5) If the original storefront is gone and no evidence exists, construct a new storefront that incorporates traditional storefront proportions and elements, such as display windows, transoms, kick plates and the like;

(6) When a replacement door is necessary, select a new unit that fits the original opening, emphasizes vertical proportion and retains original transom;

(7) In some instances, a door with an aluminum frame with all glass may be appropriate; and

(8) Maintain the original storefront configuration such as recessed entry, door locations and the like.

(C) *Trim and ornamentation.*

(1) Repair and preserve the original cornice, trim and decorative elements, even if worn or damaged;

(2) Replace with a replication only if damaged beyond repair or if the material is unsound. Missing decorative details may be added when there is evidence that they existed. Evidence can be found from old photographs, remnants left on the building, paint lines where parts were removed, nail holes, old notches and cut outs in siding and trim. Observation of details on similar buildings can assist but is not always conclusive;

(3) Consider new materials only if the dimensions and the finished visual effect appears the same as the original materials; and

(4) Use of window boxes, shutters, awnings and planters at the entry are ways to add "landscaping" elements to original buildings with no set back.

(D) *Wood siding.*

(1) Retain all of the sound original wood siding;

(2) Repair and retain split boards by nailing and/or gluing with waterproof glue;

(3) Leave concave or convex boards as they are unless there is a problem. If necessary, repair by carefully inserting flat screws in pre-drilled holes and gradually tighten;

(4) Putty nail holes;

(5) Cut out rotten sections using a saw, chisel or knife. The new piece to be inserted must match the original in size, dimension, profile and texture. It may be a new wood board or a salvaged board;

(6) Replace missing boards with new or salvaged wood boards to match the original;

(7) Prime and paint siding after removing all loose, flaking paint and gently cleaning the surface with a low-pressure water wash; and

(8) Replacement of original siding is justified only by documented problems with the material's structural condition. Aesthetic reasons generally do not justify replacement. As a rule, the following are conditions that generally do justify replacement:

(a) Badly rotten wood;

(b) Boards with splits (especially multiple splits) that cannot reasonably be repaired;

(c) Burned wood; or

(d) Missing wood.

(E) *Paint.*

(1) Maintain the surfaces of buildings that have originally been painted;

(2) Use manufacturer's paint recommendations for compatible paint colors representative of a particular period of construction;

(3) Consider lead paint hazards prior to any paint removal and adhere to federal, state and local regulations for appropriate removal and disposal requirements; and

(4) (a) National paint manufacturers have era appropriate color palettes, such as those offered by Sherwin Williams and other paint companies.

(b) These serve as relatively "safe" color combinations.

(c) See <https://www.sherwin-williams.com/homeowners/exterior-color-schemes/find-and-explorecolors/paint-colors-by-collection/colorthrough-the-decades/1830s>.

(F) *Guidelines for new construction/additions.*

(1) Consistency in size, scale, massing, setbacks, height and established patterns is required of new construction to be compatible with neighboring properties;

(2) Distinguish new construction as a product of its own time period;

(3) Respond to the setbacks of the original existing structures and adjacent and surrounding structures for placement of any new construction;

(4) Complement or match materials used in new construction to those used on nearby buildings;

(5) Relate to, and not adversely impact, the surrounding buildings or the context when determining color schemes for new construction;

(6) Relate in proportion and pattern window and door placement and heights to those used on existing and adjacent properties;

(7) Roofs of downtown buildings are generally flat with few exceptions. This should be the rule; however other roof forms may be considered based on the context;

(8) Mechanical equipment must not be visible from the public right-of-way;

(9) Limit additions to existing buildings to non-character defining elevations;

(10) Additions to existing buildings must be subordinate to the existing building; and

(11) Minimize damage to existing walls, roofs or features for building additions.

(G) *Demolition guidelines.* Only in extreme cases should demolition be considered justified within the Downtown District. Contributing resources should be protected and preserved whenever possible. Demolition creates serious and irreplaceable gaps in the neighborhood fabric. There may be instances when demolition might be considered and justified. The following guidelines should be taken into account.

(1) *Significance.* Is the building or structure of historic or architectural significance or does it display a high quality of material use or craftsmanship?

(2) *Location.* Does the building or structure contribute to the neighborhood context and street's appearance?

(3) *Potential for restoration.*

(a) Demolition may be considered if the building or structure can be determined to be beyond all feasible economic repair.

(b) This is tricky unless measures are clearly established and a determining body is delegated to make a determination.

(c) Consider the use of preservation professionals or regional Indiana Landmarks staff to assist with a recommendation.

(4) *Condition.* Is the building or structure or portion thereof posing an immediate threat to public health and safety?

(H) *Minimum maintenance standards.*

(1) The purpose of monitoring building condition is primarily for the protection of public health and safety.

(2) A secondary outcome however is preserving neighborhood character and property values.

(3) A responsible owner will maintain a property in a clean, safe and sanitary condition including being free from waste, garbage and excessive vegetation.

(4) The building or structure should be maintained in good repair and be structurally sound including being free of deterioration and fire hazards.

(5) Openings (doors, windows and the like) should not be broken or open and should be secured (locked), functioning and tightly fitting.

(6) Foundations should be sound with no collapse or compromised materials.

(7) Walls should be free of holes, rot, deterioration or breaks.

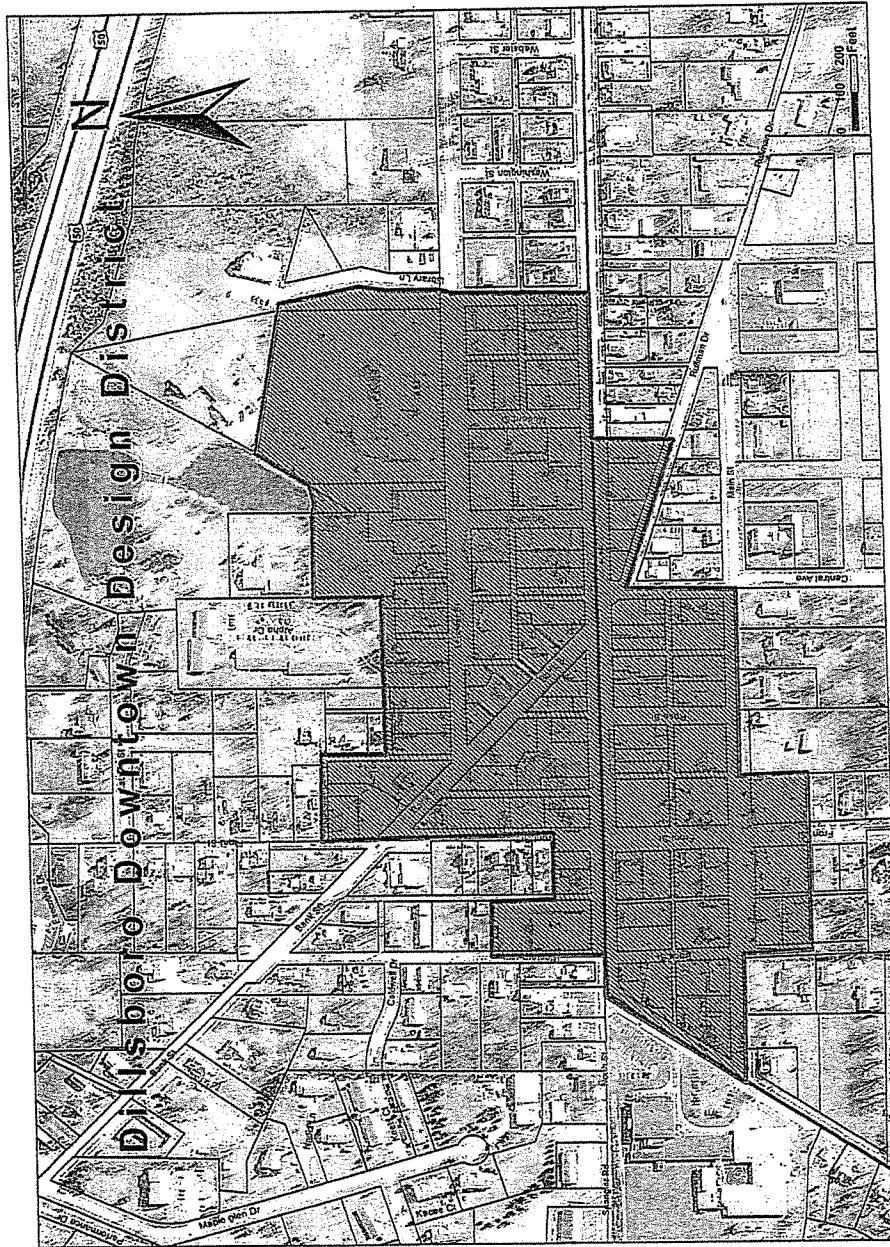
(8) Features such as chimneys, decks, trim, drains, gutters and down spouts and the like should be in good repair and safely anchored.

(9) Roof condition is critical to ongoing maintenance.

(10) Flashing and roof materials should be in good repair and structurally sound.

(Ord. 2019-11-1, passed 11-11-2019)

§ 36.20 DOWNTOWN DESIGN DISTRICT MAP.



(Ord. 2019-11-1, passed 11-11-2019)