

TITLE III: ADMINISTRATION

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CHAPTER 30: TOWN GOVERNMENT; ORGANIZATION

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TOWN WARDS

' 30.01 TOWN WARDS.

There are five council wards within the town, the wards and boundaries there being designated by following the west, south, east, and north boundary, in that order, as follows:

(A) *Ward One.* South along the west corporate boundary, east along the south corporate boundary, north on the west side of Nichols Street to the north corporate boundary to the place of beginning.

(B) *Ward Two.* Beginning at the intersection of the north corporate boundary and Nichols Street, south on the east side of Nichols Street to the south corporate boundary, east along the south corporate boundary to Powell Ditch, north along the west side of Powell Ditch to Commercial Avenue, west along the south side of Commercial Avenue to Clark Street, north along the west side of Clark Street to its intersection with Morse Street to the corporate boundary, west along the north corporate boundary to the point of beginning.

(C) *Ward Three.* Beginning at the intersection of the north corporate boundary and Morse Street, south along the east side of Morse Street to its intersection with Clark Street, continuing south on the east side of Clark Street to Commercial Avenue, east on the north side of Commercial Avenue to the point where an extension of North Viant Street would intersect Commercial Avenue, north along the west side of this line to Viant Street, continuing north on the west side of Viant Street to 177th Avenue, east along the north side of 177th Avenue to Burr Street, north along the west side of Burr Street, and continuing to follow the corporate boundary to the north corporate boundary line, west along the north corporate boundary to the point of beginning.

(D) *Ward Four.* Beginning where the corporate boundary runs south from 173rd Avenue, following the corporate boundary to 177th Avenue, west on the south side of 177th Avenue to Viant Street, south on

the east side of Viant Street and extending that line to Commercial Avenue, east along the north side of Commercial Avenue to Joe Martin Road, south along the east side of Joe Martin Road to the north property lines of the north side of Northwood Drive, then east along the north side of this line to the corporate boundary, following the corporate boundary east and north to the north corporate boundary, west along the north corporate boundary to the point of beginning.

(E) *Ward Five.* Beginning at the intersection of Commercial Avenue and Joe Martin Road, west along the south side of Commercial Avenue to Powell Ditch, south along the east side of Powell Ditch to the corporate boundary, east along the south corporate boundary to the east corporate boundary, north along the west side of the corporate boundary to the north lot lines of Northwood Drive, west on the south side of the north lot lines of Northwood Drive to Joe Martin Road, then north on the west side of Joe Martin Road to the place of beginning.

('80 Code, ' 1.08.010) (Am. Ord. 1992-22, passed 11-23-92; Am. Ord. 1993-2, passed 1-11-93; Am. Ord. 2002-17, passed 10-28-02)

Statutory reference:

Authority of town to divide into not less than three nor more than seven wards, see IC 36-5-1-10.1 and 36-5-2-4.1

' 30.02 REDISTRICTING OF TOWN WARDS.

The boundaries designated for the five wards for the town shall be reviewed and revised as necessary so as to provide for approximately equal populations in each of the five wards. The review and necessary revisions shall be made, at a minimum, once every ten years.

('80 Code, ' 1.08.040) (Ord. 1982-28, passed 12-28-82)

TOWN COUNCIL

' 30.15 ELECTION; RESIDENCY REQUIREMENTS.

Each Town Councilmember shall be elected by a vote of all registered voters in the town, but shall represent the ward from which he or she runs.

(A) To be eligible to run for the office of Councilmember, a person must be a resident of the ward he or she seeks to represent, be a citizen of the United states, be of legal voting age, and be a registered voter.

(B) A councilmember who is elected by the voters of the entire town, but is elected as a candidate from a particular ward, forfeits office if the member ceases to be a resident of that ward.

(C) A Councilmember who moves his or her place of residence outside of the corporate limits of the town forfeits his or her seat on the Town Council, and shall be replaced according to the applicable Indiana statute. ('80 Code, ' 1.08.020) (Ord. 33-1978, passed - -78)

Statutory reference:

Residency requirements, see IC 36-5-2-6

' 30.16 TERM OF OFFICE.

All Town Councilmembers shall serve for terms of four years.

('80 Code, ' 1.08.030 H.) (Ord. 33-1978, passed - -78; Am. Ord. 14-1981, passed 5-26-81)

**' 30.17 OFFICERS OF THE COUNCIL;
POWERS AND DUTIES.**

The following shall be officers of the Council and their duties:

(A) *President.* The Presiding Officer of the Town Council shall be the President who shall be elected annually in January of each year, by the members from their membership. He shall assume the chair of the Presiding Officer immediately after his election. The President shall:

- (1) Preserve order and decorum;
- (2) Decide all questions of order, subject to appeal by the Council;
- (3) Announce the result of all votes by the Council upon all motions, resolutions, ordinances and other matters;
- (4) Appoint all members of standing and Aspecial@ committees, subject to approval of the Council.

(B) *Town Attorney.* The Town Attorney shall be appointed by the Town Council at the first meeting in January of each year, to serve at the pleasure of the Council. The duties of the Town Attorney shall be as follows:

- (1) To attend Town Council meetings, regular and special, and to confer and advise the Town Council;
- (2) To prepare ordinances, resolutions, motions, legal notices and all other notices that may be necessary to enable the Town Council to transact the business of the town.
- (3) To prosecute all violations of this code or any other ordinance of the town.

(C) *Clerk-Treasurer.* The duties of the Clerk-Treasurer shall be those as provided by the laws of the state pertaining to the Clerk-Treasurer. In addition the Clerk-Treasurer shall perform the following:

(1) It shall be the duty of the Clerk-Treasurer to cause the minutes of all regular and special Council meetings to be prepared in a format that includes all motions, votes and a synopsis of all official business conducted by the Council. A proposed draft of the minutes of each meeting shall be prepared by the Clerk-Treasurer and submitted to each Council member and the Town Attorney within seven days of each meeting. The Clerk-Treasurer shall also audio tape each regular and special meeting of the Council to assist in the accurate preparation of the minutes, and each such audio tape shall be preserved by the Clerk-Treasurer for a period of 90 days after the minutes of each respective meeting are approved and adopted by the Council. The written minutes that are approved and adopted by the Council shall be the official minutes of the Town Council subject to the Council's right to modify or amend same to accurately reflect the actions or business of the Council.

(2) It shall be the duty of the Clerk-Treasurer to cause the minutes of all regular and special meetings of the Council to be written up at full length upon the minute book, which book shall be kept for that purpose and to furnish to the President and to each member of the Council a legible copy thereof, within one week after the meeting of the Council has been held. ('80 Code, ' 1.20.070)

(3) The Clerk-Treasurer shall also perform the duties set forth in " 31.01 through 31.04. (Am. Ord. 1999-9, passed 5-10-99)

Cross-reference:

Town officials, see Ch. 31
Clerk-Treasurer, see " 31.01 et seq.

' 30.18 AUTHORITY TO APPROPRIATE FUNDS FOR PROMOTIONAL ACTIVITIES.

(A) The town authorizes the budgeting and appropriation of funds for promotional activities for the town from the General Fund which shall be provided in the Council's budget under category ACommunity Relations and Promotions.@

(B) The Town Council may approve expenditures from this category that support

promotional activities of both a civic and governmental nature and that they deem in the best interest of the town and its functions.

('80 Code, ' 1.20.080) (Am. Ord. 1984-52, passed 11-26-84)

Cross-reference:

Finance and revenue, see Ch. 35

Funds, see Ch. 36

RULES OF PROCEDURE

' 30.30 REGULAR MEETINGS.

The Town Council shall meet in regular session on the second and fourth Monday of each month hereafter, at 7:00 p.m. in the town hall or wherever the Council shall designate in the absence of a town hall. If any regular meeting shall fall on a legal holiday, then the Council shall meet in regular session the day following, at the time and place aforesaid.

('80 Code, ' 1.20.010) (Ord. 1985-3, passed 1-28-85; Am. Ord. 1987-2, passed 1-12-87; Am. Ord. 1995-2, passed 1-9-95)

' 30.31 SPECIAL MEETINGS.

(A) Special meetings of the Town Council may be called by the President or by any Councilmember upon written request, duly signed by the President or any Councilmember and presented to the Clerk-Treasurer, stating the purpose of the meeting. The Clerk-Treasurer shall cause the notices to be served upon the members of the Council at least 48 hours prior to the time when the meeting is to be held, except that in the event of an emergency involving actual or threatened injury to person or property or actual or threatened disruption of governmental activities then the time requirement of notice shall not apply, but the news media and general public shall be given notice of a special meeting in the same manner as notice is provided to the Councilmembers. The notices may be served by delivering a copy thereof to the members of the Council, or by leaving a copy thereof at the residence of the Councilmembers or in the event of an emergency by telephone.

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(B) At every special meeting, the purpose for the same shall be read and then filed by the Clerk-Treasurer, and duly incorporated in the minutes of such meeting. No business other than that stated in the notice shall be considered at such meeting.

(C) A written notice of a special meeting is not required if the time, date, and place of a special meeting is announced at a regular meeting of the Council at which all members of the Council are present. ('80 Code, ' 1.20.020)

' 30.32 QUORUM; VOTING.

A majority of all the Town Councilmembers elect shall constitute a quorum. All business transacted at a regular or properly called special meeting must be passed by a majority vote of the Councilmembers elect of this Council. No voting by proxy shall be permitted. ('80 Code, ' 1.20.030)

' 30.33 ORDER OF BUSINESS.

The following shall be the order of business at all regular meetings:

(A) At the hour appointed for the meeting, the President shall call the meeting to order. If the President be not present at the meeting, the Vice-President shall preside as Chairperson of the meeting. In the absence of the President and Vice-President, the Town Clerk-Treasurer shall call the meeting to order and the Councilmembers shall immediately proceed to elect a Councilmember to serve as Chairperson pro tem.

(B) The President of the Town Council shall lead the Town Council and the public in the recital of the Pledge of Allegiance.

(C) Before proceeding with the business of the Council, the Clerk-Treasurer shall call the roll of the members, and the names of those present shall be entered in the minutes.

(D) The minutes of the previous meeting or

minutes of the Council not previously read or adopted may be read at the discretion of the Council and the approval and/or amendment of the same.

(E) Treasurer's report.

(F) Presentation, approval and signing of bills and claims.

(G) Presentation of petitions, communications and remonstrances.

(H) Correspondence.

(I) Report of town officials.

(J) Reports of standing committees.

(K) Reports of special committees.

(L) Submission of ordinances and resolutions.

(M) Unfinished or deferred business.

(N) New business.

(O) Announcements.

(P) Adjournment.

('80 Code, ' 1.20.040) (Am. Ord. 83-2, passed 2-8-83)

' 30.34 CONDUCT OF MEETINGS.

(A) All questions relating to the priority of business shall be decided by the Presiding Officer, without debate, subject to appeal by the Town Council.

(B) Subject to the limitations of ' 30.31 on special meetings, matters of unusual importance or of an emergency nature may be added to the agenda at any time by the Presiding Officer or a Councilmember with the consent of a majority of all members elect of the Council.

(C) The Presiding Officer shall preserve order and decorum, and shall decide all questions of order, subject to an appeal by any member of the Council.

(D) Any person not a member of the Town Council shall give his name and address in an audible tone of voice for the record and, unless further time is granted by the Council shall limit his address to three minutes. All remarks shall be addressed to the Council as a body and not to any member thereof. Persons other than the Councilmembers and any person having the floor shall not be permitted to enter into a discussion, either directly or through a member of the Council without the permission of the Presiding Officer. Questions shall not be asked of a Councilmember except through the Presiding Officer.

(E) Any person who makes personal, impertinent or slanderous remarks or who becomes boisterous or delays or interrupts the proceedings or peace of the Council or refuses to obey the orders of the Council or its Presiding Officer shall be forthwith, by the Presiding Officer, barred from further participation in the proceedings, and may be expelled from the meeting at the direction of the Presiding Officer.

(F) Every Councilmember, previous to speaking or making a motion, shall address himself to the Presiding Officer, and say, AMr. President,@ and the Councilmember shall not proceed with his remarks until he has been recognized by the Presiding Officer.

(G) When two or more Councilmembers are attempting to gain recognition from the Chairperson at the same time, the Chairperson shall recognize the Councilmember who addressed him first.

(H) In event of any disturbance or disorderly conduct, during any session of the Council, the Presiding Officer shall restore order and shall have the power to require the room to be cleared of disorderly spectators, if necessary.

(I) No Councilmember shall be allowed to leave the meeting room while the Council is in session unless excused by the Presiding Officer.

(J) No motion shall be put or debated until it has had a second. After a motion has received a second it shall be stated by the Presiding Officer before it shall be debated. After a motion has been stated by the Presiding Officer, the mover of the same shall be entitled to first have the floor and to talk

upon the same, and if he so desires to close the discussion thereof after unlimited debate by the Town Council.

(K) When a question has been put for the purpose of taking a vote on the final passage of an ordinance or resolution, then it shall be the duty of the Clerk-Treasurer to call the name of each member of the Council in order of the wards of the town. Each Councilmember, as his name is called by the Clerk-Treasurer, may thereupon vote upon the question by saying Aaye@ or Ano@ according to his desire in the matter, unless such member be excused from voting by a majority vote of the Town Council. Any member may change his vote before announcement of the vote by the Chairperson.

(L) If any member requires it, the Aayes@ and Anoes@ upon any question shall be taken and entered where not otherwise required to be entered, unless called for, previous to taking vote on any question.

(M) When any question is under discussion or debate, the only motion in order shall be as follows in divisions (1) through (8) below, and divisions (2), (3), and (4) shall be decided without debate:

- (1) To adjourn to a time certain;
- (2) To adjourn;
- (3) To lay on the table;
- (4) The previous question;
- (5) To refer;
- (6) To amend;
- (7) To substitute; and
- (8) To postpone indefinitely or to postpone to a time certain.

(N) When a previous question has been moved, it shall be the duty of the Presiding Officer to put in this form: AAre you ready for the question?@ If the previous question carries, all further discussion must stop and the question must be put without delay.

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First the amendments in their proper order and then the main question in its amended form.

(O) When a motion is postponed indefinitely it shall not be taken up again at the same meeting.

(P) The Chief of Police or other member of the Police Department, or in their absence, an individual appointed by the Council, shall preserve order, and perform all duties usually pertaining to the office of Sergeant-at-Arms.

(Q) No ordinance may be passed at the same meeting it is introduced, unless under suspension of the rules, and then only with the unanimous consent of all members present and a two-thirds vote of the entire Council. In all other cases it shall require a majority vote of all members of the Town Council to pass an ordinance.

('80 Code, ' 1.20.050) (Ord. 1982-28, passed 12-28-82)

' 30.35 COMMITTEES; CONSIDERATION OF ORDINANCES.

(A) All standing committees and all vacancies thereon shall be filled by the President subject to the approval of the Town Council.

(B) (1) No ordinance shall be presented for consideration or discussion to the Town Council unless each Councilmember shall first have had a draft copy of the ordinance 48 hours prior to the time it is presented for the discussion or consideration.

(2) In the event any ordinance is not reported out by the Committee to which it is assigned, any one Councilmember at the Council meeting may move that the ordinance be brought out of committee at the next regular meeting, and if the motion is carried as such, the ordinance shall be reported out either favorably or unfavorably at the next regular meeting.

(C) All proposed amendments to these rules shall be referred to the Committee on Rules without debate. The Committee shall have the power to report at any time, any change in the rules, or in the

order of business, and any such report shall be disposed by the Council without delay. Any change in these rules or in the order of business shall be determined by a majority vote of all the Councilmembers elect and not otherwise.

(D) Unless otherwise provided in these rules, all committee meetings may be called at any time.

(E) Standing and special committees, to which reference of any matter is made, shall in all cases report at least once each month unless further time is granted by a majority vote of all the members of the Council, with their opinions and recommendations thereon. Minority reports of all committees may be received at the same time with the reports of the majority.

(F) All written reports of committees shall be addressed ATo the President and Town Council of Lowell, Indiana.@ They shall be framed and summed up in the form of an ordinance, order, resolution, recommendation or such other distinct proposition and such reports may be presented to the Council by the Chairperson of the committee upon call of reports of committees.

(G) The rules of parliamentary practice comprised in *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 standing rules of the Town Council.

(H) These rules may be temporarily suspended by the consent of all the Councilmembers elect and not otherwise.

(I) A majority of the committee must approve an ordinance before it is submitted to the Council. In any event, the above rules shall apply. The committee Chairperson or a member, in his or her absence, may deliver a copy of the ordinance to the Clerk-Treasurer. ('80 Code, ' 1.20.060)

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31.30	Appointment; term of office	

CLERK-TREASURER**' 31.01 DUTY TO KEEP RECORDS.**

The Clerk-Treasurer of the Town shall maintain records and books necessary for keeping a full and complete record and account of all transactions in connection with the Lowell Sewage Works and Waterworks, and as prescribed by the laws of the state. ('80 Code, ' 2.04.010)

Cross-reference:

Clerk-Treasurer as officer of Council, see ' 30.17

Clerk-Treasurer to be Violations Clerk, see ' 33.15

Statutory reference:

Powers and duties of the Clerk-Treasurer, see IC 36-5-6-6, 36-5-6-5, and 36-5-2-8

' 31.02 REPORTS TO TOWN COUNCIL.

(A) The Clerk-Treasurer shall make a financial report to the Town Council at the first regular meeting of each month to account for receipts and expenditures of the Lowell Waterworks and Sewage Works. Delinquent accounts and other information will be provided monthly.

(B) It shall be the duty of the Clerk-Treasurer to keep a true record of each meter in use, and annually make a return of the number of feet of water main in service and perform such other duties in connection therewith as the Town Council may direct.

('80 Code, ' 2.04.020)

' 31.03 ISSUANCE OF RECEIPT FOR MONIES COLLECTED.

The Town Clerk-Treasurer shall deposit daily all money derived from the collection of utility bills, meter deposits, and miscellaneous receipts, and issue the Clerk-Treasurer's receipt therefor.

('80 Code, ' 2.04.030)

' 31.04 ENFORCEMENT OF WATERWORKS PROVISIONS.

The Town Clerk-Treasurer shall grant no extension to patrons in the payment of utility bills, but shall require a strict compliance with Chapter 52 of this code, and shall make available to the Town Council, complete and concise records detailing any violations of the provisions of Chapter 52, especially payment of bills, turning off of water, securing permits, and illegal use of water.

('80 Code, ' 2.04.040)

Cross-reference:

Waterworks, see Ch. 52

TOWN COURT**' 31.10 ESTABLISHED.**

Pursuant to IC 33-10.1-1-3, the Town Court is hereby established for and in the town of Lowell. The office of Judge of the Town Court is hereby created and this shall be an elected office. The term of office for Town Court Judge shall be for four years beginning January 1, 2000 and candidates for said office shall be nominated in the primary election of 1999 and stand for election in the general election of 1999 and every four years thereafter as provided by state law. The Judge of the Town Court shall have the powers and jurisdiction in criminal and civil matters as may be granted by the state to town courts.

(Ord. 1998-21, passed 11-23-98)

' 31.11 JUDGE; JURISDICTION.

The compensation for the office of Judge shall be fixed each year by the Town Council in the annual elected officials salary ordinance. The Town Judge shall take and subscribe to the same oath of office as judges of the circuit courts and shall post the bond required by state law before beginning the duties of office. The Town Court shall have jurisdiction over all

violations of town ordinances, infractions and misdemeanors. The Town Court Judge shall hold sessions of the Town Court as the business of the Court may demand at the Town Hall or such other facilities as may be provided.

(Ord. 1998-21, passed 11-23-98)

' 31.12 CLERK'S RECORD PERPETUAL FUND.

(A) *Establishment of fund.* Pursuant to IC 33-19-6-1.5 there is hereby established a Clerk's Record Perpetual Fund into which the Clerk-Treasurer shall deposit all license reinstatement fees received by the Town Court for transmitting documents by facsimile machine to any person or agency.

(B) *License reinstatement fee.* The Clerk of the Town Court shall collect a fee of \$5 from each person requesting a driver's license reinstatement resulting from a driver's license suspension caused by any person's failure to timely appear in court or pay of any fee, fee or other cost levied by the court as reimbursement for the costs associated with facsimile or other transmissions by the court to the Indiana Bureau of Motor Vehicles.

(C) *Deposit of funds.* All revenues paid to or collected by the Clerk of the Town Court under this section shall be remitted to the Clerk-Treasurer on a monthly basis and deposited into the Clerk's Record Perpetual Fund.

(D) *Use of revenues.* Revenues deposited into the Clerk's Record Perpetual Fund shall only be expended for the expenses of court recordkeeping improvements and equipment after the approval of an appropriate purchase order by the Clerk-Treasurer and the approval of each claim by the Town Council.
(Ord. 2000-8, passed 4-10-00; Am. Ord. 2004-13, passed 5-10-04)

Cross-reference:

Fee schedule, see ' 11.007

' 31.13 SUPPLEMENTAL ADULT PROBATION SERVICES FUND.

(A) *Establishment of fund.* Pursuant to IC 35-38-2-1(f) a supplemental adult probation services fund is hereby established for the Lowell Town Court.

(B) *Deposit of funds.* All money collected by the probation department of the Town Court under

this section shall be transferred to the Clerk-Treasurer and the Clerk-Treasurer shall deposit the money into the Supplemental Adult Probation Services Fund of the Town of Lowell. The Town Council shall appropriate money from the local Supplemental Adult Probation Services Fund to the Town Court for the court's use in providing probation services to adults or for the court's use for other purposes as may be appropriated by the fiscal body.

(C) *Use of funds.* The Supplemental Adult Probation Services Fund may be used only to supplement probation services and to increase salaries for probation officers and Supplemental Adult Probation Services Funds may not be used to replace other funding of probation services. Any money remaining in the fund at the end of the year does not revert to any other fund but continues in Supplemental Adult Probation Services Fund.

(Ord. 2000-18, passed 9-11-00)

' 31.14 COLLECTION OF TOWN COURT OBLIGATIONS.

The Town Court may collect outstanding fines, court costs and fees due on ordinance violations, infractions and criminal misdemeanors. The Town Court Judge may enter into a contract for collection services to collect the above-referenced amounts.

(Ord. 2012-21, passed 11-13-12)

TOWN MANAGER

' 31.15 AUTHORIZATION.

The Town Council may, in its discretion, employ a Town Manager to serve at the pleasure of the Town Council or for a definite term not to exceed the longest remaining term in office of a member of the Town Council, upon such terms and conditions as may be agreed and whose employment shall always be terminable for cause. In case of the absence or disability of the Town Manager, the Town Council

may designate some qualified person to perform the duties of the office.

('80 Code, ' 2.06.010) (Ord. 1984-4, passed - -84)

Statutory reference:

Town Manager, see IC 36-5-5-1 et seq.

' 31.16 BOND REQUIREMENTS.

The Town Manager shall execute a bond in favor of the town, for the faithful performance of his duties, in such sum as may be fixed by the Council. The cost of the bond shall be paid by the town.

('80 Code, ' 2.06.020) (Ord. 1984-4, passed - -84)

Statutory reference:

Bond to be provided by the Town Manager, see IC 36-5-5-5

' 31.17 POWERS AND DUTIES.

(A) The Town Manager shall be responsible to the Town Council for the proper administration of all the affairs of the town which the Council has authority to control. The Town Manager shall be the administrative head of the town, except for the administration of those duties given the Clerk-Treasurer by state statute or ordinance of the Town Council. The Town Manager, in the performance of such administrative duties, and unless a written order or subsequent ordinance of the Town Council directs to the contrary, shall:

(1) Attend the meetings of the town and recommend actions he or she considers advisable;

(2) Hire town employees according to the pay schedules and standards fixed by ordinance or statute, subject to the approval of the Town Council;

(3) Suspend, discharge, remove, or transfer town employees, if necessary for the welfare of the town, subject to approval of the Town Council;
(IC 36-5-5-8(1)-(3))

(4) Administer and enforce all ordinances, orders, and resolutions;

(5) See that all statutes that are required to be administered are faithfully administered;

(6) Prepare budget estimates and submit them to the legislative body when required;

(7) Execute contracts on behalf of the town for materials, supplies, services, or improvements, after the completion of the appropriations, notice, and competitive bidding required by statute; and
(IC 36-5-5-8(5)-(8))

(8) Supervise and schedule maintenance of all public buildings and grounds other than parks, including snow removal. The Town Manager shall be responsible for the recommendation of future expansion and necessary improvements to maintain the quality of public services provided by the Town.

(B) The Town Council may enact such rules and regulations as it deems necessary to establish personnel policies of the town, including working conditions, employee conduct, benefits, employee evaluations, hiring and termination procedures, purchasing policies, grievance procedures, safety policies, and any other matter which might relate to the effective and efficient operation of the affairs of the town and the health, welfare and safety of the citizens of the town. The Town Manager shall have the duty of implementing and enforcing the rules and regulations as adopted by the Town Council and may suspend, discharge, remove or transfer any town employee pursuant to the procedure so established.

('80 Code, ' 2.06.030) (Ord. 1984-4, passed - -84)

' 31.18 AUTHORITY TO RECEIVE SERVICE OF SUMMONS ON BEHALF OF TOWN.

The Town Manager is authorized to receive service of summons on behalf of the town in all actions brought against the town.

('80 Code, ' 2.06.040) (Ord. 1984-4, passed - -84)

DIRECTOR OF ADMINISTRATION

'31.20 AUTHORIZATION.

The Town Council may, in its discretion, employ a Director of Administration who shall serve at the pleasure of the Town Council, or for a definite term not to exceed the longest remaining term in office of a member of the Town Council, upon such terms and conditions as may be agreed subject, however, to removal at the pleasure of the Council.
(Ord. 1997-27, passed 12-29-97)

' 31.21 BOND REQUIREMENTS.

The Director of Administration shall execute and keep in force a bond in favor of the town for the faithful performance of his/her duties, in a sum to be determined by the Council, and the cost of the bond shall be paid by the town.
(Ord. 1997-27, passed 12-29-97)

' 31.22 POWERS AND DUTIES.

(A) The Director of Administration shall be responsible to the Council for the proper administration of all affairs of the town not otherwise assigned by the Council to another department head or employee. In the absence of a Town Manager, the Director of Administration shall be the administrative head of the town except for the administration of those duties given to the Clerk-Treasurer by any statute, ordinance, resolution or law.

(B) The Director of Administration shall:

(1) Respond in a timely manner to all inquiries by the public regarding town business and other public concerns;

(2) Attend meetings of the Council and other town boards, commissions, committees or governing bodies;

(3) Hire administrative, clerical and other town hall employees according to the pay schedules and standards fixed by ordinance or statute, subject to the approval of the Council;

(4) Suspend, discharge, remove, discipline or transfer building administration or town hall clerical employees as may be necessary for the welfare of the town, subject to approval of the Council;

(5) Faithfully and fairly administer and enforce all ordinances, resolutions, orders, statutes and other laws;

(6) Assist in the preparation of town budget estimates and submit them to the Clerk-Treasurer and Council as required;

(7) Execute contracts on behalf of the town as directed by the Council for materials, supplies, services, or improvements, after the completion of all appropriations, notice, and competitive bidding required by law;

(8) Manage the daily administrative business of the town;

(9) Be responsible for timely executing, filing and supplying data or other information requested or required by any governmental agency;

(10) Prepare, execute and timely apply for all governmental or other grants or subsidies;

(11) Prepare and deliver informational packets to each council member and the town attorney prior to every Council meeting; and

(12) Carry out any other function or duty as may be assigned by the executive or the Council from time to time.

(C) The Director of Administration is authorized to receive service of summons on behalf of the town in all legal actions.

(D) The Town Council may enact such rules and regulations as it deems necessary to establish personnel policies of the town, including working conditions, employee conduct, benefits, employee evaluations, hiring and termination procedures, purchasing policies, grievance procedures, safety policies, and any other matter which might relate to the effective and efficient operation of the affairs of the town and the health, welfare and safety of its citizens. The Director of Administration shall have the duty to implement and enforce the rules and regulations adopted by the Town Council and may suspend, discharge, remove or transfer any town employee under his or her supervision pursuant to the procedures so established.
(Ord. 1997-27, passed 12-29-97)

DIRECTOR OF PUBLIC WORKS

' 31.25 AUTHORIZATION.

(A) The Town Council may, in its discretion, employ a Director of Public Works to serve at the pleasure of the Town Council, or for a definite term not to exceed the longest remaining term in office of a member of the Town Council, upon such terms and conditions as may be agreed and whose employment shall always be terminable for cause.
(Ord. 1997-28, passed 12-29-97)

' 31.26 POWERS AND DUTIES.

(A) The Director of Public Works shall be responsible for the following duties and functions:

(1) The operation, supervision and management of the Water Utility, Wastewater Utility

and Street Department and all their respective supervisors, foreman and employees;

(2) The preparation of all reports, documents, records or other information required by any regulatory agency or the Council;

(3) The hiring of all Water Utility, Wastewater Utility, and Street Department personnel according to the pay schedules and standards fixed by ordinance or other laws, subject to the approval of the Council;

(4) The evaluation, discipline, suspension, discharge, removal, or transfer of all Water Utility, Wastewater Utility, and Street Department supervisors, foreman, employees or other personnel necessary for the welfare of the town, subject to approval of the Council;

(5) Administer, enforce and faithfully discharge the duties and responsibilities required by any ordinance, statute, regulation or law;

(6) Prepare and oversee the budget, expenditures and claims of the Water Utility, Wastewater Utility, and Street Department and any budgetary estimates or requests submitted to or requested by the Council, the Clerk-Treasurer or required by law;

(7) The preparation of specifications for all bids or quotes and the execution of those contracts approved by the Council for materials, supplies, services, or other improvements for the departments under his/her control, subject to all appropriations, notice, and competitive bidding requirements;

(8) Assist the Director of Community Development and staff in all subdivision or other projects or reviews.

(9) Supervise and maintain all public buildings, improvements and lands, other than parks, and all streets, roads or public ways and any other projects that may be assigned by the town executive.

(10) The planning and recommendation of all future expansion or improvements to maintain and increase the quality of services provided to the public.

(11) In times of emergency or inclement weather, the Director of Public Works shall have the authority to temporarily transfer any employee under his jurisdiction to any other department if he deems it necessary to maintain the health, safety or welfare of the public. Any town employee who refuses such temporary transfer, or fails to efficiently or effectively carry out any assigned duty or order, shall be subject to immediate discipline or discharge from employment by the Director of Public Works.

(B) The Town Council may enact such rules and regulations as it deems necessary to establish personnel policies of the town, including working conditions, employee conduct, benefits, employee evaluations, hiring and termination procedures, purchasing policies, grievance procedures, safety policies, and any other matter which might relate to the effective and efficient operation of the affairs of the town and the health, welfare and safety of the citizens of the town. The Director of Public Works shall have the duty to implement and enforce these rules and regulations and may suspend, discharge, remove or transfer any town employee under his or her supervision pursuant to the procedure so established.

(Ord. 1997-28, passed 12-29-97)

DIRECTOR OF COMMUNITY DEVELOPMENT

' 31.30 APPOINTMENT; TERM OF OFFICE.

The Town Council, at its first regular meeting in January of each and every year, shall appoint a Director of Community Development who shall hold office for the period of one year next succeeding the day of this appointment, and until his or her successor

has been appointed and qualified, subject, however, to removal at the pleasure of the Town Council. ('80 Code, ' 2.14.010) (Ord. 22-1978, passed - -78; Am. Ord. 2006-11, passed 5-22-06)

Cross-reference:

Building and construction regulations, see Ch. 150

' 31.31 POWERS AND DUTIES.

(A) The Director of Community Development shall have extensive knowledge and experience in the area of urban planning and shall be responsible for the enforcement of all building, zoning and subdivision codes and regulations. The Director shall serve as the executive director of the Planning Commission and Board of Zoning Appeals and shall be a source of information for any person concerning compliance with the town=s building, subdivision and zoning codes. The Director shall be responsible for the issuance of all building, sign, improvement location and other permits allowed or required by the building code and any zoning and subdivision ordinance.

(B) The Director shall implement and enforce all aspects of the town=s comprehensive plan, all zoning and subdivision ordinances and regulations and all state and federal planning, building, housing and redevelopment laws, rules and regulations. Additionally, the Director is responsible for accomplishing the town=s community development goals and objectives; recommending changes to the existing building, zoning and subdivision ordinances; and ensuring that the town=s planning and development goals and objectives are provided to the community in an effective and cost efficient manner.

(C) The Town Council may, from time to time, authorize the employment of qualified inspectors and support staff to assist the Director of Community Development in implementing and enforcing all building, zoning and subdivision regulations. All inspectors shall be properly certified and supervised by the Director of Community Development. The Director shall file an annual report with the Town Council in May of each year containing staffing and budgetary requests for the following budgetary year,

including the anticipated sources of revenue to fund each request made and any recommendation for revision of the Building Department=s schedule of fees.

('80 Code, ' 2.14.010) (Ord. 22-1978, passed - -78; Am. Ord. 2006-11, passed 5-22-06)

' 31.32 SALARY, BENEFITS, OTHER DUTIES PROVIDED BY ORDINANCE.

(A) The Town Council, shall at the time of making the appointment, fix the salary of the Director of Community Development and Inspectors of the Building Department for the ensuing year and determine all other job benefits, including vacations, by ordinance.

The Town Council may further define the duties, responsibilities and requirements of the Director and each Inspector of the Building Department through the adoption of policy resolutions.

('80 Code, ' 2.14.010)

(B) The position of Director of Community Development shall be a salaried, FLSA exempt position, and no person holding said position shall participate in the Indiana Public Employees Retirement Fund (PERF) or receive employee health insurance benefits unless and until the Town Council grants such benefits to the person holding said position by proper resolution.

(C) All references in the Lowell Municipal Code and all other ordinances or resolutions that reference the title or position of ABuilding Administrator@ are hereby amended to replace such references with the new job title of ADirector of Community Development@.

(Ord. 22-1978, passed - -78; Am. Ord. 2006-11, passed 5-22-06)

SUPERINTENDENT OF STREETS

' 31.45 APPOINTMENT; TERM OF OFFICE.

The Town Council, at its first regular meeting in January of each and every year, shall appoint a Superintendent of Streets, who shall hold his or her office for the period of one year next succeeding the date of his or her appointment, and until his or her successor has been appointed and qualified, subject, however, to removal at the pleasure of the Town Council.

('80 Code, ' 2.12.010) (Ord. 21-1978, passed - -78)

Cross-reference:

Streets and sidewalks, see Ch. 97

' 31.46 POWERS AND DUTIES.

(A) The Superintendent of Streets shall be responsible for the regular and routine operation of the Street Department, including daily supervision of the employees of the Department. The Street Department shall be responsible for the maintenance of the stormwater drainage system, wastewater collector system, water distribution system, street system and park system within the town and the installation of improvements to those systems upon direction by the Town Council. The Superintendent of Streets shall report regularly to the Town Manager as requested by the Manager or the Town Council. The Superintendent of Streets is responsible for all equipment utilized by his Department in performance of its responsibilities.

('80 Code, ' 2.12.010) (Ord. 21-1978, passed - -78)

' 31.47 SALARY, BENEFITS, OTHER DUTIES PROVIDED BY ORDINANCE.

The Town Council shall, at the time of making the appointment, fix the salary of the Superintendent of Streets for the ensuing year and determine all other job benefits, including vacations by ordinance. The Town Council may further define the duties, responsibilities and requirements of the Superintendent of Streets through the adoption of policy resolutions.

('80 Code, ' 2.12.010) (Ord. 21-1978, passed - -78)

**WASTEWATER TREATMENT PLANT
SUPERINTENDENT**

' 31.60 APPOINTMENT; TERM OF OFFICE.

The Town Council, at its first regular meeting, in January of each and every year, shall appoint a Wastewater Treatment Plant Superintendent who shall hold his office for the period of one year next succeeding the date of his or her appointment, and until his or her successor has been appointed and qualified, subject, however, to removal at the pleasure of the Town Council.

('80 Code, ' 2.10.010) (Ord. 21-1978, passed - -78)

Cross-reference:

Sewers, see Ch. 51

' 31.61 POWERS AND DUTIES.

The Wastewater Treatment Plant Superintendent shall be responsible for the regular and routine operations of the wastewater treatment plant, including the daily supervision of the employees of the plant. He or she shall make reports to the Town Manager requested by the Town Manager or Town Council. He or she shall be responsible for all equipment, owned or utilized by the wastewater treatment plant. He or she shall be responsible for the operation of the wastewater treatment plant, and wastewater lift and/or metering stations in conformance with all applicable state and federal laws, rules and regulations.

('80 Code, ' 2.10.010) (Ord. 21-1978, passed - -78)

' 31.62 SALARY, BENEFITS, OTHER DUTIES PROVIDED BY ORDINANCE.

The Town Council shall, at the time of making the appointment, fix the salary of the Wastewater Treatment Plant Superintendent for the ensuing year and determine all other job benefits, including vacations, by ordinance.

The Council may further define the duties, responsibilities and requirements of

the Wastewater Treatment Plant Superintendent through the adoption of policy resolutions.

('80 Code, ' 2.10.010) (Ord. 21-1978, passed - -78)

WATERWORKS SUPERINTENDENT

' 31.75 APPOINTMENT; TERM OF OFFICE.

The Town Council, at its first regular meeting, in January of each and every year, shall appoint a Waterworks Superintendent who shall hold his or her office for the period of one year next succeeding the date of his or her appointment, subject to removal at the pleasure of the Town Council.

('80 Code, ' 2.08.010) (Ord. 20-1978, passed - -78)

Cross-reference:

Waterworks, see Chapter 52

' 31.76 POWERS AND DUTIES.

(A) The Waterworks Superintendent shall be responsible for the regular and routine operation of the waterworks, including the daily supervision of employees of the waterworks. It shall be his or her duty, in conjunction with the Town Clerk-Treasurer, to see that the bylaws, rules, regulations, code provisions and any other ordinance of the town in relation to the waterworks system are complied with and enforced, that all contracts by, with or concerning the waterworks system are faithfully and strictly complied with, and that the assessments of water rates, rents, and rentals are duly made, collected and paid. The Superintendent shall approve all orders for the town on account of the waterworks system, and submit to the Town Council such explanations as will enable them to act advisedly thereon, and to be informed as to the conditions of the waterworks, and keep a record of the location, size and length of all the pipes, mains, hydrants and valves in use for the waterworks, and annually, the Waterworks Superintendent shall submit to the Council, a full and detailed report of the condition and operations of the waterworks for the

year ending on December 31, with an estimate of the amount of outlay for the coming year, and he or she shall have such other duties as the Council may from time to time prescribe. (Ord. 20-1978, passed --78)

(B) The Waterworks Superintendent shall have charge of the inspection of premises entered by service pipes, and the right to make such inspections, in conformity with " 33.01 through 33.03 of this code. ('80 Code, ' 2.08.010)

' 31.77 SALARY, BENEFITS, OTHER DUTIES PROVIDED BY ORDINANCE.

The Town Council shall, at the time of making the appointment, fix the salary of the Waterworks Superintendent for the ensuing year. The Council may further define the duties, responsibilities and requirements of the Waterworks Superintendent through the adoption of policy resolutions. ('80 Code, ' 2.08.010) (Ord. 138, passed --16)

CODE ENFORCEMENT OFFICER

' 31.85 AUTHORIZATION.

The position of Code Enforcement Officer is hereby created under the control and supervision of the Director of Community Development. The Code Enforcement Officer shall be appointed by and serve at the pleasure of the executive. (Ord. 1998-1, passed 1-26-98)

' 31.86 POWERS AND DUTIES.

The Code Enforcement Officer shall have the following qualifications and responsibilities:

(A) *Duties.* The Code Enforcement Officer shall:

(1) BeresponsiblefortheenforcementofallMunicipal or Zoning Ordinances;

(2) Have the ability to effectively and professionally communicate with the public and fairly and impartially enforce all town ordinances; and

(3) Have the ability to appear and testify in court.

(B) *Violations.* The Code Enforcement Officer shall log and investigate all reported and observed violations of town ordinances. Examples of said violations are:

(1) Construction or building without a permit;

(2) Unsightly debris;

(3) Junk or abandoned motor vehicles;

(4) Lack of required fencing for swimming pools;

(5) Sign violations;

(6) Weed and vegetation control; and

(7) Any other duty assigned by the Director of Community Development.

If a violation is present, appropriate action shall be immediately taken to cite the violator and cure the violation. The Code Enforcement Officer shall have the authority to issue citations for any code violations.

(C) *Surveys.* The Code Enforcement Officer shall be responsible for performing public surveys or canvassing as may be ordered by the Town Council.

(D) *Parking.* The Code Enforcement Officer shall monitor and enforce all parking restrictions, especially in any business district or other area and shall have the ability to issue parking tickets for any violations. (Ord. 1998-1, passed 1-26-98)

' 31.87 QUALIFICATIONS.

The minimum qualifications for the Code Enforcement Office shall include:

(A) A high school diploma;

(B) Current and unrestricted Indiana Driver's License;

(C) Ability to operate motor vehicles and to read and understand the English language; prepare detailed narrative reports of any zoning violations; compose and initiate letters to violators, knowledge of the city's municipal and zoning ordinances, operate a computer, typewriter and fax machine; and the ability to address all zoning questions from members of the public.
(Ord. 1998-1, passed 1-26-98)

FIREFIIGHTERS**' 31.90 QUALIFICATIONS.**

(A) The following criteria and prerequisites are required for anyone applying for the position of full-time firefighter:

(1) The applicant must be at least 21 years of age at the time of hire.

(2) The applicant must have a high school diploma or GED.

(3) The applicant must be certified as a Firefighter Class 1 and Class 2.

(4) The applicant must be certified as an emergency medical technician at the time of hire.

(5) The applicant must possess a valid driver=s license.

(6) The applicant must be able to successfully pass the required medical physical.

(7) The applicant must be able to comply with all components of the temporary firefighter job description.

(B) These criteria and prerequisites shall be set forth in the advertising of the full-time firefighter position.

(Ord. 2014-14, passed 8-11-14)

' 31.91 TERMS AND CONDITIONS OF EMPLOYMENT.

Upon accepting employment, all the following terms and conditions, as well as all other terms and conditions of town employees, as well as additional terms and conditions of employment that may be established in the future, shall apply to the position of full-time firefighter:

(A) The applicant will be under the direct supervision of the Town Administrator or the Town Council=s designee. (The Town Administrator or the Town Council=s designee will work closely with the Lowell Voluntary Fire Chief regarding day-to-day activity of the firefighter.)

(B) The applicant will be on probation for a period of one year.

(C) The applicant will be governed by the town personnel policy.

(D) The applicant will be required to follow the rules and regulations of the Lowell Voluntary Fire Department.

(Ord. 2014-14, passed 8-11-14)

CHAPTER 32: TOWN POLICIES

Section

- 32.01 Bad check fee
- 32.02 Town vehicle policy
- 32.03 Expenses for the promotion of town business
- 32.04 Use of tobacco products prohibited

' 32.01 BAD CHECK FEE.

(A) A bad check fee is established in the amount of \$25 to be assessed against any person, corporation, partnership or other entity for each check or instrument issued to the town or any of its departments, boards, commissions or utilities, which is returned to the town or for which payment is denied for any reason, including but not limited to insufficient funds or stop payment. All bad check fees assessed shall be paid to the Clerk-Treasurer and deposited into the general fund. ('80 Code, ' 1.24.010)

(B) This fee shall be in addition to and not in lieu of any and all other remedies available at law or in equity. ('80 Code, ' 1.24.020)
(Ord. passed 11-26-84; Am. Ord. 1997-15, passed 7-28-97)

Cross-reference:

Finance and revenue, see Ch. 35
Fee schedule, see ' 11.001

' 32.02 TOWN VEHICLE POLICY.

(A) *Scope of policy.*

(1) This policy is inclusive of all departments, employees and vehicles under the direct administration or control of the Town Council. Police or applicable Fire Department vehicles are excluded

from this policy if the vehicles are not owned or leased by the town and fall under the exclusive jurisdiction of another governing body.

(B) *Vehicle markings.*

(1) All vehicles owned or leased by the town shall bear clearly marked and identifiable bilateral markings or decals, in a form approved by the Clerk-Treasurer, identifying the vehicle as owned by the town except for vehicles designated as unmarked police vehicles.

(C) *Eligible employees.*

(1) Individuals holding the following positions are considered "eligible employees" under this policy and may be granted the possession and use of a take home vehicle: Town Manager, Director of Administration, Director of Public Works, WWTP Superintendent, Water Superintendent, Street Superintendent, Director of Community Development, Director of Engineering and any other official of the town designated by the Town Council. However, no person shall qualify as an eligible employee under this section unless the employee is a resident of and domiciled in the town or within a fifteen mile radius of the town.

(2) Only eligible employees who have executed a "Take Home Vehicle Responsibility Form" may be assigned a take home vehicle. No person not a full time employee of the town may operate any town owned vehicle except for necessary test rides by representatives of an authorized vendor to effect any maintenance or repairs to the vehicle.

(D) *Use of town vehicles.*

(1) Each eligible employee assigned a take home vehicle shall use the vehicle to commute to and from work and for all authorized town business.

(2) Personal use of town vehicles by any person or employee is prohibited. However, eligible employees may use their assigned vehicle for personal errands during and along their commute to and from work or travel for town business.

(3) All employees shall execute a form, approved by the Clerk-Treasurer, that shows the accurate beginning and return mileage, date and beginning and ending time of each trip made outside the corporate limits of the town with a town vehicle. A copy of each such form shall be filed with the employees' immediate supervisor and the original form shall be filed with the Clerk-Treasurer by the next business day after returning to the town from the trip. This reporting requirement shall not apply to police vehicles used for official town business within the State of Indiana or any vehicle use that is specifically exempted by the Council President.

(4) An accident or collision occurring with a town vehicle may be cause to limit or eliminate use of a town vehicle by an employee. The occasion of any accident or collision attributable to the fault of an employee may be cause for disciplinary action including, but not limited to, a verbal or written reprimand or dismissal from employment.

(5) The transport, use or possession of any amount of alcohol or illegal drugs or substance by an employee or passenger in a town vehicle, or the operation of any town vehicle while under the influence of any alcohol, drug, narcotic or intoxicant is strictly forbidden and shall be cause for revocation of all town vehicle privileges or immediate dismissal from employment. No employee shall use or operate any town vehicle, or permit any other person to use or operate any town vehicle, for any purpose that may be deemed illegal under any state, federal or local law.

(6) Each employee involved in an accident attributable to his/her fault shall reimburse the town 50% of any applicable insurance deductible amount due under the town's insurance policy and 100% of the deductible for any subsequent accidents thereafter.

(7) No employee shall operate any town vehicle without possessing a valid driver's license
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of the category, classification and type required for the operation of the vehicle under Indiana law. Each employee shall immediately report to their supervisor and the Clerk-Treasurer any changes in their driving record or driving privileges, including, but not limited to, each traffic violation and any suspension, restriction or limitation of their driving privileges imposed by any law, rule or regulation.

(Ord. 1997-9, passed 4-28-97; Am. Ord. 1999-10, passed 6-14-99; Am. Ord. 2007-14, passed 6-25-07)

' 32.03 EXPENSES FOR THE PROMOTION OF TOWN BUSINESS.

(A) The Town Council is hereby authorized to budget and appropriate from the town general fund to pay the expenses of or reimburse town officials, as the case may be, for expenses incurred in promoting the best interests of the town.

(B) Such expenses may include, but are not necessarily limited to, rental of meeting places, donations, memorabilia, awards, expenses incurred in interviewing job applicants, expenses incurred in promoting industrial, commercial and residential development, expenses incurred in developing relationships with other units of government, and any other expenses of a civic or governmental nature deemed by the Town Council to be in the interests of the town.

(C) This section shall apply retroactive to the year 1983 and each subsequent year in which there is a sum budgeted and appropriated by the town for such purposes, and the amount therefor shall be the amount so budgeted and appropriated and as added to, if required, by a compliance with the applicable laws as to additional appropriations.
(Ord. 1997-20, passed 9-29-97)

' 32.04 USE OF TOBACCO PRODUCTS PROHIBITED.

(A) The smoking of any tobacco product is hereby prohibited within any building, structure or vehicle owned, leased or operated by the Town of Lowell.

or requires a different meaning.

SMOKING. Includes, but is not limited to, inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, weed, pipe or other product containing tobacco.

(C) The Director of Public Works shall post appropriate signs in each municipal building and structure providing notice of the prohibition and penalties provided under this section.

(D) Any person who violates this section shall be subject to the penalties provided under ' 10.99.

(E) Any violation of this section by a town employee shall be sufficient cause for immediate disciplinary action by the appropriate disciplinary authority in addition to any penalty that may be imposed under ' 10.99.

(Ord. 2005-14, passed 4-11-05) Penalty, see ' 10.99

CHAPTER 33: CODE ENFORCEMENT PROCEDURES

Section

Inspection and Compliance Procedures

- 33.01 Right of entry for inspection
- 33.02 Authorized officials
- 33.03 Compliance with municipal codes; notice; lien
- 33.04 Computer use policy

Ordinance Violation Bureau

- 33.15 Establishment; Violations Clerk
- 33.16 Schedule of fines
- 33.17 Multiple offenses
- 33.18 Other remedies

INSPECTION AND COMPLIANCE PROCEDURES

' 33.01 RIGHT OF ENTRY FOR INSPECTION.

(A) Whenever necessary to make an inspection to enforce any provision of this code or any other ordinance or resolution of the town, or whenever there is reasonable cause to believe there exists a code, ordinance or resolution violation in any building or upon any premises within the jurisdiction of the town, any authorized official of the town may enter such building or premises, upon presentation of proper credentials, at all reasonable times to inspect the same or to perform any duty imposed upon him by this code or any other ordinance of the town, provided, that except in emergency situations or when consent of the owner and/or occupant to the inspection has been otherwise obtained, he shall give the owner and/or occupant, if they can be located after

reasonable effort, 24 hours written notice of the authorized official's intention to inspect.

(B) The notice transmitted to the owner and/or occupant shall state that the property owner has the right to refuse entry, and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry after such request has been made, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

('80 Code, ' 1.12.010) (Ord. 4-1975, passed - -75)

' 33.02 AUTHORIZED OFFICIALS.

Town officials authorized to inspect buildings and premises are the Town Manager and the Director of Community Development, or their designates.

('80 Code, ' 1.12.020)

' 33.03 COMPLIANCE WITH MUNICIPAL CODES; NOTICE; LIEN.

If a violation of any of the codes or ordinances of the town is determined to exist on real property, all persons holding a substantial interest in the property must be given a reasonable opportunity to bring the property into compliance. If the appropriate actions are not taken by the owners or occupants of the property within a reasonable period of time, authorized officials of the town may enter the property and take appropriate action to bring the property into compliance. Any expenses incurred by the town may be recorded as a lien against the property. For the purposes of this section a reasonable period of time shall be determined by the nature of the violation.

The notice period need not exceed 30 days for any violation.

('80 Code, ' 1.12.030) (Ord. 1982-28, passed 12-28-82)

Statutory reference:

Violations on private property, see IC 36-1-6-2

' 33.04 COMPUTER USE POLICY.

(A) Town employees and officials shall not use any computer, e-mail account, internet service provider connection, printer, facsimile machine, copy machine, paper or other town equipment or supplies for any reason not directly related to the performance of official town business. Use of such machinery, equipment or supplies for any private or personal use shall be considered unauthorized use of equipment or supplies.

(B) Town employees or officials shall not utilize any computer or internet, intranet or e-mail connection or account for any personal business or personal communications. No employee or official is permitted to use a town computer, internet connection or e-mail account to log onto or view any lewd, indecent, obscene, pornographic or sexually oriented photo, image, graphic or material.

(C) Town employees or officials shall not make unauthorized copies of any software owned by or licensed to the town by any software manufacturer or take any action that would be a breach of any license or copyright. All computer data files created by an employee shall remain the sole and separate property of the town, and such data files may not be downloaded, copied or distributed for any use not directly related to official town business.

(D) Each employee shall keep a written list of their current computer, internet, intranet and software passwords, and a copy of the list shall be kept on file with the employee's supervisor and with the office of the Clerk-Treasurer. All supervisors, department heads and officials utilizing a town computer shall file a written list of each of their respective computer, internet, intranet and software passwords with the Clerk-Treasurer. All password lists filed with the

Clerk-Treasurer are not public information and shall be kept confidential to protect the security of the town's computer and software systems.

(E) All supervisors and town officials have the right to log onto any town computer assigned to an employee under their supervision to determine if the computer, or its software, has been used by any person in violation of the town's computer use policy. (Ord. 1999-17, passed 8-30-99)

ORDINANCE VIOLATION BUREAU

' 33.15 ESTABLISHMENT; VIOLATIONS CLERK.

There is established an Ordinance Violation Bureau and the Clerk-Treasurer shall be designated as the Violations Clerk. The Violations Clerk may accept written appearances, waivers of trial, admissions of violations and the payment of civil penalties which amounts are determined by the Town Council and shall be subject to amendment by Council from time to time. The current penalty amount is available for public inspection at the town offices during normal business hours.

('80 Code, ' 1.16.020) (Ord. 1988-12, passed 4-25-88; Am. Ord. 1989-22, passed - -89)

' 33.16 SCHEDULE OF FINES.

(A) The Violations Clerk shall be authorized to accept an admission of violation and the payment of an amount determined by the Town Council, and subject to amendment by Council from time to time (the current penalty amount is available for public inspection at the town offices during normal business hours), for the violation of each ordinance and code provision enacted by the Town Council except that the Violations Clerk shall be authorized to accept an admission of violation and the payment of an amount determined by the Town Council, and subject to amendment by Council from time to time (the current penalty amount is available for public inspection at the town offices during normal business hours), for

parking violations and provided further that any citation for the violation of any section under Title VII of the town code or any other applicable ordinance of the town other than parking violations shall be excluded. Any citation for which the Violations Clerk has not received an appearance, answer, admission of violation, and/or payment of a fine as imposed under this section within seven days of the initial citation shall be turned over for prosecution before the appropriate court.

(B) The minimum fine to be imposed on the entry of a code and/or ordinance violation judgment once the citation has been referred to the appropriate court shall be an amount determined by the Town Council, and subject to amendment by Council from time to time. The current penalty amount is available for public inspection at the town offices during normal business hours.

('80 Code, ' 1.16.030) (Ord. 1988-12, passed 4-25-88; Am. Ord. 1988-24, passed 9-26-88; Am. Ord. 1989-22, passed - -89)

' 33.17 MULTIPLE OFFENSES.

In the event that a person is found guilty of three or more code and/or ordinance violations other than violations under Title VII during a six-month period, then the citation shall be referred directly for prosecution in the appropriate court.

('80 Code, ' 1.16.040) (Ord. 1988-12, passed 4-25-88; Am. Ord. 1988-24, passed 9-26-88)

' 33.18 OTHER REMEDIES.

The establishment of an Ordinance Violation Bureau shall not in any way preclude the town from seeking injunctive relief, fines and/or such other remedies which may be available at law or inequity.

('80 Code, ' 1.16.050) (Ord. 1988-12, passed 4-25-88)

CHAPTER 34: DEPARTMENTS AND BOARDS

Section

Department of Redevelopment

Board of Metropolitan Police Commissioners

- 34.01 Establishment
- 34.02 Members; terms
- 34.03 Qualifications; removal
- 34.04 Compensation
- 34.05 Powers and duties
- 34.06 Quorum; meetings; officers
- 34.07 Probationary employees
- 34.08 Accidents, injury and reimbursement

- 34.50 Creation of Department and Commission
- 34.51 Appointment and term of office
- 34.52 Qualifications, per diem and staff
- 34.53 Meetings and officers

Cross-reference:

Historic Preservation Commission, see Ch. 157

Department of Development

- 34.15 Establishment

BOARD OF METROPOLITAN POLICE COMMISSIONERS

Department of Parks and Recreation

- 34.25 Establishment; composition
- 34.26 Establishment, operation and maintenance of public parks and programs
- 34.27 Powers and duties concerning public parks and programs
- 34.28 Creation of committees
- 34.29 Establishment of rules and regulations
- 34.30 Qualifications of Superintendent
- 34.31 Powers and duties of Superintendent

' 34.01 ESTABLISHMENT.

A Board of Metropolitan Police Commissioners is established by the town and shall consist of five members appointed by the Town Council. All lawful actions taken by the Police Commission under Ordinance 9-1971, prior to the amendments adopted in Ordinance 2004-07, are ratified as official business of the Police Commission.

('80 Code, ' 2.20.010) (Ord. 9-1971, passed - -71; Am. Ord. 2004-07, passed 2-9-04)

Statutory reference:

Establishment of Board of Metropolitan Police Commissioners, see IC 36-8-9-1 et seq.

Traffic Commission

- 34.35 Establishment; appointment of members; terms
- 34.36 Powers and duties

' 34.02 MEMBERS; TERMS.

(A) *Members.* The Board shall consist of five members appointed by the Town Council but not more than three Board members may be members of the same political party, if individuals who satisfy this requirement can be found to serve on the Board.

Department of Storm Water Management

- 34.45 Establishment; appointment of members; terms
- 34.46 Powers and duties

(B) *Term.* The term of each Board member shall be for three years and expire on January 1 of the third year after the member's appointment. However, the terms of the members shall be staggered with the terms of not more than two Board members expiring each year.

('80 Code, ' 2.20.020) (Ord. 9-1971, passed - -71; Am. Ord. 2004-07, passed 2-9-04)

' 34.03 QUALIFICATIONS; REMOVAL.

(A) *Residency.* Each Board member must be a resident of the town for one year prior to their appointment.

(B) *Resume.* Each applicant, before consideration for appointment, shall complete an application, submit a resume containing their employment and educational history and execute an authorization and waiver for a criminal background check.

(C) *Oath.* Before performing any function of a Board member, each individual shall take and subscribe an oath or affirmation of office before the Lake County Circuit Court Clerk and that, in each appointment or removal made by the Board to or from the town Police Department under this chapter, the Board member will not appoint or remove a member of the town Police Department because of the political affiliation of the person or for another cause or reason other than that of the fitness of the person.

(D) *Bond.* Each Board member shall give bond, approved by the Town Council, in the penal sum of \$5,000, payable to the state and conditioned upon the faithful and honest discharge of the member=s duties.

(E) *Police Officers.* The Town Council may not appoint a police officer employed by the town to serve on the Board as required by IC 36-8-9-3.1(a)(7).

(F) *Town Council.* Members of the Town Council may be appointed as members of the Board, subject to the following:

(1) No more than two council members may be appointed or serve on the Board;

(2) A council member vacates their position on the Board when the member is no longer a member of the Town Council; and

(3) A council member appointed to the Board is not required to give the bond required by Police Commission members but shall take and file the oath required by law with circuit court clerk.

(G) *Removal.* The Town Council may remove a Board member for any cause it considers sufficient pursuant to IC 36-8-9-3.1(a)(6). An appointed member who misses three consecutive regular meetings of the Police Commission shall be deemed to have resigned their appointment unless the Town Council reaffirms the member=s appointment for the remainder of their original term.

('80 Code, ' 2.20.030) (Ord. 9-1971, passed - -71; Am. Ord. 2004-07, passed 2-9-04)

' 34.04 COMPENSATION.

(A) *Board.* The Town Council shall fix the salary of Board members who are not members of the town legislative body. A Board member=s salary is payable monthly out of the town treasury.

(B) *Employees.* The Board may recommend and the Town Council shall determine the amount of compensation and benefits to be paid to members of the Police Department in amounts that are just and reasonable.

(Ord. 2004-07, passed 2-9-04)

' 34.05 POWERS AND DUTIES.

(A) The Board may appoint, subject to the qualifications for employment determined by the Board and approved by the Town Council, as many persons as necessary to serve in the Police Department of the town. One person shall be appointed to serve as the Police Chief. The Board may also appoint other employees that are necessary to carry on the work of the Police Department.

(B) All persons appointed to the Police Department shall be of good moral character and serve

only during good behavior. The Board constitutes the Asafety board@ of the town for purposes of the suspension, demotion, or dismissal of any member of the Police Department. Proceedings for the suspension, demotion, or dismissal of any member of the Police Department shall be conducted in the manner prescribed by IC 36-8-3-4. The disciplinary provisions of IC 36-8-3-4.1 shall apply to the safety board and the Police Chief.

(C) The Board may make general and special rules for the government and discipline of the Police Department and may make special and general orders to the Department, through the Police Chief, who is the executive head of the Department.

(D) Members of the Police Department must:

- (1) Reside within Lake County;
- (2) Reside within 15 miles of the corporate boundaries of the town;
- (3) Have adequate means of transportation into the town; and
- (4) Maintain in their residence telephone service with the town.

(E) The operation, management, and control of the Police Department shall be governed by the state statutes applicable to the management and control of other municipal police departments that are not inconsistent with IC 36-8-9.

(F) Members of the Lowell Police Department may exercise all powers granted to members of police departments by state statues. The members of the Police Department are entitled to all the rights, powers, and privileges granted by statute to members of police departments.

(G) The Police Commission shall review and keep current the rules, regulations and general orders of the Police Department and shall maintain copies of same on file with the Clerk-Treasurer as official records of the Department.

(Ord. 2004-07, passed 2-9-04)

' 34.06 QUORUM; MEETINGS; OFFICERS.

(A) *Quorum*. No business shall be transacted by the Board without a quorum being present. A quorum is defined as a majority of the entire membership of the Board who are qualified to vote. Official action of the Board requires authorization by a majority of the entire appointed membership at any regular or special meeting.

(B) *Regular Meetings*. At the first meeting in January of each year the Board shall establish the time, place and date of their regular monthly meetings and forward notice of the meeting schedule to the media pursuant to IC 5-3-1.

(C) *Special Meetings*. Special meeting may be called by the President, or any two members of the Board, upon written request filed with the clerk. The Police Chief shall send all members a written notice fixing the time and place of the meeting at least 48 hours before any special meeting.

(D) *Executive Sessions*. The Board may schedule and conduct executive sessions upon proper notice and as provided by Indiana law.

(E) *Officers*. The Board shall elect from its membership a President, Vice-President and Secretary at its first meeting in January of each year. The President shall chair all meetings and decide all issues of order and decorum. The Vice-President shall chair all meetings in the absence of the President. The Secretary shall attest to all official records of the Board. The secretary of the Police Chief shall serve as Recording Secretary of the Board and prepare a memorandum of minutes for all regular and special meetings for approval by the Board. Copies of all meeting notices, agendas and minutes of the Board shall be filed with the Clerk-Treasurer by the Recording Secretary.

(Ord. 2004-07, passed 2-9-04)

' 34.07 PROBATIONARY EMPLOYEES.

(A) The Board may provide that all appointments to the Police Department are probationary for a period not to exceed one year.

(B) If the Board finds, upon the recommendation of the Chief of the Department during the probationary period, that the conduct or capacity of a member is not satisfactory, the Board shall notify the member in writing that the member is being suspended or that the member will not receive a permanent appointment.

(C) If a probationary member is notified that they will not receive a permanent appointment, the member's employment immediately ceases. Otherwise, at the expiration of the probationary period, the member is considered regularly employed.

(D) The Board shall authorize any conditional offers of employment by the Police Chief to prospective employees pursuant to the terms and conditions authorized by the Board and by law.
(Ord. 2004-07, passed 2-9-04)

' 34.08 ACCIDENTS, INJURY AND REIMBURSEMENT.

(A) *Injury - Illness.* The town shall pay, from its general fund, for medical care of a full-time, paid police officer who:

(1) Suffers an injury; or

(2) Contracts an illness during the performance of the officer's duty.

(B) *Expenses Payable.* The town shall pay for the following expenses incurred by a police officer described in division (A):

(1) Medical and surgical care;

(2) Medicines and laboratory, curative, and palliative agents and means;

(3) X-ray, diagnostic, and therapeutic service, including during the recovery period;

(4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(C) *Reimbursement.* IC 36-8-9-8. All expenses paid by the town for the care of a police officer under division (A) shall entitle the town to reimbursement of the amount paid under division (A) against any third party against whom the police officer has a cause of action for an injury sustained because of, or an illness caused by, any third party and the town's cause of action under this division is in addition to, and not in lieu of, the cause of action of the police officer against the third party.

(1) The Police Chief, or his or her designee, shall report all injuries and illnesses by police officers, when the town makes any payment for medical services, to the Clerk-Treasurer and Town Attorney for review and reimbursement.

(2) The Town Attorney shall investigate and prosecute all such claims reported by the Police Chief against any third parties, and any sums so recovered shall revert to the town's general fund.
(Ord. 2004-07, passed 2-9-04)

DEPARTMENT OF DEVELOPMENT

' 34.15 ESTABLISHMENT.

A Department of Development which shall be under the control of a commission to be known as the Lowell Development Commission is established, under and pursuant to Chapter 402 of the Acts of the Indiana General Assembly for the year 1965, and all acts amendatory thereof and supplemental thereto, to investigate, promote and finance economic development facilities and pollution control facilities for use by others.
(80 Code, ' 2.32.010) (Ord. 11-1974, passed - -74)

DEPARTMENT OF PARKS AND RECREATION

' 34.25 ESTABLISHMENT; COMPOSITION.

The Department of Parks and Recreation is reestablished composed of the Lowell Town Council, the Superintendent and such other personnel as the Council shall determine.

(Ord. 2009-01, passed 2-9-09)

Cross-reference:

Parks and Recreation Fund, see " 36.115 through 36.119

' 34.26 ESTABLISHMENT, OPERATION AND MAINTENANCE OF PUBLIC PARKS AND PROGRAMS.

The Lowell Town Council shall have full authority and responsibility to establish, aid, maintain and operate public parks, playgrounds and recreational facilities and programs.

(Ord. 2009-01, passed 2-9-09)

' 34.27 POWERS AND DUTIES CONCERNING PUBLIC PARKS AND PROGRAMS.

The Town Council shall have and exercise all powers necessary to establish, aid, maintain and operate public parks, playgrounds, and recreational facilities and programs, including but not limited to the powers previously vested in the Board of Parks and Receptions, including the authority to hire and fix the compensation of the Superintendent and such other personnel as the Council shall determine.

(Ord. 2009-01, passed 2-9-09)

' 34.28 CREATION OF COMMITTEES.

The Council may create an advisory council and/or special committees composed of citizens interested in the issue of parks and recreation.

(Ord. 2009-01, passed 2-9-09)

' 34.29 ESTABLISHMENT OF RULES AND REGULATIONS.

The Council may establish comprehensive rules and regulations for the governance of park land, property, activities and employees.

(Ord. 2009-01, passed 2-9-09)

' 34.30 QUALIFICATIONS OF SUPERINTENDENT.

The Superintendent must:

(A) Be qualified by training or experience in the field of parks and recreation; or

(B) Have a certification or advanced degree in the field of parks and recreation.

(Ord. 2009-01, passed 2-9-09)

' 34.31 POWERS AND DUTIES OF SUPERINTENDENT.

The Superintendent shall:

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

(B) Administer the plan as approved by the Council;

(C) Supervise the general administration of the Department;

(D) Keep the records of the Department and preserve all papers and documents of the Department;

(E) Recommend persons for appointment as assistants if the Council determines there is a need;

(F) Appoint employees of the Department subject to the approval of the Council according to the standards and qualification set by the Council without regard to political affiliation;

(G) Prepare and present to the Council an annual report;

(H) Report to and work under the supervision of the Director of Public Works; and

(I) Perform other duties that the Council or the Director of Public Works directs.

(Ord. 2009-01, passed 2-9-09)

TRAFFIC COMMISSION

' 34.35 ESTABLISHMENT; APPOINTMENT OF MEMBERS; TERMS.

There is established a Town Traffic Commission that shall serve without compensation as an advisory board to the Town Council and other town officials, boards and commissions charged or concerned with traffic regulation. The Chief of Police or any sworn

police officer he or she may designate, the Town Attorney, the Director of Public Works and the Street Superintendent shall each serve as ex officio members of the Traffic Commission. The executive shall appoint three additional citizen-members to serve on the Traffic Commission for terms of one year. The executive shall appoint one of the active members of the Traffic Commission as its Chairman. The Chairman and each citizen-member of the Traffic Commission shall serve and hold such office at the pleasure of the executive. (Ord. 1998-10, passed 4-13-98)

' 34.36 POWERS AND DUTIES.

The Traffic Commission shall meet at those times and dates established by the Commission, and it shall be the duty of the Traffic Commission, subject to funds appropriated by the Town Council, to:

(A) Receive complaints and make recommendations concerning traffic matters that affect public safety;

(B) Review and recommend to the Town Council, and the other various town officials concerned with traffic matters, the means for improving traffic conditions and the administration and enforcement of traffic regulations; and

(C) To coordinate traffic activities and supervise the preparation of traffic studies and reports concerning traffic matters and traffic regulation. (Ord. 1998-10, passed 4-13-98)

DEPARTMENT OF STORM WATER MANAGEMENT

' 34.45 ESTABLISHMENT; APPOINTMENT OF MEMBERS; TERMS.

Pursuant to IC 8-1.5-5-4(b), the town now adopts the provisions of IC 8-1.5-5 and establishes a Department of Storm Water Management which shall be controlled by a Board of Directors as provided for

herein. The Department of Storm Water Management shall be under the direct supervision and control of the Storm Water Management Board, which board shall consist of three directors appointed by the executive. However, not more than two directors may be of the same political party. The term of each director shall be for a period of two years subject to the power of the executive to reappoint any director for additional two year terms. The executive may remove a director at any time when, in the judgment of the executive, it is in the best interests of the Department of Storm Water Management.

(Ord. 1997-19, passed 9-29-97)

' 34.46 POWERS AND DUTIES.

(A) The Storm Water Management Board shall have exclusive jurisdiction over the collection and disposal of storm water within the district all powers prescribed by IC 8-1.5-5, IC 8-1.5-3-4(a) and IC 8-1.5-3-4, as may be amended or recodified from time to time and, in addition, the Board may:

- (1) Hold hearings following public notice;
- (2) Make findings and determinations;
- (3) Install, maintain, and operate a storm water collection and disposal system;
- (4) Make all necessary or desirable improvements of the grounds and premises under control; and
- (5) Issue and sell bonds of the district in the name of the city for the acquisition, construction, alteration, addition, or extension of the storm water collection and disposal system or for the refunding of any bonds issued by the Board.

(B) The Department of Storm Water Management shall include all territory within the corporate boundaries of the town, and all the territory within the district shall constitute a special taxing district for the purpose of providing for the collection and disposal of storm water of the district in a manner that protects the public health and welfare and for the purpose of levying special benefit taxes for purposes

of storm water collection and disposal. All area in the district and all area added to the district is considered and deemed to have received a special benefit from the storm water collection and disposal facilities of the district equal to or greater than the special taxes imposed on the area by this chapter in order to pay all or part of the costs of such facilities.

(Ord. 1997-19, passed 9-29-97)

Cross-reference:

Storm water management regulations, see Ch. 53

DEPARTMENT OF REDEVELOPMENT

' 34.50 CREATION OF DEPARTMENT AND COMMISSION.

(A) A Department of Redevelopment and a board of five members, to be known and designated as the "Town of Lowell Redevelopment Commission", are hereby created and established with full power and authority to act as provided by IC 36-7-14, and as may be amended by the state in the future (hereinafter the "Act") and the provisions of the Act shall supersede and control any current or future conflicts with this enabling subchapter.

(B) The Redevelopment Commission shall have the powers and duties authorized for such boards and shall conduct its business according to all applicable provisions of the Act.
(Ord. 2001-14, passed 10-8-01)

' 34.51 APPOINTMENT AND TERM OF OFFICE.

(A) Three of the Commissioners shall be appointed by the Town Executive and two of the Commissioners shall be appointed by the Town Council in the manner set forth in the Act.

(B) Each Commissioner shall serve for one year from the first day of January after their appointment and until their successor is appointed and has

qualified, except that the original Commissioners shall serve from the date of their appointment until the first day of January in the second year after their appointment. If a vacancy occurs, a successor shall be appointed in the same manner as the original Commissioner, and the successor shall serve for the remainder of the vacated term.

(C) Each Commissioner, before beginning their duties, shall take and subscribe an oath of office in the usual form, to be endorsed on the certificate of their appointment, which shall be promptly filed with the office of the Clerk-Treasurer.

(D) Each Commissioner, before beginning their duties, shall execute a bond payable to the state, with surety to be approved by the Town Council President.

The bond must be in the penal sum of \$15,000 and must be conditioned on the faithful performance of the duties of their office and the accounting for all monies and property that may come into their hands or under their control. The cost of the bond shall be paid by the special taxing district.

(Ord. 2001-14, passed 10-8-01)

' 34.52 QUALIFICATIONS, PER DIEM AND STAFF.

(A) A Commissioner must be at least 18 years of age, and must be a resident of the town.

(B) If a Commissioner ceases to be qualified under this section, they immediately forfeit their office.

(C) Except as provided in division (D) below, Redevelopment Commissioners are not entitled to salaries but are entitled to reimbursement for expenses necessarily incurred in the performance of their duties.

(D) A Commissioner who does not otherwise hold a lucrative office for the purpose of Article 2, Section 9 of the Indiana Constitution may receive:

- (1) A salary; or

(2) A per diem;

and is entitled to reimbursement for expenses necessarily incurred in the performance of their duties.

(Ord. 2001-14, passed 10-8-01)

' 34.53 MEETINGS AND OFFICERS.

(A) The Redevelopment Commissioners shall hold a meeting for the purpose of organization not later than 30 days after they are appointed and, after that, each year on the first day in January that is not a Saturday, a Sunday, or a legal holiday. They shall choose one of their members as president; another as vice president, and another as secretary. These officers shall perform the duties usually pertaining to their offices and shall serve from the date of their election until their successors are elected and qualified.

(B) The Redevelopment Commission may appoint a treasurer who need not be a member of the Commission. The Commission may provide for the payment of compensation to a Treasurer who is not a member of the Commission. Notwithstanding any other provision of this section, the Treasurer has charge over and is responsible for the administration, investment, and disbursement of all funds and accounts of the Redevelopment Commission in accordance Indiana law. However, the Treasurer may not perform any duties of the Clerk-Treasurer or any other officer of the unit that are prescribed under the law or by any provisions of this chapter that pertain to the issuance and sale of bonds, notes, or warrants of the special taxing district.

(C) The Commissioners may adopt the rules and bylaws they consider necessary for the proper conduct of their proceedings, the carrying out of their duties, and the safeguarding of the money and property placed in their custody. In addition to the annual meeting, the Commissioners may, by resolution or in accordance with their rules and bylaws, prescribe the date and manner of notice of other regular or special meetings.

(D) Three of the Redevelopment Commissioners constitute a quorum, and the concurrence of three Commissioners is necessary to authorize any action.

(E) The Building Director shall serve as Executive Director of the Commission and assist the Commission in the performance of their duties, the Clerk-Treasurer, or his or her designee, shall serve as the recording secretary for the Redevelopment Commission and the Town Attorney shall serve as legal representative of the Commission.

(Ord. 2001-14, passed 10-8-01)

CHAPTER 35: FINANCE AND REVENUE

Section

General Provisions

35.01 Organizational memberships

Claims; Approval and Advance Payment

35.15 Procedure for claim approval

35.16 Pre-approved claim disbursement

35.17 Claim documentation

35.18 Allowance of claims

Fixed Asset Capitalization Policy

35.25 Definitions and provisions

35.26 Recording and accounting

35.27 Safeguarding of assets

Cross-reference:

Authority of Council to appropriate funds for promotional activities, see ' 30.18

Bad check fee, see ' 32.01

Funds, see Ch. 36

GENERAL PROVISIONS

' 35.01 ORGANIZATIONAL MEMBERSHIPS.

The Town Council authorizes the appropriation of funds within the subscription and dues portion of the budget, to be used to purchase the following memberships and subscriptions:

(A) Indiana Association of Cities and Towns;

(B) Council of Northwest Indiana Cities and Towns;

(C) International League of Municipal Clerks;

(D) Indiana Parks and Recreation;

(E) Confederation of Parks and Recreation;

(F) National Recreation and Park Association;

(G) American Waterworks Association;

(H) International City Managers Association;

(I) Indiana Association of Building Officials;

(J) Indiana League of Municipal Clerks and Treasurers;

(K) Lake County Law Enforcement Council;

(L) Lake/Suburban Public Safety Training Council (Police);

(M) Indiana Municipal Management Association;

(N) *American City and County*;

(O) *Construction Bargainer*;

(P) *Water and Sewage Works*;

(Q) American Planning Association;

(R) Indiana Planning Association;

(S) Indiana Rural Water Association;

(T) Indiana GFOA, Inc.;

(U) Lowell Chamber of Commerce;

(V) Lowell Main Street Association;

(W) International Code Council;

Lowell - Administration

- (X) Indiana Association of Chiefs;
- (Y) Northwest Indiana Law Enforcement Training Center;
- (Z) American Society of Law Enforcement Trainers;
- (AA) Water Environment Federation; and
- (BB) Association State Flood Plain Administrators.
(’80 Code, ’ 2.38.010) (Am. Ord. 1982-3, passed - -82; Am. Ord. 2001-09, passed 9-10-01; Am. Ord. 2005-23, passed 7-25-05)

CLAIMS; APPROVAL AND ADVANCE PAYMENT

' 35.15 PROCEDURE FOR CLAIM APPROVAL.

The following procedure will be followed in lieu of individual Councilmembers signing claims for payment of accounts. A list of claims to be approved for payment will be submitted at each regular meeting by the Clerk-Treasurer outlining the total amount of claims to be paid. The list will be approved by Council action and become a part of the minutes of the meeting. The list will be signed by Councilmembers and one member of the Council will be required to initial each individual claim.
(Res. 14-1977, passed - -77)

' 35.16 PRE-APPROVED CLAIM DISBURSEMENT.

The Clerk-Treasurer is authorized to make claim payments in advance of Town Council approval for the following expenses:

- (A) Property or services purchased or leased from:
 - (1) The United States government; or
 - (2) An agency or a political subdivision of the United States government.
- (B) License fees or permit fees.
- (C) Insurance premiums.
- (D) Utility payments or utility connection charges.
- (E) Federal grant programs if:
 - (1) Advance funding is not prohibited; and
 - (2) The contracting party provides sufficient security for the amount advanced.
- (F) Grants of state funds authorized by statute.
- (G) Maintenance agreements or service agreements.
- (H) Lease agreements or rental agreements.
- (I) Principal and interest payments on bonds.
- (J) Payroll.
- (K) State, federal, or county taxes.
(Ord. 1992-13, passed - -92)

' 35.17 CLAIM DOCUMENTATION.

The Clerk-Treasurer shall pay only those expenses under ' 35.16 that are supported by a fully itemized claim.
(Ord. 1992-13, passed - -92)

' 35.18 ALLOWANCE OF CLAIMS.

The Town Council shall review and allow the claims paid under ' 35.16 at the Council's next regular or special meeting following the pre-approved payment of the expense.
(Ord. 1992-13, passed - -92)

***FIXED CAPITAL ASSET
CAPITALIZATION POLICY***

' 35.25 DEFINITIONS AND PROVISIONS.

(A) *Definitions.* For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

CAPITAL OUTLAYS. Expenditures which benefit both the current and future fiscal periods and shall include the costs of acquiring land or structures, construction or improvement of buildings, structures nor other fixed assets, and equipment purchases having an appreciable and calculable period of usefulness. These are expenditures that result in the acquisition of or addition to the government's general fixed assets.

FIXED ASSETS. Tangible assets of a durable nature employed in the operating activities of the town's departments and utilities that are relatively permanent and are needed for the delivery of town and/or utility services that are not held for sale in the ordinary course of business. These fixed assets shall be defined into classes according to the physical characteristics (e.g. land, buildings, machinery and equipment, furniture and fixtures, improvements other than buildings).

TANGIBLE ASSETS. Assets that can be observed by one or more of the physical senses as they may be seen and touched and, in some environments, heard and smelled.

(B) *Land.* The town will capitalize all land purchases regardless of cost.

(1) Exceptions to land capitalization are land purchased outright as easements or rights of way for infrastructure needs (i.e., roads and streets, street lighting, bridges sidewalks, trails, curbs, street signs and storm water collection). Easements required for water or sewer infrastructure may be capitalized.

(2) Original cost of land will include the full value given to the seller, in addition to those costs associated with securing and preparing the land for final use. These fees may include legal, appraisal, negotiation, title work and opinion, surveying, and costs required to prepare the land for its intended use.

(3) A department will record donated land at fair market value on the date of transfer plus any associated costs.

(4) Purchases made using federal or state funding will follow the source funding policies in addition to the above procedures.

(C) *Machinery and equipment.*

(1) The definition of machinery and equipment is an apparatus, tool, conglomeration of pieces to form a tool or purchased equipment. These items will stand alone and not become a part of a basic structure or building.

(2) The, town will capitalize items with an individual value equal to or greater than \$5,000. Machinery combined with other machinery to form one unit with a total value greater than the above-mentioned limit will be one unit.

(3) Shipping charges, consultant fees, and any other cost directly associated with the purchase, delivery, or set up, will be capitalized.

(4) Improvements or renovations to existing machinery and equipment will be capitalized only if the result of the change meets all of the following conditions:

(a) Total costs exceed \$1,000;

(b) The useful life is extended two or more years; and

(c) The total costs will be greater than the current book value and less than the fair market value.

(5) A department will record donated machinery and equipment at fair market value on the date of transfer with any associated costs included.

(6) Purchases made using federal or state funding will follow the source funding policies in addition to the above procedures.

(D) *Buildings.*

(1) A department will capitalize buildings at full cost with no requirement for subcategories for tracking the cost of separate building systems like HVAC, sprinklers, plumbing, lighting, etc. If subcategories are beneficial for enterprise accounting this may be done. The department will include the cost of items designed or purchased exclusively for the building.

(2) A department's new building will be capitalized only if it meets the following two conditions:

(a) The total cost exceeds \$5,000; and

(b) The useful life is greater than five years.

(3) A department improving or renovating an existing building will capitalize the cost only if the result meets all of the following conditions:

(a) The total cost exceeds \$5,000;

(b) The useful life is extended two or more years; and

(c) The total costs will be greater than the current book value and less than the fair market value.

(4) Capital building costs will include preparation of land for the building, architectural and engineering fees, bond issuance fees, interest cost (while under construction), accounting costs if material, and any other costs directly attributable to the construction of a building.

(5) A department will record donated buildings at fair market value on the date of transfer with any associated costs.

(6) Purchases made using federal or state funding will follow the source funding policies in addition to the above procedures.

(E) *Improvements other than buildings.*

(1) The definition of this category of fixed assets is improvements to land that results in better enjoyment of that land and also has a life expectancy greater than two years. The fixed asset in this class is also attached or not easily removed from the existing land. Examples are walks, parking areas and drives, golf cart paths, fencing, retaining walls, pools, outside fountains, planters, underground sprinkler systems, and other similar items.

(2) The town will capitalize new improvements other than buildings only if it meets the following two conditions:

(a) The total cost exceeds \$5,000;

(b) The useful life is greater than two years.

(3) A department will capitalize improvements or renovations to existing improvements other than buildings only if the result meets all of the following conditions:

(a) The total cost exceeds \$2,500;

(b) The asset's useful life is extended two or more years; and

(c) The total costs will be greater than the current book value and less than the fair market value.

(4) A department's donated improvements other than buildings will be recorded at fair market value on the date of the transfer with any associated costs.

(5) Purchases made using federal or state funding will follow the source finding policies and above procedures.

(F) *Historical costs.* The cash equivalent price exchanged for goods or services at the date of acquisition. Land, buildings, equipment, and most inventories are common examples of items recognized under the historical cost attribute.

(G) *Enterprise funds.* Enterprise funds are those used to account for operations that are:

(1) Financed and operated in a manner similar to private business enterprise, where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges; or

(2) Where the governing body has decided that periodic determination of revenues earned, expenses incurred, and/or net income is appropriate for capital maintenance, public policy, management control, accountability and other purposes.

(3) The enterprise funds of the Town of Lowell, Indiana, shall include the municipally owned water and wastewater utilities and the operation of these utilities shall require enterprise fund accounting and reporting.

(Ord. 2001-01, passed 1-22-01; Am. Ord. 2008-09, passed 5-12-08)

' 35.26 RECORDING AND ACCOUNTING.

(A) The town and its various departments shall classify capital expenditures as capital outlays within the fund from which the expenditure was made in accordance with the Chart of Accounts of the Cities and Towns Accounting Manual. The cost of property, plant and equipment includes all expenditures necessary to put the asset into position and ready for use. For purposes of recording fixed assets of the town and its departments, the valuation of assets shall be based on historical cost or where the historical cost is indeterminable, by estimation for those assets in existence.

(B) The town's municipally owned utilities shall record acquisition of fixed assets in accordance with generally accepted accounting principles. When an asset is purchased for cash, the acquisition is simply recorded at the amount of cash paid, including all outlays relating to its purchase and preparation for intended use. Assets may be acquired under a number of other arrangements including:

- (1) Assets acquired for a lump-sum purchase price.
- (2) Purchase on deferred payment contract.
- (3) Acquisition under capital lease.
- (4) Acquisition by exchange of nonmonetary assets.
- (5) Acquisition by issuance of securities.
- (6) Acquisition by self-construction.
- (7) Acquisition by donation or discovery.
- (8) Acquisition by grant funds.
- (9) Acquisition by contribution.

(C) Some of these arrangements present special problems relating to the cost to be recorded, for example, in utility accounting, interest during a period of construction has long been recognized as a part of the asset cost. For purposes of recording fixed assets of the utilities, the valuation of assets shall be based on historical costs.

(D) In addition, an asset register (prescribed state form 211) shall be maintained to provide a detail record of the capital assets of the governmental unit.
(Ord. 2001-01, passed 1-22-01)

' 35.27 SAFEGUARDING OF ASSETS.

(A) The accounting controls shall be designed and implemented to provide reasonable assurances that:

(1) Capital expenditures made by the town, its various departments and utilities be in accordance with management's authorization as documented in the minutes.

(2) Transactions of the utilities are recorded as necessary to permit preparation of financial statements in conformity with generally accepted principles.

(3) Adequate detail records be maintained to assure accountability for town-owned and utility-owned assets.

(4) Access to assets be permitted in accordance with management's authorization.

(5) The recorded accountability for assets be compared with the existing assets at least every two years and appropriate action be taken with respect to any differences.

(Ord. 2001-01, passed 1-22-01)

Section

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36.200 HSA TIF Bond Fund

Levy Excess Fund

36.300 Levy Excess Fund

36.301 LOIT Special Distribution Fund

Cross-reference:

Authority of Council to appropriate funds for promotional activities, see ' 30.18

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Storm Water Management Fund and Storm Water Utility Improvement Fund, see ' 53.106

Town officials, Clerk's Record Perpetual Fund, see ' 31.12; Supplemental Adult Probation

Services Fund, see ' 31.13

Unsafe Building Fund, see ' 153.17

CUMULATIVE BUILDING AND EQUIPMENT FUND

' 36.001 ESTABLISHMENT; PURPOSE.

There is established a Cumulative Building and Equipment Fund for the erection of fire stations and the erection of additions to and the remodeling of present buildings used to house firefighting equipment, and for the purchase of firefighting equipment and police radio equipment for the town.

('80 Code, ' 3.04.010) (Ord. 7-1973, passed - -73)

Statutory reference:

Authority of Town Council to create a Cumulative Building and Equipment Fund, see IC 36-8-14-1 through 36-8-14-4

' 36.002 TAX LEVY; RATE.

To provide for the Cumulative Building and Equipment Fund, the Town Council shall levy annually, for five consecutive years, after the approval of such fund, a tax on all taxable property in the town at a rate as determined by the Town Council on the assessed valuation of property in the taxing district of the town.

('80 Code, ' 3.04.020) (Ord. 11-1978, passed - -78)

' 36.003 DISPOSITION OF REVENUE FROM TAX LEVY.

The revenue derived from such taxation shall be held in a special fund to be known as the Building and Remodeling, Firefighting and Police Radio Equipment Fund.

('80 Code, ' 3.04.030) (Ord. 7-1973, passed - -73)

CUMULATIVE CAPITAL DEVELOPMENT FUND

' 36.015 ESTABLISHMENT.

(A) There is established a Lowell Cumulative Capital Development Fund.

(B) A need now exists for the re-establishment of a Cumulative Capital Development Fund for all the uses set out in IC 36-9-15.5.

(C) The Council will adhere to the provisions of IC 36-9-15.5. The proposed fund will not exceed \$0.05 on each \$100 of assessed valuation. The tax rate will be levied beginning with taxes for 2015 payable in 2016. (Ord. 1991-7, passed 4-22-91; Am. Ord. 2014-06, passed 4-28-14)

' 36.016 AD VALOREM PROPERTY TAX LEVY.

An ad valorem property tax levy will be imposed and the revenues from the levy will be retained in the Lowell Cumulative Capital Development Fund. (Ord. 1991-7, passed 4-22-91)

' 36.017 MAXIMUM RATE OF LEVY.

The maximum rate of levy under ' 36.016, will be an amount determined by the Town Council, and subject to amendment by Council from time to time. The current amounts are available for public inspection at the town offices during normal business hours. (Ord. 1991-7, passed 4-22-91)

' 36.018 USE OF FUNDS.

The funds accumulated in the Lowell Cumulative Development Fund will be used for those purposes established and allowable under IC 36-9-16-2 for Cumulative Building Fund, 36-9-16-3 for Cumulative Capital Improvement Fund, 36-9-26 for Cumulative Building Fund C Sewers. (Ord. 1991-7, passed 4-22-91)

' 36.019 EXCEPTIONS.

Notwithstanding the provisions of ' 36.018, funds accumulated in the Lowell Cumulative Capital Development Fund may be spent for purposes other than the purposes stated in ' 36.018, if the purpose is to protect the public health, welfare, or safety in an emergency situation which demands immediate action. Money may be spent under the authority of this section only after the Town Council President issues a declaration that the public health, welfare, or safety is in immediate danger that requires the expenditure of money in the fund.

(Ord. 1991-7, passed 4-22-91)

**CUMULATIVE CAPITAL IMPROVEMENT
FUND**

**CUMULATIVE ECONOMIC
NON-REVERTING
DEVELOPMENT FUND**

' 36.030 ESTABLISHMENT.

In accordance with the requirements of IC 6-7-1-12, 6-7-1-15, 6-7-1-28.1, 6-7-1-30.1 and 6-7-1-31.1, there is created a special fund to be known as the Cumulative Capital Improvement Fund into which the cigarette taxes allotted to the town by reason of IC 6-7-1-30.1 shall be deposited. The fund shall be a cumulative fund and all of the monies deposited into the fund shall be appropriated and used solely for capital improvements as defined in ' 36.031, and none of the monies will revert to the general fund or be used for any purposes other than capital improvements. The town may at any time transfer to its general fund any monies derived under this chapter, which have been deposited in the Cumulative Capital Improvement Fund. ('80 Code, ' 3.08.010) (Ord. 7-1965, passed - -65; Am. Ord. passed - -79)

Statutory reference:

Authority to create Cumulative Capital Improvement fund to receive proceeds from cigarette tax, see IC 6-7-1-31.1

' 36.031 PURPOSE OF FUND.

The Cumulative Capital Improvement Fund may only be used for the following purposes:

- (A) To purchase land, easements, or rights-of-way;
- (B) To purchase buildings;
- (C) To construct or improve municipally-owned property;
- (D) To retire general obligation bonds issued for one of the purposes stated in divisions (A), (B), or (C) of this section. ('80 Code, ' 3.08.020)

' 36.045 CREATION; PURPOSE.

There is created a special non-reverting fund to be used for economic development projects, signage, historic development, festival promotion and/or tourism. (Ord. 1993-16, passed - -93)

' 36.046 GRANTS AND GIFTS.

Grants or gifts received for the above stated purpose shall be deposited into the fund and used for the stated purpose. (Ord. 1993-16, passed - -93)

' 36.047 EXPENDITURES.

An annual budget shall be prepared and funds appropriated before expenditures are made. (Ord. 1993-16, passed - -93)

**CUMULATIVE NON-REVERTING FUND FOR
GROUP HEALTH PLAN**

' 36.060 ESTABLISHMENT; PURPOSE.

A cumulative non-reverting fund is established for the purpose of implementing a group health plan to provide for the acquisition of major medical insurance coverage for the employees and qualified dependents and for the establishment of a medical reimbursement plan for the benefit of the employees and their qualified dependents as such insurance coverage and reimbursement plans may be in effect from time to time. (Ord. 1991-29, passed - -91)

' 36.061 APPROPRIATION OF FUNDS.

The Town Council shall appropriate such funds as the Town Council deems appropriate to be held in the fund.

(Ord. 1991-29, passed - -91)

' 36.062 USE OF MONIES.

The monies held in this fund may be used for the following purposes:

(A) To pay the premiums for any medical insurance policies purchased by the town for the benefit of the town's employees and their qualified dependents;

(B) To pay the Town's share of any medical reimbursement plan obligations; and

(C) To pay any administrative costs and expenses related to the administration of any group health plans as may be incurred from time to time.

(Ord. 1991-29, passed - -91)

INVESTIGATIVE AID FUND**' 36.075 ESTABLISHMENT; PURPOSE.**

The Investigative Aid Fund is established to further the investigative objectives of the Lowell Metropolitan Police Department and in particular to assist in undercover investigations and activities.

('80 Code, ' 3.28.010) (Ord. 1986-22, passed 8-11-86)

' 36.076 PROCEDURE FOR DISBURSEMENT OF FUNDS.

(A) The funds authorized for the Investigative Aid Fund will be maintained in an interest bearing account under the control of the Clerk-Treasurer.

(B) The Chief of Police must authorize all advances of funds to agents or officers for the

purchase of information, evidence, or other necessary expenditures. Such authorization must specify the information or item to be received, the amount of the expenditure, and the name of the agent or officer purchasing the information or item.

(C) The Chief of Police shall maintain a detailed record of each payment made from the Investigative Aid Fund. Such record shall specify the date and amount of each payment, the information received, and the use to which the information was put. The Chief of Police shall also provide a periodic and, in any event, not less than annual, report showing the status and reconciliation of the fund. This periodic report shall be submitted to the Clerk-Treasurer and made a part of the permanent files of the imprest fund and copies shall be submitted for review to the Town Council.

('80 Code, ' 3.28.020) (Ord. 1986-22, passed 8-11-86; Am. Ord. 1993-28, passed 10-25-93; Am. Ord. 2004-14, passed 6-14-04)

' 36.077 AUTHORIZED EXPENDITURES.

Expenditures from the Investigative Aid Fund may be used for the following purposes:

(A) Per diem expenses to confidential informants not to exceed \$25 per day for criminal intelligence and assistance.

(B) Token gambling.

(C) Purchase of items to be traded or bartered for payment of narcotics, dangerous drugs, evidence, and the like.

(D) Purchase of narcotics and/or dangerous drugs.

(E) Purchase of evidence in an amount not to exceed the amount of unencumbered revenue available in the Investigative Aid Fund.

(F) Any and all other expenditures reasonably necessary and/or related to the proper and/or efficient

investigation of illegal activities within the jurisdiction of the Metropolitan Police Department.
('80 Code, ' 3.28.030) (Ord. 1986-22, passed 8-11-86; Am. Ord. 2004-14, passed 6-14-04)

Cross-reference:

Fee schedule, see ' 11.003

' 36.078 APPROPRIATION.

The Town Council hereby appropriates up to the sum of \$5,000 to establish and maintain the Investigative Aid Fund subject to authorization by the Clerk-Treasurer that said revenues are existing and available in the general fund. All transactions from and to said fund shall be considered confidential police investigative matters under the Indiana Open Door Law. ('80 Code, ' 3.28.040) (Ord. 1986-22, passed 8-11-86; Am. Ord. 2004-14, passed 6-14-04)

LAW ENFORCEMENT CONTINUING EDUCATION FUND

' 36.090 ESTABLISHMENT.

There is established a Law Enforcement Continuing Education Fund to be funded by fees collected by the Metropolitan Police Department from claims filed under IC 33-19-8-4 and 33-19-8-6. The Law Enforcement Continuing Education Fund shall also be funded by fees collected from towing firms that tow vehicles at the request and direction of the Lowell Police Department.
('80 Code, ' 3.24.010) (Ord. 1987-18, passed 10-28-87; Am. Ord. 2009-13, passed 8-10-09)

' 36.091 PURPOSE.

The purpose of the Fund is to provide for the continuing education and training of law enforcement officers and such other purposes as are reasonably incidental to or related to such purpose.
('80 Code, ' 3.24.020) (Ord. 1987-18, passed 10-28-87)

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' 36.092 ADMINISTRATION OF FUND.

The Law Enforcement Continuing Education Fund shall be administered by the Clerk-Treasurer.
('80 Code, ' 3.24.010) (Ord. 1987-18, passed 10-28-87)

' 36.093 FUND EXPENDITURES.

Funds can be expended from the Law Enforcement Continuing Education Fund upon submission of an appropriate claim approved by the Board of Metropolitan Police Commissioners without appropriation by the Town Council.
('80 Code, ' 3.24.040) (Ord. 1987-18, passed 10-28-87)

' 36.094 DEPOSIT OF REMAINING MONEY IN LAW ENFORCEMENT TRAINING FUND.

Any money remaining in the Law Enforcement Continuing Education Fund at the end of a fiscal year shall be deposited by the Clerk-Treasurer in the Law Enforcement Training Fund created by IC 5-2-1-13(b), which Fund shall be governed by the State Law Enforcement Training Board.
('80 Code, ' 3.24.010) (Ord. 1987-18, passed 10-28-87)

METROPOLITAN POLICE PENSION FUND

' 36.105 CREATION.

There is created a Metropolitan Police Pension Fund into which all monies required to be deposited in such fund shall be deposited.
('80 Code, ' 3.12.010) (Ord. 1-1972, passed - -72)

Statutory reference:

Police Pension Fund, see IC 36-8-6

' 36.115 CREATION; PURPOSE.

There is created a special non-reverting capital fund for the use of the Department of Parks and Recreation for the purpose of acquiring land or making specific capital improvements.

('80 Code, ' 3.16.010) (Ord. 9-1972, passed - -72)

Cross-reference:

Department of Parks and Recreation, see " 34.25 through 34.31

' 36.116 TAX LEVY; RATE.

To provide for the Non-reverting Capital Fund, the Town Council shall levy annually, after the approval of such fund, a tax on all taxable property in the town at a rate as determined by the Town Council on the assessed valuation of property in the taxing district of the town.

('80 Code, ' 3.16.020) (Ord. 9-1972, passed - -72)

' 36.117 WITHDRAWAL OF MONIES.

Monies placed in the non-reverting capital fund shall not be withdrawn therefrom except for the purposes for which the fund is created, and in the preparation of future budgets of the Department of Parks and Recreation, the Town Council may designate an item therein and an appropriation to the fund.

('80 Code, ' 3.16.030) (Am. Ord. 2009-04, passed 2-23-09)

' 36.118 GRANTS AND GIFTS.

The Department of Parks and Recreation is authorized to place in the fund any grants received from other governmental units as well as any gifts received for the purpose of capital improvement of the parks of the town.

('80 Code, ' 3.16.040) (Ord. 9-1972, passed - -72)

' 36.119 EXPENDING OF MONIES.

Any monies in the fund shall not be obligated or expended therefrom excepting as provided by law.

('80 Code, ' 3.16.050) (Ord. 9-1972, passed - -72)

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS FUND

' 36.130 ESTABLISHMENT; PROCEDURES.

(A) A non-reverting fund known as the Racketeer Influenced and Corrupt Organizations (RICO) Fund is hereby established in the town.

(B) The fund is not subject to the appropriation procedures set forth in IC 36-5-3-1 et seq.

(C) Property forfeited to the Chief of Police pursuant to IC 34-24-1 et seq. shall be deposited in the town RICO Fund as determined by court order.

(D) The Chief of Police may make claims against this fund to defray costs and expenses incurred as an aggrieved person in the prosecution of the violation of IC 35-45-6-2 as determined by court order.

(E) The monies received into this fund shall be used to pay claims to offset actual expenses incurred in the prosecution of the RICO violations and other reasonably related law enforcement activities which fall within the scope of the court order.

(F) The RICO fund shall be a non-reverting fund and shall continue and remain in existence until terminated by subsequent ordinance enactment.

(G) Upon termination of this fund by subsequent ordinance the monies may be transferred to the town general fund and/or to such other appropriate fund, reverting or non-reverting, which may be in existence at the time of the termination of this fund and which is specified in the subsequent ordinance enacted.

(H) The monies received into the RICO fund shall be specifically limited to property and/or proceeds received as a result of the seizure of property and/or the recovery of damages under IC 34-24-1 et seq. and the monies held in this fund shall be segregated from all other funds and shall not be commingled with other monies received by the town.

(I) The RICO fund shall not receive monies from the Town General Fund.

(J) All claims for disbursements from the RICO fund shall be made by submitting an appropriate claim form to the Clerk-Treasurer of the town, which claim shall have sufficient documentation attached thereto to demonstrate that the disbursement is qualified under the provisions of this section and not in contradiction of or in violation of any court order.
(Ord. 1991-8, passed 6-12-91)

CUMULATIVE BUILDING FUND FOR MUNICIPAL SEWERS

' 36.150 ESTABLISHMENT.

(A) A Cumulative Sewer Fund is now established for the town pursuant to IC 36-9-26-2.

(B) An ad valorem property tax will be imposed for the fund in the amount of \$1 of each \$100 assessed valuation, and the revenues from the levy shall be retained in the fund and not revert to the general fund.

(C) Pursuant to IC 36-9-26-4, a tax of \$1 on each \$100 of assessed valuation of all taxable personal and real property within the town shall be levied annually for the next ten years commencing in the year 1999, first payable in the year 2000.

(D) The funds accumulated in the fund may be used for any and all lawful purposes permitted under IC 36-9-26-2 or any other law.

(Ord. 1997-21, passed 12-8-97; Am. Ord. 2000-3, passed 3-12-00)

Cross-reference:

Fee schedule, see ' 11.053

POLICE GRANT FUND

' 36.160 ESTABLISHMENT.

(A) A Police Grant Fund is hereby established for the purpose of receiving grant monies from the county, state and federal government.

(B) All money collected from the Lowell Police Department through various grants that have been awarded to the Lowell Metropolitan Police Department and/or participate in from various agencies shall be transferred to the Clerk-Treasurer and the Clerk-Treasurer shall deposit the money into the Police Grant Fund.

(C) The Police Grant Fund shall be used to pay police officers working grant hours and to purchase equipment funded through grants received by the Lowell Police Department.

(Ord. 2004-04, passed 2-9-04)

UNCLAIMED PROPERTY FUND

' 36.170 ESTABLISHMENT; PROCEDURES.

(A) A non-reverting fund known as the Unclaimed Property Fund is hereby established.

(B) Unclaimed money left in the possession of any town department shall be deposited in the fund.

(C) Money deposited in the fund shall be held pending distribution to the Indiana Attorney General

pursuant to the Unclaimed Property Act or other disposition pursuant to directions from the State Board of Accounts.

(Ord. 2009-10, passed 7-27-09)

PUBLIC SAFETY FUND

' 36.180 ESTABLISHMENT; PROCEDURES.

(A) A non-reverting fund known as the Public Safety Fund is hereby established.

(B) Excess welfare funds received from the Lake County Treasurer shall be deposited in the fund.

(C) Money deposited in the fund may be used for all purposes permitted under applicable law.

(Ord. 2009-19A, passed 9-14-09)

CUMULATIVE FIRE FUND

' 36.190 RE-ESTABLISHMENT.

(A) A need now exists for the re-establishment of a Cumulative Fire Fund for all the uses as set out in IC 36-8-14.

(B) The Council will adhere to the provisions of IC 36-8-14. The proposed fund will not exceed \$0.05 on each \$100 of assessed valuation. The tax rate will be levied beginning with taxes for 2015 payable in 2016.

(Ord. 2014-07, passed 4-28-14)

HSA TIF BOND FUND

' 36.200 HSA TIF BOND FUND.

(A) *Establishment.* A HSA TIF Bond Fund is hereby established for the purpose of receiving tax increment financing distribution.

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(B) *Deposit of funds.* The Clerk-Treasurer shall deposit all money collected from the Lake County Auditor into the HSA TIF Bond Fund.

(C) *Use of funds.* HSA TIF Bond Fund shall be used for payment of debt financing of project.

(Ord. 2014-28, passed 12-22-14)

LEVY EXCESS FUND

' 36.300 LEVY EXCESS FUND.

(A) *Establishment.* A Levy Excess Fund is hereby established for the purpose of receiving funds in excess of the 102% of the tax levy in any calendar year.

(B) *Deposit of funds.* The Clerk-Treasurer shall deposit all money received from the Lake County Auditor into the Levy Excess Fund.

(C) *Use of funds.* Per IC 6-1.1-18.5-17, the Department of Local Government Finance may require the amount in its Levy Excess Funds to be transferred in which the reductions were made to reduce the amount raised by taxation.

(Ord. 2015-40, passed 12-28-15)

' 36.301 LOIT SPECIAL DISTRIBUTION FUND.

(A) *Establishment.* A LOIT Special Distribution Fund is hereby established for the purpose of receiving funds.

(B) *Deposit of funds.* The Clerk-Treasurer shall deposit all money received from the Lake County Treasurer into the LOIT Special Distribution Fund.

(C) *Use of funds.* Per I.C. 6-3.6-9-17(h)(1)(A), 75% of the use of the money deposited in the LOIT Special Distribution Fund shall be used for infrastructure and the unrestricted portion may be transferred into the General Fund or into a Rainy Day Fund if properly designated as a source.

(Ord. 2016-12, passed 5-26-16)

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GENERAL PROVISIONS**' 37.001 APPLICABILITY.**

The Personnel Policies apply to all employees of the town, including members of the Police Department, except where expressly noted.

' 37.002 DEFINITIONS.

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

ACTIVE SERVICE. Employment with the town during which the employee is actually working. An

employee is in ***ACTIVE SERVICE*** even though the employee is on paid vacation leave, paid sick leave, paid personal leave, military leave, or paid bereavement leave. An employee is not in ***ACTIVE SERVICE*** while he or she is on unpaid leave.

ANNIVERSARY DATE. The ***ANNIVERSARY DATE*** corresponds to the original employment date of the employee and is determined by the date (the month, day of the month, and year) on which the employee began employment with the town.

BOARD OF POLICE COMMISSIONERS. Town of Lowell Board of Metropolitan Police Commissioners.

CLERK-TREASURER. Town of Lowell Clerk-Treasurer.

CONTINUOUS SERVICE. A line of employment with the town unbroken by any termination of that employment. The employee is still in ***CONTINUOUS SERVICE*** while on paid sick leave, vacation leave, bereavement leave, unpaid leave and the like.

COUNCIL. Town of Lowell Town Council.

EXEMPT EMPLOYEE. Any employee who meets the definitional requirements for an exempt employee under the Fair Labor Standards Act.

FULL-TIME EMPLOYEE. Any employee who works 35 hours or more per week in a position, which position will have a duration of at least 26 weeks and with which position no maximum time limit is associated.

FULL-TIME SERVICE. Employment with the town as a full-time employee.

NON-EXEMPT EMPLOYEE. Any employee who does not meet the definitional requirements for an ***EXEMPT EMPLOYEE*** under the Fair Labor Standards Act.

PART-TIME EMPLOYEE. Any employee who works less than 35 hours per week in a position, which position will have a duration of at least 26 weeks and with which position no maximum time limit is associated.

POLICE CHIEF. Chief of Town of Lowell Police Department.

POLICE DEPARTMENT. Town of Lowell Police Department.

POLICE MANUAL. Town of Lowell Police Department Manual.

SWORN DEPARTMENT MEMBER. Any police officer of the Police Department, including the Chief, Lieutenant, Sergeant, and reserve officers.

TEMPORARY EMPLOYEE. Any employee who is working in a position, which position will have a maximum duration of 26 weeks or less, regardless of the number of hours worked by the employee per week.

TOWN MANAGER. Manager for the Town of Lowell.

UNSWORN DEPARTMENT MEMBER. Any member of the Police Department not included in the definition of **SWORN DEPARTMENT MEMBER** above.

('80 Code, ' 2.02.001) (Am. Ord. 1988-20, passed 8-8-88; Am. Ord. 1989-16, passed 8-14-89)

' 37.003 NON-DISCRIMINATION POLICY.

It is the policy of the town not to discriminate against any employee or applicant for employment because of race, color, age, religion, sex, national origin, disability, handicap or any other legally protected status.

('80 Code, ' 2.02.005)

' 37.004 EMPLOYEE STATUS.

All employees of the town are employees at will, unless the employee is employed under an express, written contract of employment.

('80 Code, ' 2.02.006) (Ord. 8-1988, passed - -88)

' 37.005 PROPER AUTHORITY; CHART.

(A) Many sections of these policies refer to *Aproper authority@* for a grant of permission or for notification purposes. The following chart identifies the proper authority for each employee group:

Chart of Proper Authority

<i>Employee Groups</i>	<i>Proper Authority</i>
Departmental Employees	Department Superintendent
Department Superintendents	Town Manager
Utility/Clerical Employees	Clerk-Treasurer
Town Manager	Town Council

(B) In the absence of a Town Manager, the Council will exercise the authority which would be exercised by the Town Manager.

('80 Code, ' 2.02.020 M.)

' 37.006 INTERGOVERNMENTAL COMMUNICATIONS; POLICY.

(A) The policy which follows in division (B) of this section will be instituted in order to:

(1) Facilitate a coherent and comprehensive line of communication between Councilmembers and town employees;

(2) Protect the security of town buildings and grounds;

(3) Protect the town from possible liability; and

(4) Establish a central information dissemination source.

(B) All immediate supervisors and/or department superintendents will immediately notify the Clerk-Treasurer's office in the town hall, by phone, when any external salesperson or any agent, inspector or representative of a federal, state or local governmental agency is on or has entered town property. The Clerk-Treasurer's office will keep a central telephone log to record all phone calls regarding such visits, including in the log all information regarding the visitor's name, job title, and employer's name, the purpose of the visit, the name of the immediate supervisor or department superintendent making the phone call, and the date and time of the phone call.

('80 Code, ' 2.02.090)

' 37.007 EMPLOYEE PURCHASING POLICIES.

A uniform set of purchasing policies will result in the following: A clear understanding of responsibilities and authorities as they relate to purchasing; insure

competitive pricing in order to maximize limited budget resources; insure a clear flow of communication from the departments through the Town Manager to the Clerk-Treasurer; and maintain the integrity of the budget drafted and approved by the Town Council. The Town Manager and Clerk-Treasurer will prepare and adopt, with the approval of the Council, procedures and policies for purchasing.
(‘80 Code, ' 2.02.100)

' 37.008 SAFETY POLICY.

The state agent charged with the responsibility to enforce federal safety regulations is the Indiana Occupational Safety Standards Commission. It is the position of the town to cooperate with the Commission to implement the rules and regulations adopted by the Commission within the resources and capabilities of the town. To that end the Town Council will adopt appropriate safety policies and procedures.
(‘80 Code, ' 2.02.110)

' 37.009 PAYMENT IN ADVANCE PROHIBITED.

No employee, including salaried employees, shall be paid in advance of completing work during each pay period. If a salaried employee does not complete his or her assigned number of hours during a pay period with either work and/or approved leave, he or she shall be paid a percentage of his or her regular bi-weekly salary, which percentage will be determined by dividing the total number of hours worked and/or leave approved for said pay period by the assigned number of hours for the same pay period.
(‘80 Code, ' 2.02.120)

' 37.010 LONGEVITY PAY INCREASES.

(A) In addition to the base hourly wage/salaries of all full time employees, except for those employees

listed under the Police Department, the following longevity pay shall be compensated. Calculation to begin the pay period after said anniversary date.

(1) \$0.07 per hour/\$5.60 bi-weekly after two continuous years of service.

(2) \$0.14 per hour/\$11.20 bi-weekly after three years of service.

(3) \$0.21 per hour/\$16.80 bi-weekly after four years of service.

(4) \$0.28 per hour/\$22.40 bi-weekly after five years of service.

(5) \$0.35 per hour/\$28.00 bi-weekly after six years of service.

(6) \$0.70 per hour/\$56.00 bi-weekly after ten years of service.

(7) \$1.05 per hour/\$84.00 bi-weekly after 15 years of service.

(8) \$1.40 per hour/\$112.00 bi-weekly after 20 years of service.

(B) The foregoing increases shall be based solely on term of service and shall be in addition to any other salary increases based on merit or other considerations. (Ord. 1992-14, passed 7-27-92; Am. Ord. 2000-30, passed 12-26-00)

Cross-reference:

Fee schedule, ' 11.004

' 37.011 TELEPHONE POLICY.

(A) *Telephone usage.* During regular working hours, employees shall not use the town's telephone system for personal telephone calls other than calls of an emergency or exigent nature.

(B) *Personal long distance calls.* No employee shall make any personal long distance telephone calls without first obtaining the permission of their immediate supervisor and any long distance charges for the calls shall be reimbursed to the town within ten days of the town's receipt of the billing statement reflecting the charges for the call.

(C) *Reimbursement of charges.* All town employees, officials and elected officers are entitled to be reimbursed for any long distance or cellular charges directly related to telephone calls placed from their home, business or cellular telephones to conduct town business. To qualify for the reimbursement, a claim form shall be filed with the Clerk-Treasurer's Office within 30 days of the date of the billing reflecting the charges, and a copy of the billing statement shall be filed with such claim along with the name of the person or organization contacted and, if requested by the Clerk-Treasurer, a brief explanation as to the purpose and nature of the call so a determination may be made as to whether or not the call was directly related to town business.
(Ord. 1999-17, passed 8-30-99)

' 37.012 CODE OF SHARED ETHICS AND VALUES.

Preamble. For government to operate with transparency and accountability, it is essential that public officials and employees conduct themselves in ways that uphold the public trust. The Code of Shared Ethics and Values provides guidance and support to public servants for the promotion and maintenance of the highest standards of personal and professional conduct. Because we wish to ensure the public confidence in the integrity of our government entities, it is proposed that all elected and appointed officials, employees, volunteers and others who participate in government shall personally commit to being trained on the values and standards put forth in this section.

(A) *Honesty/integrity.*

(1) To exercise the moral courage to hold myself and others accountable for our actions.

(2) To work within the law and in a way that will bear close public scrutiny.

(3) To exhibit trustworthiness.

(4) To employ decision-making that promotes the public's best interests.

(5) To avoid impropriety and refrain from misusing an official position to secure unwarranted privileges or advantages for myself or others.

(6) To make no private promises of any kind that may unduly influence my public duties.

(7) To refrain from engaging in business that would be directly or indirectly inconsistent with the conscientious performance of public duties.

(8) To accept the responsibility to expose corrupt and/or unethical behavior.

(9) To protect the public trust by exercising honesty and ensuring transparency.

(B) *Respect/civility.*

(1) To treat every person with dignity and respect.

(2) To accomplish the goals and responsibilities of my individual position while respecting my role as a member of a team and the community at large.

(3) To act in a professional, responsive and courteous manner.

(4) To reach decisions only after considering various points of view.

(5) To work with others in a spirit of tolerance and understanding.

(6) To work to build consensus and accommodate diverse opinions.

(7) To utilize effective communication by listening, asking questions and responding in a way that adds value to the conversation.

(8) To support the public's right to know the truth and encourage diverse and civil public debate in the decision-making process.

(C) *Accountability/responsibility.*

(1) To refrain from using official positions to secure unwarranted privileges or advantages for myself or others.

(2) To remove myself from every decision-making process in which I, my business, my associates or my family may benefit and upon removing myself from decisions, I will show self-restraint and not voice my opinion on the question.

(3) To conduct my private affairs in a manner that minimizes the risk of real, potential or perceived conflicts of interest.

(4) To make full public disclosure of the nature of any conflict of interest prior to any considered action.

(5) To respect the privacy of others by keeping confidential information that I acquire in the course of my professional duties protected unless a legitimate reason to disclose exists.

(6) To refrain from taking advantage of information received in the course of my professional duties that is not available to the public.

(7) To refrain from directly or indirectly using or allowing the use of government property for anything other than official activities.

(8) To refrain from soliciting or accepting gifts or gratuities that may have a real or perceived influence on my objectivity in carrying out official responsibilities or placing me under obligation to the donor.

(9) To refrain from competing with the community where I am employed or serve as an appointed or elected official.

(D) *Fairness/justice.*

(1) To advocate and promote the most efficient, effective, and equitable way to deliver public services without prejudice or discrimination.

(2) To publicly acknowledge that the function of government is to serve the best interests of all citizens.

(3) To refrain from granting preferential treatment to family and friends when making staffing decisions or awarding contracts.

(4) To refrain from retaliation or condoning retaliation against those who have exposed corrupt or unethical behaviors.

(5) To assess the effects of inadequate resources of diverse groups within the service population and develop plans to remedy and implement such plans.

(6) To behave consistently and with respect toward all citizens.
(Ord. 2013-03, passed 4-8-13)

WORKING CONDITIONS

' 37.020 HOURS OF WORK; OVERTIME.

The hours of work for each department, except the Police Department, will be recommended by the department superintendent with approval from the Town Manager. Any non-exempt employee, except a sworn member of the Police Department who is covered by the 28 consecutive day exception under the Fair Labor Standards Act, who works in excess of 40 hours per week, shall be paid overtime for those hours in excess of 40 hours per week. The rate of over time shall be 150% of the employee's regular hourly rate of pay. Sworn members of the Police Department will be governed, with respect to overtime, by the provisions of the Fair Labor Standards Act. Non-exempt employees who are required to attend special meetings shall be paid overtime if this attendance would make the employees' hours exceed 40 hours for that week. Hours worked in excess of 40 hours per week shall be worked only at the prior direction and authorization of the employee's supervisor.
('80 Code, ' 2.02.010 A.)

' 37.021 BREAKS.

Employees shall be allowed 30 minutes for rest or coffee breaks during their usual eight hour shift.
('80 Code, ' 2.02.010 B.)

' 37.022 LUNCH.

A 30-minute lunch break shall be allowed to each employee who works an eight-hour shift, with this break scheduled to fall approximately during the middle of each employee's shift.
('80 Code, ' 2.02.010 C.)

' 37.023 [RESERVED].

' 37.024 COMMERCIAL DRIVER=S LICENSE ("CDL").

(A) All current and new employees shall obtain and/or keep current a valid Indiana Commercial Driver=s License ("CDL") if required by their job description or by their Department Head.

(B) New employees must obtain their CDL within 30 days following their 60-day probationary period.

(C) All employees required to submit to a medical examination to obtain or keep current a CDL, during their employment with the town, shall have said exam conducted by a physician selected by the town and the medical fee incurred for the examination shall be paid directly to the physician by the town. An employee may choose to have the required medical examination for a CDL performed by a physician of their own choice but shall do so at their own expense.

(D) The town shall pay the fees incurred for an employee=s CDL drivers test if at a testing site and time approved by the Department Head, however, any other fees incurred by the employee to obtain a CDL shall remain the sole responsibility of the employee.
(Ord. 2001-10, passed 9-10-01)

CONDUCT AND BEHAVIOR**' 37.035 TARDINESS; ABSENCE WITHOUT LEAVE.**

Employees who are tardy without cause more than one day per month or absent without authorization more than one day within a three-month period shall receive a written reprimand from their immediate supervisor, which will be placed in the employee's personnel file. Further tardiness, unauthorized absences, or the like, will be handled in accordance with the disciplinary policy in this title.

('80 Code, ' 2.02.020 A.)

' 37.036 EMPLOYEE APPEARANCE; ATTIRE.

All employees will attire themselves in a manner that is conducive to their work and which will not jeopardize their safety or the safety of other employees. Furthermore, the attire should not bring embarrassment to the employee, fellow employees or the town. The Town Council or Town Manager may establish guidelines for attire in each department when deemed necessary. All employees receiving uniforms are required to wear such uniforms while on duty, except members of the Police Department who shall be governed by the rules and policies of the *Police Manual*.

All employees receiving a clothing allowance, except members of the Police Department who shall be governed by the rules and policies of the *Police Manual*, are required to follow the current guidelines on appearance.

('80 Code, ' 2.02.020 B.)

' 37.037 PERSONAL HEALTH; HYGIENE.

No employee shall report to work if the employee's personal health and/or hygiene jeopardizes the health or affects the well-being of other employees or the public.

('80 Code, ' 2.02.020 C.)

' 37.038 DRUG-FREE WORKPLACE POLICY.

(A) Scope. This policy applies to all town employees except those employees employed by the police department. This policy is applicable to town employees during the scope of their employment with the town or while using or operating Town property, whether or not such use or operation is within the scope of their employment with the town.

(B) Definitions.

(1) CONTROLLED SUBSTANCES.

Narcotic and non-narcotic drugs and prescription drugs as further defined by state and federal laws.

(2) **DRUG TEST.** A urinalysis test to detect controlled substances under approved medical conditions and procedures.

(3) **REASONABLE SUSPICION.** A basis for belief linked to articulable, objective facts or circumstances to warrant submitting an employee to drug testing.

(C) Policy. It is the policy of the town to prohibit in the workplace and in/on town property the unlawful manufacture, distribution, dispensing, possession or use (including being under the influence) of controlled substances by its employees. Violation of this policy will result in disciplinary action up to, and including, termination of employment.

(D) Conviction under criminal drug statute. Employees must notify the Town Manager of any criminal drug statute convictions for violations occurring in the workplace no later than five days after such convictions. Failure to do so will result in immediate termination of employment. The town will notify all contracting state agencies from whom it has received contracts/grants in excess of \$25,000 and the Indiana Department of Administration within ten days after receiving notice from an employee that the employee has received a criminal drug statute conviction for a violation occurring in the workplace.

In addition, within 30 days after receiving such notice of a conviction, the town will take appropriate disciplinary action against the employee, up to and including termination, and, depending on the circumstances, may require the employee to participate in an approved drug abuse assistance or rehabilitation program. Any employee who refuses rehabilitation or who does not successfully complete his/her rehabilitation will be terminated.

(E) Drug-free awareness program. The town has established a drug-free awareness program to inform its employees about the dangers of drug abuse in the workplace, the availability of drug counseling and rehabilitation programs, as well as the town's policy of maintaining a drug-free workplace and the penalties that may be imposed upon employees for violations of this policy. The town will use this program in an ongoing educational effort to prevent and eliminate drug abuse that may adversely affect the workplace.

(F) Assistance/rehabilitation programs.

(1) The town encourages any employee with a drug problem to contact his/her supervisor or the Town Manager for assistance. The town is eager to help employees and will, at the employee's request, refer him/her to an appropriate drug abuse assistance or rehabilitation program. The program will be at the employee's expense, except for any benefits provided by insurance coverage, if any, obtained privately by the employee or through employment with the town. All communications will be strictly confidential. Employees will not be subject to discipline for voluntarily acknowledging their drug problem. However, any employee who refuses rehabilitation or who does not successfully complete his/her rehabilitation program will be terminated.

(2) Any employee who has been referred to a rehabilitation program pursuant to the previous paragraph or division (D) of this policy will be reinstated to work upon successfully completing the rehabilitation program. However, in order to be eligible for reinstatement, the employee must provide

acceptable documentation to the Town Manager which clearly demonstrates the employee's successful completion of the program. Employees will be given one opportunity for rehabilitation. Any second occurrence will result in immediate termination of employment.

(G) Drug testing. Whenever reasonable suspicion exists that an employee is using or under the influence of a controlled substance (excluding lawfully prescribed prescription medications) within the scope of his/her employment with the town or while using or operating town property, whether or not such use or operation is within the scope of his/her employment, the employee's supervisor shall notify the Town Manager of such circumstances. Upon receiving such notice, the Town Manager may require the employee to undergo a drug test. The Town Manager may also require an employee who has been in an accident, if the accident occurred during the scope of his/her employment with the town or while using or operating town property, whether or not such use or operation is within the scope of his/her employment, involving injury to persons or substantial damage to town property to submit to a drug test. **SUBSTANTIAL DAMAGE** shall mean damage that is estimated to be greater than \$150. An employee being tested under this paragraph shall be suspended with pay pending the town's receipt of the test results. An employee who tests positive for a controlled substance will be considered to be in violation of this policy.

(H) Test procedure.

(1) All drug testing shall be performed by an approved medical facility. All employees subjected to testing shall be afforded the opportunity, prior to testing, to list all prescriptions and nonprescription drugs they have used in the last 30 days and to explain the circumstances surrounding the use of such drugs, as well as being afforded the opportunity to explain any reasons, whether medical or otherwise, for their conduct which gave rise to the reasonable suspicion which initiated the testing. Employees subjected to testing must sign, prior to testing, an approved form

consenting to the testing and consenting to the release of the test results to the Town Manager. Any employee who refuses to sign the consent form shall be in violation of this policy and will be terminated.

(2) Specimens shall be collected in a manner that will not unreasonably demean, embarrass, or cause physical discomfort to the person being tested. The employee must submit two samples. The urine samples must be taken at the same time and place and in two like specimen containers. Each sample will be properly marked, identified, and dated in accordance with the medical facility's or laboratory's procedures. One sample will be submitted for drug screening. The other sample will be stored frozen at the medical facility or laboratory for six months.

(3) Prior to taking any disciplinary action, an employee who tests positive for the illegal use of a controlled substance shall be given the opportunity to explain the test results and/or, if the employee feels the test result of the first specimen was a false positive, he/she may have the second specimen tested. The test result of this second specimen shall be controlling. All test results shall be maintained in a confidential manner and shall be disclosed only to the Town Manager, the employee's supervisor, the town's legal counsel and to other individuals solely on a need-to-know basis.

(I) Condition of employment. In accordance with Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana, as a condition of continued employment all employees must abide by the terms of this policy. Failure or refusal of an employee to cooperate fully, sign any requirement documents, submit to any drug testing, or fail to successfully complete any rehabilitation program to which the employee has been referred shall result in disciplinary action up to, and including, termination of employment.

(J) Reservation of rights. The town reserves the right to interpret, change, rescind or depart from this policy in whole or in part without notice to the employee. Nothing in this policy alters the employee's status as an employee at will.

(K) Substance testing consent form.

SUBSTANCE TESTING CONSENT FORM

I understand that the Town of Lowell is committed to providing a productive and safe work environment for all employees. To further this goal, the Town has established a Drug Free Workplace Policy that includes provisions for drug testing. Consistent with this policy, I am freely and voluntarily consenting to provide urine samples upon request by an authorized representative of the Town to determine whether controlled substances (other than alcohol) are present in my system. I agree to fully cooperate with the Town, its representatives, agents, and any representative or agent of a clinic, laboratory and/or hospital involved in the sample collection, testing, evaluation, reporting and confirmation process.

I further consent to and authorize the release of all information generated by or obtained from my participation in the substance testing program to the Town of Lowell, its agents, representatives, insurers and appropriate governmental agencies including, but not limited to, the Indiana Department of Administration.

To the extent allowed by applicable law, I release and hold harmless, individually and collectively, each person or business entity involved in the sample request, collection, testing, evaluation, reporting and for any decisions, adverse or otherwise, made concerning my employment with the Town of Lowell based

on the test results. I understand that my failure or refusal to comply in all respects with the terms and conditions herein, with the Town's Drug-Free Workplace Policy, or a positive test result may result in disciplinary action up to, and including, termination.

DATE: _____

EMPLOYEE: _____

WITNESS: _____

(Ord. 1995-14, passed 10-9-95)

' 37.039 OUTSIDE EMPLOYMENT.

All outside employment must be reported to the employee=s supervisor and documented in the employee=s personnel file. If, in the opinion of the supervisor and department head, the outside employment is interfering with the employee=s duties with the town, the employee shall be asked to resign from one place of employment. Continued unauthorized outside employment will be cause for dismissal. The members of the Police Department are exempted from this section and are covered by provisions of the *Police Manual* relating to outside employment.

('80 Code, ' 2.02.020 E.)

' 37.040 MEMBERSHIP IN VOLUNTEER FIRE DEPARTMENT.

Employees of the town who are also members of the Lowell Volunteer Fire Department shall respond to fire and other emergency calls in accordance with guidelines established in advance by the employee=s immediate, town supervisor. The town employee=s personnel file will be documented to reflect his or her membership in the Volunteer Fire Department.

('80 Code, ' 2.02.020 F.)

' 37.041 HOLDING TWO POSITIONS WITH THE TOWN.

A current town employee may hold a second town position.

('80 Code, ' 2.02.020 G.)

' 37.042 CONFLICT OF INTEREST.

Any employee having authority to make purchases or enter into contracts shall have no pecuniary interest in or derive a profit from a contract or purchase connected with the town, unless the employee has fully satisfied the provisions of Indiana's conflicts of interest statute, IC 35-44-1-3.

('80 Code, ' 2.02.020 H.)

' 37.043 GIFTS AND GRATUITIES.

It is the general policy of the town to discourage and prohibit employees from accepting gifts and/or benefits in exchange for or as an inducement to enter into contracts on behalf of the town and/or to provide services or privileges to those providing the gifts and/or benefits, except to the extent that such gifts and/or benefits are of de minimis value. This policy is not meant to discourage negotiations with vendors and others who contract with the town where such negotiations are designed to acquire the best contractual arrangement or to derive a benefit for the town.

('80 Code, ' 2.02.020 I.)

' 37.044 POLITICAL ACTIVITY.

An employee of the town, in the executive branch of the town, whose principal employment is in connection with an activity which is financed, in whole or in part, by loans or grants made by the United States or a federal agency, is not eligible to be a

candidate for an elective office and may not use his or her official authority or influence to interfere with or affect the result of an election or nomination for office, if such activity violates the Hatch Act, 5 U.S.C. " 1501 et seq., or any other federal or state law. No employee of the town will use time during normal working hours to assist in the campaign of any political candidate. ('80 Code, ' 2.02.020 J.)

' 37.045 PUBLIC RELATIONS; I.D. CARDS.

(A) All town employees are servants of the public. When dealing with the public personally, during telephone conversations, or in correspondence, town employees shall do so in a courteous and professional manner. Excessive complaints regarding an employee will be investigated and may result in disciplinary action.

(B) All town employees shall be supplied with a picture I.D. card that must be carried on their persons during working hours. ('80 Code, ' 2.02.020 K.)

' 37.046 DISCIPLINARY ACTION.

(A) The following constitutes the disciplinary policy of the town. This policy is intended to be corrective action, attempting to correct deviations from the standard procedures and policies.

(1) This disciplinary policy is a progressive policy. Upon the first occurrence of a particular behavior or offense, the first column with a mark is the appropriate initial disciplinary action to take in that case. Offenses in the same category are cumulative. In the case of multiple offenses occurring in different groups, the disciplinary action for the more serious offense should be followed.

(2) All disciplinary actions must be written and prepared in triplicate with copies going to the immediate supervisor, the employee's personnel file, and the employee.

(3) Any employee disciplinary action that is two years old or older will be expunged from the employee's record and personnel file.

(4) In the case of a promotion or demotion, records of prior disciplinary actions which are less than two years old shall be retained in the employee's personnel file.

(5) An employee receiving five written reprimands, regardless of the category in which they fall, will be subject to immediate termination or demotion at the discretion of the ultimate supervisor (Clerk-Treasurer or Town Manager).

(6) An employee receiving three suspensions, regardless of the category in which they fall, will be subject to immediate termination or demotion at the discretion of the ultimate supervisor (Clerk-Treasurer or Town Manager).

(7) The guidelines in division (C) of this chapter are not inclusive of every infraction, behavior, or offense which may occur or be encountered. For those infractions, behaviors or offenses not listed in the guidelines, the employee's supervisor must exercise his or her best judgment in determining the appropriate disciplinary action.

(B) This section will not apply to members of the Police Department, who will be covered by the provisions of the *Police Manual* with respect to disciplinary policies and procedures.

(C) Guidelines for actions subject to discipline.

<i>Behavior or Offense</i>	<i>Written Reprimand</i>	<i>Suspension</i>			<i>Demotion or Termination</i>
		<i>1 Day</i>	<i>3 Days</i>	<i>5 Days</i>	
(1) Failure to notify authorized personnel before regular show-up time, when unable to report for duty.	X	X	C	X	X
(2) Tardiness.	X	X	C	X	X
(3) Late report for work without prior explanation.	X	X	X	C	X
(4) Excessive absenteeism.	X	C	X	C	X
(5) Conduct unbecoming a town employee	X	X	X	C	X
(6) Failure to perform preventative maintenance on equipment or vehicles.	X	X	X	C	X
(7) Littering or otherwise contributing to unsanitary conditions on town property.	X	X	X	C	X
(8) Participating in games, horseplay, or practical jokes during scheduled working hours, except when job related (that is, Park Department).	X	X	X	C	X
(9) Use of profane, insolent, or abusive language toward a supervisor, a fellow employee or the public.	X	X	X	C	X
(10) Loafing.	X	X	C	X	X
(11) Removing posted signs or posting signs without authorization.	X	C	X	C	X
(12) Failure to perform duties or fulfill job requirements in a satisfactory manner.	X	C	X	C	X
(13) Failure to report mechanically defective conditions of equipment.	X	X	X	C	X

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<i>Behavior or Offense</i>	<i>Written Reprimand</i>	<i>Suspension</i>			<i>Demotion or Termination</i>
		<i>1 Day</i>	<i>3 Days</i>	<i>5 Days</i>	
(14) Leaving work area without authorization.	C	X	X	C	X
(15) Failure to perform duties as assigned.	X	X	X	C	X
(16) Disobeying a reasonable order of a supervisor.	C	X	X	C	X
(17) Fighting on town property or time.	C	C	X	C	X
(18) Failure to report immediately any accident or injury involving any town employee, equipment or property.	C	C	C	X	X
(19) Failure to follow safety regulations when safety of the employee or others is involved.	C	C	X	X	X
(20) Failure to secure town facility or equipment when responsible.	C	X	X	C	X
(21) Directing a subordinate or fellow employee to perform in a manner contradicting town procedures.	C	C	X	C	X
(22) Failure to produce a doctor's excuse when required to do so.	C	X	X	C	X
(23) Making false statements or supplying false information concerning any town employee.	C	C	X	C	X
(24) Abandoning or leaving unattended any town-owned vehicle, equipment or tools, anywhere away from shops, garages and authorized storage sites, except as directed by supervisory	C	C	X	X	X

<i>Behavior or Offense</i>	<i>Written Reprimand</i>	<i>Suspension</i>			<i>Demotion or Termination</i>
		<i>1 Day</i>	<i>3 Days</i>	<i>5 Days</i>	
personnel. This does not apply to lawful parking of passenger cars in the course of discharge of duty or other authorized use of town vehicles.					

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<i>Behavior or Offense</i>	<i>Written Reprimand</i>	<i>Suspension</i>			<i>Demotion or Termination</i>
		<i>1 Day</i>	<i>3 Days</i>	<i>5 Days</i>	
(25) Unauthorized use or removal of town equipment, tools, facilities, supplies and/or furnishings.	C	X	X	C	X
(26) Abuse of town equipment or property.	C	X	X	C	X
(27) Off-duty employees at work site without authorization or without justification.	X	X	C	X	X
(28) Sleeping during working hours.	C	C	X	C	X
(29) Threats of violence to others.	X	C	X	C	X
(30) Unauthorized absences.	C	X	X	C	X
(31) Misuse or removal from town property (without authorization) of the town's records, documents, papers or copies thereof.	C	C	C	C	X
(32) Gambling on town property or time (excludes raffle tickets).	C	C	C	C	X
(33) Absent without calling for 3 consecutive work days.	C	C	C	C	X
(34) Theft or dishonesty of any kind.	C	C	C	C	X
(35) Unauthorized bearing of any deadly weapon on town premises.	C	C	C	C	X
(36) Falsification of any official records.	C	C	C	C	X
(37) Filing of false or incomplete employment application, with intent to conceal material information.	C	C	C	C	X
(38) Ringing another	C	C	-	C	X

<i>Behavior or Offense</i>	<i>Written Reprimand</i>	<i>Suspension</i>			<i>Demotion or Termination</i>
		<i>1 Day</i>	<i>3 Days</i>	<i>5 Days</i>	
employee's time card.					

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<i>Behavior or Offense</i>	<i>Written Reprimand</i>	<i>Suspension</i>			<i>Demotion or Termination</i>
		<i>1 Day</i>	<i>3 Days</i>	<i>5 Days</i>	
(39) Making false or unfounded claims for injury, compensation, illness, leave or disability.	C	C	C	C	X
(40) Personal conduct at work dangerous to others or self.	X	C	C	C	X
(41) Selling or participating in the distribution of illegal goods or services.	C	C	C	C	X
(42) Unlawful or negligent handling of public monies.	C	C	C	C	X
(43) Having a personal interest in a business which supplies goods or services to the town, without written disclosure of such interest to the Town Council.	C	C	C	C	X
(44) Reporting for work under the influence of alcohol or controlled substances except if prescribed by a physician.*	C	C	C	C	C
(45) Being under the influence and/or using alcohol or controlled substances, except if prescribed by a physician, while on duty or on town property.*	C	C	C	C	C
(46) Possession of opened containers of alcohol or possession of controlled substances, except if prescribed by a physician, while on duty or on town property.*	C	C	C	C	C
(47) Opened containers of alcohol or controlled substances, except if prescribed by a physician, in or on town property under	C	C	C	C	C

<i>Behavior or Offense</i>	<i>Written Reprimand</i>	<i>Suspension</i>			<i>Demotion or Termination</i>
		<i>1 Day</i>	<i>3 Days</i>	<i>5 Days</i>	
the employee's control.*					

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<i>Behavior or Offense</i>	<i>Written Reprimand</i>	<i>Suspension</i>			<i>Demotion or Termination</i>
		<i>1 Day</i>	<i>3 Days</i>	<i>5 Days</i>	
(48) Failure to submit oneself to a blood test, urinalysis or breathalyzer exam, when requested to do so by the ultimate supervisor, where a reasonable articulable suspicion exists to believe the employee's work performance is impaired as a result of the influence of alcohol or controlled substances.*	C	C	C	C	C
(49) Initiating, authorizing, sanctioning, encouraging, supporting or engaging in any organized strike, slow down, concerted job action, work stoppage or ceasing the performance of duties, where prohibited by law.*	C	C	C	C	C
(50) Conviction of a Class A misdemeanor and/or felony.	C	C	C	C	C

* Appropriate action may be taken, up to and including discharge.

('80 Code, ' 2.02.020 L.)

LEAVES

- Independence Day July 4
- Labor Day First Monday in September
- Veteran=s Day November 11
- Thanksgiving Day Fourth Thursday in November
- Thanksgiving Friday Friday after Thanksgiving
- Christmas Eve December 24
- Christmas Day December 25
- Birthday Employee=s birthday - must be taken within five working days before or after birth date

' 37.060 HOLIDAYS.

(A) It shall be the policy of the town to ensure that all full-time employees receive the same number of holidays each year. These holidays shall be:

- New Year's Day January 1
- Good Friday Movable
- Memorial Day Last Monday in May

(B) If any of these holidays falls on a Sunday, the following Monday shall be the observed holiday, and if any of these holidays falls on a Saturday, the preceding Friday will be an observed holiday, except for some members of the Police Department and members of the Wastewater Treatment Plant. For the purpose of holiday pay and/or compensation time, members of the Police Department, except the Chief and Department Secretary, and members of the Wastewater Treatment Plant shall observe a holiday falling on a Saturday or Sunday on that day rather than on the following Monday or preceding Friday. Any employee absent, without prior authorization or absent for an illness or injury which is not verified by a physician's statement, on the day preceding and/or following a holiday will not receive regular compensation for the holiday. An employee on unpaid leave at the time of a holiday will not be compensated for the holiday. Any full-time, non-exempt employee required to work or render service on a holiday will be compensated at the rate of 150% of his or her regular rate of pay. Part-time employees scheduled to work on a holiday will be compensated for the holiday at the rate of 150% of his or her regular rate of pay. Exempt employees will receive compensation time at the rate of 150% for each hour worked, when they are required to work or render service on a holiday. Any employee required to work on Easter Sunday shall be compensated at the rate of 150% of his or her regular rate of pay. ('80 Code, ' 2.02.030 A.) (Am. Ord. 1990-29, passed 12-10-90; Am. Ord. 1990-30, passed 12-27-90; Am. Ord. 1995-21, passed 12-27-95; Am. Ord. 1999-21, passed 12-29-99; Am. Ord. 2006-24, passed 12-28-06; Am. Ord. 2009-23, passed 12-28-09)

' 37.061 PAID VACATION LEAVE.

(A) The town recognizes the need for paid vacation leave for full-time employees. Vacation leave will be awarded on the employee's anniversary date of his or her full-time employment with the town. Full-time employees who have completed one year of

continuous full-time service with the town will receive five days of vacation leave. Full-time employees who have completed two years of continuous full-time service with the town, but who have not attained five years of continuous full-time service with the town, will receive ten days of vacation leave. Full-time employees who have completed five years of continuous full-time service with the town, but who have not attained ten years of continuous full-time service with the town, will receive 15 days of vacation leave. Full-time employees who have completed ten years of continuous full-time service with the town, but who have not attained 15 years of continuous full-time service with the town, will receive 20 days of vacation leave. Full-time employees who have completed 15 years or more of continuous full-time service with the town will receive 25 days of vacation leave. A full-time employee may receive credit toward the years of continuous full-time service for purposes of determining the number of vacation leave days for periods of time worked as a part-time employee if such credit is recommended by the employee's immediate supervisor and approved by the Town Council.

(B) Vacation leave cannot be granted in advance. An employee must take the vacation leave as time off from his or her employment with the town to receive vacation pay. Employees wishing to take three or more consecutive vacation days will give their supervisor written notice a minimum of 30 days in advance, or run the risk of their supervisor denying such request. For a vacation leave request of fewer than three consecutive days, the employee must give a minimum notice of one week to his or her supervisor in writing, or run the risk of his or her supervisor denying the request. Requests for vacation leave will be subject to denial, if in the opinion of the employee's supervisor, granting such leave would hamper the operation of the employee's department. An employee may carry over five days of accumulated vacation leave from one year to the next year. Vacation leave earned, but not taken, in excess of five days will be lost. An employee's accrued vacation time shall be compensated by the town at the

employee's then current rate of pay, upon termination of the employee by voluntary or involuntary separation from employment.

('80 Code, ' 2.02.030 B.) (Am. Ord. 1992-14, passed 7-27-92; Am. Ord. 1999-21, passed 12-29-99)

' 37.062 PAID SICK LEAVE.

(A) Every full-time employee, with at least 60 days of continuous full-time service with the town, shall be granted sick leave with full pay at the rate of one day per calendar month of active continuous service. Paid sick leave shall not be granted in advance and, therefore, must be accumulated prior to approval of a request for leave. Employees, except sworn members of the Police Department, who suffer a job-related illness or injury shall experience no loss of accumulated paid sick leave during their injury or illness. No employee will be able to accumulate more than 30 days of paid sick leave. Paid sick leave shall be used only for the purpose of:

- (1) Illness or injury of employee;
- (2) Avoiding jeopardizing the health of other town employees or the public;

(3) Illness or injury within the immediate family needing the assistance of the employee (as certified by a physician); and

(4) Approved extension of paid bereavement leave (See ' 37.068).

(B) In order to qualify for paid sick leave, the employee must comply with the following conditions: immediate supervisor of his or her absence prior to the start of his or her work shift, unless he or she is physically unable to do so;

(2) The employee shall keep his or her immediate supervisor informed of his or her illness or injury and anticipated day of return, unless he or she is physically unable to do so;

(3) A doctor's certification of any illness or injury may be required by the employee's immediate supervisor, and specifically, where an employee, in the view of his or her immediate supervisor, abuses the paid sick leave benefit discussed within this section, the employee's immediate supervisor may require a doctor's certificate after each paid sick leave absence, but in any event after a paid sick leave of three days or more, the employee shall provide a doctor's certification to his or her immediate supervisor verifying the illness or injury; and

(4) The employee shall provide a doctor's release to his or her immediate supervisor prior to returning to work after an illness or injury of three days or more.

(C) If an employee goes 12 months without using a sick day, he or she shall be granted two additional personal days on his or her anniversary date for the following year. After completing 20 consecutive years of continuous full-time service with the town, an employee may elect to take any accumulated paid sick leave, as paid leave immediately prior to the employee's retirement or the termination of his or her employment with the town.

(D) Members of the Police Department are not covered by the provisions of this section, but rather are covered by the provisions in the Police Manual, relating to paid sick leave.

('80 Code, ' 2.02.030 C.) (Am. Ord. 1993-7, passed 2-8-93; Am. Ord. 1999-21, passed 12-29-99)

' 37.063 SICK LEAVE BANK.

In order to provide an additional benefit to all full-time employees who may be unable to perform their duties due to illness and/or temporary disability, a sick leave bank is established.

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

ANNIVERSARY DATE. The date upon which an eligible employee was first employed with the town.

BANK. The sick leave bank established for the employees of the town.

COMMITTEE. The committee appointed to administer the bank and to receive and make determinations relative to participant's applications for bank loans.

ELIGIBLE EMPLOYEES. All full-time employees who have been employed with the town for at least six months, excluding employees of the Police Department who are members of the 1977 Police Pension Fund or the 1925 Police Pension Fund.

LOAN. The number of sick days a participant is awarded from the bank.

PARTICIPANT. An eligible employee that elects to participate in the bank.

RECIPIENT. A participant who is awarded a bank loan.

SICK LEAVE. The sick leave benefits accumulated by an eligible employee pursuant to ' 37.062.

(B) *Participation.* Any eligible employee may elect to participate in the bank by making a voluntary donation of one accumulated day of sick leave per eligible employee. The initial period for donation to the bank will be the month of January, 1993. After the initial period for donation, the bank will accept voluntary contributions of sick leave within 30 calendar days following a participant's anniversary date. Newly-hired employees shall become eligible to participate after the expiration of six months of employment. The initial period for contribution for newly hired employees will be for a period of 30 days following the completion of their first six months of employment. All days donated to the bank shall lose their identity. In the event that the bank balance shall be depleted to ten days or less, it may be replenished by voluntary contributions of sick leave. Such voluntary contributions shall be limited to one per eligible employee.

(C) *Establishment of Committee.* A Committee shall be established to administer the bank and shall be composed of one member from the Town Council, appointed by the Town Council President, one member from the Street Department, appointed by the Street Department Superintendent, one member from the Water Department, appointed by the Water Department Superintendent, one member from the Wastewater Treatment Plant, appointed by the Wastewater Treatment Plant Superintendent, one member from the Police Department who is not a police officer under the 1977 Police Pension Fund or 1925 Police Pension Fund, appointed by the Chief of Police, and one member from the town hall staff, appointed by the Clerk-Treasurer. Each member of the Committee shall serve for a term of one year, with the first term commencing January 1, 1993. Each member shall continue to serve until a replacement member is appointed by the appropriate appointing authority.

(D) *Confidentiality.* At the time each participant elects to participate in the bank, that participant shall sign a release and waiver to permit the Committee to review that participant's personnel file and/or such medical information and/or records as may be

necessary in an effort to effectively administer the program. Each member of the Committee shall maintain the confidential nature of the information received.

(E) *Loans.* A written application for a loan may be submitted to the Committee by a participant or a member of the participant's immediate family, accompanied by a physician's certificate stating the nature of the illness, anticipated length of illness or temporary disability, and the prognosis for the participant's condition. The application shall be reviewed by the Committee and the Committee shall notify the participant or, where appropriate, a member of the immediate family of the participant, of the decision of the Committee within a reasonable period of time, but, in any event, not later than ten working days after the application is submitted. Decisions granting a loan shall be forwarded to the Payroll Department. A participant is not eligible to file a loan application unless and until all of their respective sick leave has been exhausted. Once a participant has exhausted his/her sick leave, a loan shall be allowed for the first sick day only if the illness or disability continues for longer than five days. The maximum number of days that a recipient may be granted is 20 per year. The Town Council reserves the right to grant additional days due to extenuating circumstances if petitioned by the Sick Bank Committee. These sick days will be obtained by voluntary contributions by any eligible employee. All decisions of the Committee shall be final. Each participant shall sign at the time of electing to participate in this program, a covenant to be bound by the decision of the Committee and shall release the Committee from liability and waive any right to challenge the Committee's decisions.

(F) *Repayment.* A recipient shall repay the loan to the bank at the rate of three days of sick leave per year until the entire loan amount has been repaid. A recipient who leaves employment with the town still owing sick days to the bank, shall transfer and relinquish to the bank, that number of days of accumulated sick leave they may have left at that point in time as may be necessary to repay the recipient's loan. In the event a recipient leaves employment with

the town owing more sick days to the bank than he or she has left in accumulated sick leave, the recipient shall transfer and relinquish to the bank the number of days of accumulated sick leave he or she may have left at that point in time, but shall not be responsible for repayment of additional sick days. A recipient who retires from the town or who leaves employment with the town because of a determination of total disability shall not be required to repay any outstanding loans.

(Ord. 1993-3, passed 1-25-93; Am. Ord. 1996-17, passed 7-22-96)

' 37.064 MILITARY LEAVE.

An employee who is absent from work while performing duties on a voluntary or involuntary basis in a uniformed service, including active duty, active duty for training, initial active duty for training, inactive duty for training, full-time National Guard duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duties shall be deemed to be on a leave of absence while performing such service. While an employee is absent during a military leave, he or she will receive the difference between his or her regular rate of pay from the Town and his or her military pay, for up to 15 scheduled working days. While on leave, the employee shall continue to accrue seniority, as well as any benefits based on seniority, as if the employee had remained continuously employed. In addition, employees on military leave shall be entitled to the same non-seniority based benefits that are provided to other employees who are on nonmilitary leaves of absence. Health and life insurance benefits shall continue to be paid by the Town for the first 90 days of the military leave. Thereafter, health and life insurance benefits shall continue only at the expense of the employee for a period of up to 18 months. The employee shall be entitled to reemployment/reinstatement with the Town in accordance with the provisions of applicable state and federal law. In order to receive a military leave, the employee must submit his or her notification papers, upon receipt, to his or her supervisor. Upon return to work, an employee shall bring his or her fulfillment papers to his or her immediate supervisor.

('80 Code, ' 2.02.030 D.)

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' 37.065 UNPAID LEAVE OF ABSENCE.

(A) (1) An unpaid leave of absence may be granted to town employees should a need arise for extended time off work for the following reasons:

(a) Extended educational or training needs; or

(b) Other reasons deemed necessary by the Council or in the case of members of the Police Department, by the Board of Police Commissioners.

(2) This section does not apply to any leave of absence that qualifies as family medical leave as set forth in ' 37.072 of this chapter.

(B) Only full-time employees with at least one year of continuous full-time service with the town are entitled to an unpaid leave of absence.

(C) Written notification of requested leave must be made by the requesting employee to the employee's ultimate supervisor, either the Town Manager, Clerk-Treasurer, or Police Chief, at least 45 days prior to the requested leave, where possible, stating:

(1) The reason for the leave; and

(2) The anticipated duration, with beginning and ending dates.

(D) The appropriate ultimate supervisor (Town Manager, Clerk-Treasurer, or Police Chief) will make a recommendation regarding the requested unpaid leave to the Town Council or the Board of Police Commissioners (The Manager and Clerk-Treasurer: Town Council; Police Chief: Board of Police Commissioners) within ten days. The employee will be notified by his or her ultimate supervisor of the decision made by the Town Council or the Board of Police Commissioners before the date for the start of the requested unpaid leave.

(E) Maximum leave of absence without pay shall not exceed six months.

(F) The employee will not be eligible for any pay during the leave. An employee will not accumulate any sick days during the unpaid leave. The employee will not be paid for any holidays which fall during the unpaid leave. During any unpaid leave, the employee will be considered to be an employee in continuous service with the town. Health and life insurance benefits will continue to be paid by the town for the first 90 days of the unpaid leave, thereafter such benefits will continue only at the expense of the employee.

(G) Upon an employee's return to work after an unpaid leave, his or her return to the same job level, job, or salary level cannot be guaranteed, but the town will attempt to reinstate the employee to a position at or near the one vacated for the leave, to the extent possible.

(H) An employee may make a written request, at least 30 days prior to the ending date of an approved unpaid leave, to the Council or Board of Police Commissioners, as may be appropriate, for an extension of the unpaid leave of absence. The written request will contain the same information which was required in the written notification made by the employee to obtain the original unpaid leave (see division (C) of this section). Notification of the grant or denial of the requested extension shall be given to the employee before the ending date of the previously approved unpaid leave. The extension cannot extend beyond the six-month maximum for an unpaid leave of absence.

(I) Employees failing to report on the ending date specified for the unpaid leave shall be terminated unless an extension is granted prior to the ending date of the approved unpaid leave.

('80 Code, ' 2.02.030 E.) (Am. Ord. 1993-27, passed 11-8-93)

' 37.066 JURY DUTY.

Any employee of the town shall be granted leave to serve on a jury in any state, federal or local court, if the employee is scheduled to work at the time he or she is to serve on the jury. The employee shall be paid the difference between the compensation received

regular work day. If, in the opinion of the employee's supervisor, serving or appearing by the employee will be detrimental to the public service, it will be the responsibility of the Town Attorney to seek an exemption from duty for the employee.

('80 Code, ' 2.02.030 F.)

' 37.067 CIVIC LEAVE.

Any employee shall be granted leave to serve or appear in the line of duty or in a town-related legal matter. The employee shall be paid the difference between the compensation received for the service or appearance and his or her usual wage for his or her regular work day. If non-exempt employees are required to serve or appear in the line of duty or in a town-related legal matter during a scheduled day off or beyond regularly scheduled work hours, the employee shall be paid the difference between any compensation received for appearing or serving and 150% of his or her usual salary or wage. Exempt employees, who are required to serve or appear in the line of duty or in a town-related legal matter during a scheduled day off or beyond regularly scheduled work hours, will be compensated with compensation time at the rate of 150% of the time spent on the civic leave. If, in the opinion of the employee's supervisor serving or appearing by an employee will be detrimental to the public service, it will be the responsibility of the Town Attorney to seek relief or protection from the service or appearance for the employee.

('80 Code, ' 2.02.030 G.)

' 37.068 PAID BEREAVEMENT LEAVE.

Full-time employees shall receive up to three days of paid leave upon the death of a spouse, brother, sister, son, daughter, mother, father, mother-in-law, father-in-law, grandchild, or any family member residing in the same household. Full-time employees shall receive up to two days of paid leave upon the death of a grandparent, brother-in-law or sister-in-law. Full-time employees shall receive up to one day of paid leave upon the death of an aunt, uncle, niece, nephew or cousin. Paid bereavement leave up to one-half day will be granted in the case of the death of

a co-employee in the requesting employee's department, if the requesting employee is scheduled to work from 8:00 a.m. to 4:00 p.m. on the day of the co-employee's funeral. Sick leave or vacation leave can be utilized upon the approval of the employee's ultimate supervisor if further time off is necessary.
('80 Code, ' 2.02.030 H.) (Am. Ord. 1999-21, passed 12-29-99)

' 37.069 EDUCATIONAL, TESTING AND TRAINING LEAVES.

(A) Employees may obtain leaves for educational, testing or training purposes without loss of pay for education (including seminars), testing, and training which is directly related to the employee's position with the town.

(B) The fees and expenses of such education (including seminars), testing, and training may be paid by the town upon successful completion of the educational course of study, test, or training. All leaves must be approved in advance by the proper authority.

(C) Employees, who have been granted an educational, testing or training leave by the proper authority and who are scheduled to work that same day, will be paid their normal hourly wage for the number of hours actually spent in the educational course, test, or training. However, where the employee is an exempt employee or a sworn member of the Police Department, the employee will be given regular compensation time or compensation time at a rate of 150% when required by statute or otherwise, rather than his or her normal hourly wage, for the number of hours actually spent in the educational course, test or training which exceed eight hours per day. Employees who are on such leaves on their scheduled days off will be paid their normal hourly rate for the number of hours actually spent in the educational course, test or training, except where the employee is an exempt employee or a sworn member of the Police Department, in which case the employee will be given regular compensation time, unless compensation time at a rate of 150% is required by

preparation time for the educational course, testing or training.
('80 Code, ' 2.02.030 I.)

' 37.070 PERSONAL LEAVE.

Any full-time employee with at least 60 days of full-time service with the town, wishing to attend to private business or to observe a national or religious holiday not recognized by the town may, at the discretion of his or her supervisor, be granted a paid leave not to exceed three days per year, which year shall be based on the employee's anniversary date. Any unused personal days will be lost at the end of the year and may not be carried over to the next year.
('80 Code, ' 2.02.030 J.) (Am. Ord. 1999-21, passed 12-29-99)

' 37.071 COMPENSATION TIME.

All full-time, exempt employees with at least 60 days of continuous full-time service with the town shall be compensated one hour in leave time for each hour worked in excess of 40 hours per week. All requests for more than one day of compensation time must be approved by the employee's ultimate supervisor (Clerk-Treasurer, Town Manager, or Police Chief). A full-time, exempt employee will be able to accumulate no more than 80 hours of compensation time. Compensation time will be given as time off and will not be paid as a cash stipend. In addition, compensation time will not be granted prior to being earned. Upon the death of an employee who has accumulated compensation time no stipend will be paid to his or her heirs. In the event the Town Manager or Police Chief works a substantial amount of time in excess of 40 hours a week, he or she may request compensation time from the Town Council or Board of Police Commissioners, respectively. The approval or denial of compensation time, in excess of 80 hours, for the Town Manager or Police Chief shall be wholly within the discretion of the Council or Board of Police Commissioners, respectively.
('80 Code, ' 2.02.030 K.)

' 37.072 FAMILY AND MEDICAL LEAVES.

(A) (1) An unpaid leave of absence up to 12 weeks in duration may be granted to eligible town employees for certain family and medical reasons. Employees are eligible for family medical leave if they have completed at least one year of service within the town and have worked at least 1,250 hours during the previous 12 months. Family medical leave will be granted should the need arise for any of the following reasons:

(a) Birth of the employee's child, or the placement of a child for adoption or foster care;

(b) To care for the employee's spouse, child, or parent who has a serious health condition; or

(c) For a serious health condition that causes the employee to be unable to perform his or her job.

(2) Leaves may begin before the birth of a child if a medical condition exists that makes the employee unable to perform the job, or prior to the placement of a child for adoption or foster care if circumstances require absence from work for the placement to proceed. An employee's entitlement to leave for a birth or placement of a child expires at the end of the 12-month period beginning on the date of the birth or placement.

(3) If a husband and wife are eligible for family medical leave and are both employed by the town, the husband and wife are permitted to take only a combined total of 12 weeks of leave during any 12-month period if the leave is taken for the birth or placement of a child for adoption or foster care or to care for a parent (but not a parent-in-law) with a serious health condition.

(B) The employee must provide 30 days notice if the need for the leave is foreseeable. Failure to provide 30 days advance notice for foreseeable leave may cause the leave to be denied until 30 days after the employee first gave the required notice of the foreseeable leave. If the need for the leave is not foreseeable, the employee must give notice to his or her supervisor as soon as practicable.

(C) The Office of the Town Manager shall determine family medical leave eligibility.

(D) The employee is required to provide medical certification to support the request for leave because of a serious health condition, and the town may require second or third medical opinions (at the town's expense) to verify the need for the leave. The employee must provide the requested medical certification to the town within 15 calendar days after the request. Failure to submit the required medical certification may result in the denial of the leave or the continuation of the leave.

(E) Fitness-for-duty certification must be provided to the town prior to the employee's return to work following a family medical leave due to a serious health condition of the employee. Failure to provide the requested fitness-for-duty certification may result in the denial of reinstatement until the employee submits the required certification.

(F) The 12-month period in which an employee's 12 weeks of family medical leave entitlement occurs will consist of the 12-month period measured forward from the date the particular employee's first family medical leave begins.

(G) All available accrued paid personal and sick days will be substituted for all or part of any otherwise unpaid family medical leave. In addition, all but five days of an employee's available accrued paid vacation days will also be substituted for any otherwise unpaid family medical leave. If the reason for the leave was due to a serious health condition of the employee or an immediate family member of the employee, accrued paid sick days will be used first, followed by accrued paid personal days, followed by accrued paid vacation days. If the reason for the family medical leave was not due to the serious health condition of the employee or an immediate family member of the employee, or an immediate family member of the employee, accrued paid personal days will be used first, followed by accrued paid vacation days. This qualifying paid leave will be counted as part of the employee's 12 weeks of family medical leave entitlement. However, the use of paid leave under circumstances which do not qualify as family medical leave will not be counted against the 12 weeks of family medical leave to which the employee is entitled.

(H) (1) During the family medical leave, the town will maintain the employee's health coverage under the town's group health plan at the same level as it existed prior to the leave. Employees will be required to pay their share of the premium payments in the following ways:

(a) If accrued paid vacation, personal, or sick leave is available and substituted for all or part of any otherwise unpaid family medical leave, the employee's share of the premium will be paid by payroll deduction; or

(b) If the employee has exhausted all available paid leave, payment must be made to the town by the employee at the same time as it would be made if by payroll deduction; or

(c) If the leave is foreseeable, employees may choose to prepay the premiums through increase payroll deductions.

(2) Failure to make payments in a timely manner may cause a lapse in coverage/benefits. The town may recover the employee's share of any premium payments missed by the employee during family medical leave if the town maintained health coverage by paying the employee's share after the premium payment was missed by the employee. The town may, in certain circumstances, also recover its share of premiums the town paid during a family medical leave from an employee if the employee fails to return to work after the employee's family medical leave entitlement has been exhausted.

(I) An employee will be required to provide the town with periodic reports on his or her status during the leave. Requested medical information must be provided within 15 days of the request.

(J) (1) Upon the employee's return from family medical leave, the employee will be restored to his or her former position or an equivalent position with equivalent pay, benefits, and other employment terms, if the employee has provided the required fitness-for-duty certification. This job restoration right only applies to employees who return to work on or before the exhaustion of their 12 weeks of family

medical leave entitlement. However, the town may deny job restoration to Akey employees@ (salaried eligible employees who are among the highest paid 10% of the town's employees). Job restoration may be denied to key employees if:

(a) The denial of job restoration is necessary to prevent substantial and grievous economic injury to the town's operations;

(b) The key employee is notified that the town has determined that such economic injury would occur and that job restoration will likely be denied; and

(c) Where the leave has begun, a key employee elects not to return to work after receiving such notice.

(2) Key employees will continue to be entitled to maintenance of health benefits after receipt of such notice and will not be required to repay the town's cost of health care premiums if job restoration is denied. (Ord. 1993-27, passed 11-8-93)

BENEFITS

' 37.085 TRAVEL EXPENSE.

(A) Any employee obligated to use his or her own motor vehicle while on official town business or on an approved educational, testing or training leave shall be reimbursed for such usage at the rate per mile established by the Internal Revenue Service as the same may be amended from time to time. Mileage vouchers must be submitted on at least a quarterly basis to the Clerk-Treasurer for approval and subsequent payment. Any employee obligated to travel outside the corporate boundaries on official town business or on an approved educational, testing or training leave shall be reimbursed, with the prior approval of the employee's ultimate supervisor, for actual expenses incurred, including meals, in addition to mileage as described above, subject to the following limitations:

- (1) Meal allowance per full travel day, \$40;
- (2) Less than full travel day:
 - (a) Breakfast, \$10;
 - (b) Lunch, \$15;
 - (c) Dinner, \$15.

(B) An employee shall be reimbursed for his or her actual expenses incurred for lodging only if the employee is obligated to travel more than 50 miles outside the corporate boundaries on town business or on an approved educational, testing or training leave. Expense sheets shall be itemized, supported by receipts, and submitted to the Clerk-Treasurer for approval and subsequent payment, with the exception of expense sheets for the Clerk-Treasurer and Town Manager, which shall be submitted to the Council for approval, and for the Police Chief, which shall be submitted to the Board of Police Commissioners for approval. ('80 Code, ' 2.02.040 A.) (Am. Ord. 1989-16, passed 8-14-8; Am. Ord. 1999-21, passed 12-29-99; Am. Ord. 2008-10, passed 5-12-08)

Cross-reference:

Fee schedule, see ' 11.005

' 37.086 UNIFORMS.

The Town Council shall have complete discretion in determining whether or not to provide uniforms or a uniform allowance to town employees. The Council shall have the authority to change the policy on uniforms from time to time as it may determine to be in the best interest of the town and the policy may be different as applied to specific departments within the town.

('80 Code, ' 2.02.040 B.)

' 37.087 MEDICAL INSURANCE.

(A) (1) All full-time employees and their eligible dependents, as defined by the major medical

insurance policy adopted by the town, will become eligible for medical benefits on the first day of employment on which the insurance company then providing coverage will accept the employee and his or her eligible dependents into the plan coverage. The town will pay the premium, with the exception of \$0.10 per month, which is to be paid by each covered employee, for a major medical insurance policy with an insurance company, to be selected at the discretion of the Town Council, which will cover eligible medical expenses, as defined by the major medical insurance policy, on behalf of each eligible employee. In addition, the town will pay 80% of the premium on behalf of the employee's eligible dependents, if they elect coverage. The cost to the employee shall be assessed through payroll deduction.

(2) The major medical insurance coverage will contain a deductible per employee and their eligible dependents. The employee shall be responsible for the deductible expense per person covered.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply to the administration of the Town Medical Insurance Plan unless the context clearly indicates or requires a different meaning.

COVERED EMPLOYEE. An individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with the town.

GROUP HEALTH PLAN. The major medical insurance coverage maintained by the town from time to time and as defined in the Internal Revenue Code of 1986 Sec. 162(i)(3).

PREMIUM COSTS. The premium costs shall be equal to the actual premium cost to the town on behalf of similarly situated plan participants, who have not suffered a qualifying event, or have not retired. The Town Council may assess an additional 2% of the actual cost to cover the administrative cost of processing the qualified beneficiaries' election. In the event a qualified beneficiary is determined under Title II or XVI of the Social Security Act to have been

disabled at the time of the qualifying event, the town may assess an additional 50% of the actual cost to cover the administrative costs of processing the qualified beneficiaries election to maintain coverage after the 18th month of coverage.

QUALIFIED BENEFICIARY. The covered employee, the spouse of a covered employee, or the dependent child of a covered employee.

RETIRED EMPLOYEE. A former employee who qualifies for a benefit under IC 5-10.3-8 et seq. (PERF).

RETIREMENT DATE. The date that the employee has chosen to receive retirement benefits from the employee's retirement fund.

(C) (1) The town shall provide to each retired employee the same Group Health Plan coverage which is available to active employees if the retired employee pays the premium costs for the coverage which premium shall be equal to the premium paid on behalf of active employees, if the retired employee files a written request for coverage within 90 days after the employee's retirement date and if the retired employee meets the following requirements:

(a) The retired employee's retirement date is after June 30, 1986;

(b) The retired employee shall have reached 55 years of age on or before the employee's retirement date but shall not be eligible on that date for medicare coverage as prescribed by 42 USC 1395 et seq.;

(c) The retired employee shall have completed 20 years of creditable employment with a public employer on or before the employee's retirement date, ten years of which must have been completed immediately preceding the retirement date;

(d) The retired employee has completed at least 15 years of participation in the Public Employer's Retirement Fund.

(2) The retired employee's eligibility to continue participation in the Town's Group Health Plan shall terminate when the employee becomes eligible for medicare coverage as prescribed by 42 USC 1395 et seq., or when the town terminates the Group Health Plan on behalf of all employees.

(3) Eligible retired employees may elect at the time the employee retires to have the employee's spouse covered on the employee's retirement if the appropriate premium cost is paid. The spouse's eligibility is not affected by the death of the retired employee. The surviving spouse's eligibility terminates upon the happening of the earliest of any one of the following events:

(a) The spouse becomes eligible for medicare coverage under 42 USC 1395 et seq.

(b) The town terminates the Group Health Plan for all town employees.

(c) Two years after the date of the employee's death.

(d) The date of the spouse's remarriage.

(4) The retired employee may assign a part of his or her retirement benefits to the town to cover the premium costs of the continuation coverage.

(D) (1) The town shall provide to each qualified beneficiary the right to elect continued coverage under the Group Health Plan upon the happening of any one of the following qualifying events:

(a) Death of the covered employee;

(b) Termination (other than by reason of such employee's gross misconduct) or reduction of hours of the covered employee's employment;

(c) The divorce or legal separation of the covered employee from the employee's spouse;

(d) The covered employee becoming entitled to benefits under medicare;

(e) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

(2) The continuation coverage is conditioned upon payment of the applicable premium cost by the qualified beneficiary.

(3) The coverage must extend for the period of time beginning on the date of the qualifying event and ending not earlier than the earliest of the following;

(a) In the case of a qualifying event relating to termination and/or reduction of hours the date which is 18 months after the date of the qualifying event except that if the qualified beneficiary is determined under Title II or XVI of the Social Security Act to have been disabled at the time of the qualifying event, the date is 29 months so long as the qualified beneficiary has provided notice of such determination of disability before the end of the initial 18 months as provided hereinafter.

(b) In the case of a qualified beneficiary who is disabled at the time of a qualifying event coverage will terminate in the month which begins more than 30 days after the date of final determination under Title II or XVI of the Social Security Act, that the qualified beneficiary is no longer disabled.

(c) In the case of any other qualifying event not relating to termination or reduction of hours, the date which is 36 months after the date of the qualifying event;

(d) The date on which the employer ceases to provide any Group Health Plan to any employee;

(e) The date on which the coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary;

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(f) The date on which the qualified beneficiary first becomes, after the date of the election, a covered employee under any other group health plan which does not contain any exclusion or limitation with respect to any preexisting condition of such beneficiary, or entitled to Medicare benefits (except that dependents of the qualified beneficiary shall be entitled to continued coverage for a period of 36 months from the date the qualified beneficiary became entitled to Medicare benefits or the qualifying event, whichever is earlier).

(g) In the case of an individual who is a qualified beneficiary by reason of being the spouse of a covered employee, the date upon which the qualified beneficiary remarries and becomes covered under a separate group health plan which does not contain any exclusion or limitation with respect to any pre-existing condition.

(4) The employees shall have the right to elect continuation coverage within a 60-day period after the qualifying event. Any qualified beneficiary electing coverage must pay the premium costs as defined herein and the premiums may be paid in monthly installments commencing not earlier than 45 days after the date on which the qualified beneficiary made the initial election.

(5) *Conversion option.* Any conversion option contained in any group health insurance plan maintained by the town from time to time shall also be made available to qualified beneficiaries at such time as the period of continuation coverage expires.

(6) *Notice requirement.* Each covered employee or qualified beneficiary is responsible for notifying the Clerk-Treasurer in the event of any of the following qualifying events:

(a) Divorce or legal separation of the covered employee from the employee's spouse;

(b) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan; or

(c) The determination under Title II or XVI of the Social Security Act that the qualified beneficiary is disabled within 60 days after the date of the determination and within 30 days after the date of a final determination under such titles that the qualified beneficiary is no longer disabled.

(E) *Wellness program.*

(1) The town shall reimburse to the employee and their dependents up to \$100 annually for routine physical exams, including mammograms, routine pediatric care and immunizations, and any other routine diagnostic exam prescribed by a physician.

(2) The employee shall present a paid receipt for such exam and will be reimbursed through the State Board of Accounts claim procedure.

('80 Code, ' 2.02.040 C.) (Am. Ord. 1988-25, passed 9-26-88; Am. Ord. 1990-8, passed 3-26-90; Am. Ord. 1992-21, passed - -92; Am. Ord. 1992-24, passed 12-14-92; Am. Ord. 2014-12, passed 7-14-14)

Cross-reference:

Fee schedule, see ' 11.006

' 37.088 LIFE INSURANCE.

All full-time employees, on their first day of employment, are eligible for group life insurance benefits. The town will pay the cost of the premium except \$0.10 per month per employee, which shall be assessed through payroll deduction.

('80 Code, ' 2.02.040 D.) (Am. Ord. 2014-12, passed 7-14-14)

Cross-reference:

Fee schedule, see ' 11.006

' 37.089 RETIREMENT BENEFITS.

All full-time employees are eligible for retirement benefits paid on their behalf by the town. This contribution to the State of Indiana Public Employee's Retirement Fund (PERF) shall be made in such installments as provided by statute or regulation in an

amount based on the gross annual salary or wage paid to the contributing employee who is employed by Clerical, Street, Sewer, Building, Park, or Water Departments or is employed as a Radio Operator or Secretary with the Police Department, or as Town Manager or Clerk-Treasurer, or as the Police Chief when he or she is unable to qualify under any other pension plan.

('80 Code, ' 2.02.040 E.)

' 37.090 SOCIAL SECURITY COVERAGE FOR PUBLIC EMPLOYEES.

(A) *Coverage designated.* The governing body of the town elects coverage under the Social Security Coverage for Public Employees, as provided by IC 5-10.1. ('80 Code, ' 2.36.010)

(B) *Extent of coverage.* The following positions are designated as those which are to be covered: All employees of the town, including the position of Clerk-Treasurer. ('80 Code, ' 2.36.020)

(C) *Agreement.* For the purpose of carrying out the provision of Title II, Section 218 of the Federal Social Security Act and amendments thereto, the agreement entered into between the state agency with the approval of the Governor and the Social Security Administrator is made a part of this section and shall be termed as an agreement between this political subdivision of the state agency and shall become a part of the agreement or modification of the agreement between the state and the Social Security Administrator. ('80 Code, ' 2.36.030)

(Ord. 7-1951, passed - -51; Am. Ord. 1993-4, passed 1-25-93)

EMPLOYEE PERFORMANCE EVALUATIONS

' 37.100 OCCURRENCE.

Each employee of the Water, Sewer, Wastewater Treatment, Street, Park, and Building Departments will undergo an employee performance evaluation two

times yearly. These evaluations will take place in June and December and will be written. Employee performance evaluations for members of the Police Department are not covered by this subchapter, but will be covered under the provisions of the *Police Manual*. ('80 Code, ' 2.02.050 A.)

' 37.101 PURPOSE.

The purpose of employee performance evaluations is:

(A) To ascertain whether employees are performing sufficiently to warrant continued employment and pay raises.

(B) To make sure each employee's skill is being best utilized in the position he or she is in.

(C) To investigate the level of skills possessed by town employees matched with their job function, and to find out if, and what type of, training is necessary.

(D) To communicate to each employee any apparent misunderstanding or unacceptable work habits.

(E) To help superintendents by giving them a semi-annual review of their departments with respect to employee morale, performance trends, assessing and communicating problem areas, and the like. ('80 Code, ' 2.02.050 B.)

' 37.102 PROCEDURE.

(A) Department employees will be evaluated by their immediate supervisor, and such evaluation will be reviewed by the Town Manager. A superintendent will be evaluated by the Town Manager, and such evaluation will be reviewed by the Town Councilmember assigned to that superintendent's department. The utility-clerical employees will be

evaluated by the Clerk-Treasurer, and reviewed by the Council. The Town Manager will be evaluated by the Council President, and his or her evaluation will be reviewed by the entire Council.

<i>Employee Being Evaluated</i>	<i>Evaluator</i>	<i>Reviewing Officer</i>
Departmental Employees	Superintendent	Town Manager
Superintendents	Town Manager	Councilmember assigned to Department
Utility-Clerical Employees	Clerk-Treasurer	Council
Town Manager	Council President	Council

(B) In all cases employees will be notified as to the result of the evaluation. Such notification will be in writing, and each employee will be required to sign his or her evaluation notice. A signature on this notice in no way indicates the employee's acceptance of the content, but merely that the employee has seen the evaluation results.

('80 Code, ' 2.02.050 C.)

' 37.103 EVALUATION APPEAL PROCEDURE.

The procedure to appeal an employee evaluation will be identical to the formal grievance procedure in " 37.155 through 37.158 of this chapter. ('80 Code, ' 2.02.050 D.)

HIRING PROCEDURES

' 37.125 AUTHORIZATION.

(A) The Town Council or the Board of Police Commissioners, as may be appropriate given their areas of authority, shall be directly responsible for the hiring of and have final authority to hire all personnel for the town. ('80 Code, ' 2.02.060 A.)

(B) The Board of Police Commissioners may appoint at their discretion, pursuant to IC 36-8-3-20 no more than six reserve police officers to supplement the existing full-time police force.
(Ord. 1993-17, passed 7-26-93)

' 37.126 NEW EMPLOYEE PROCEDURES.

(A) Upon the hiring of any employee, the employee will receive the following:

- (1) A complete set of personnel policies;
- (2) A job description outlining job duties and responsibilities;
- (3) All necessary tax and insurance forms;
- (4) Employment Eligibility Verification, as required by the United States Department of Justice, Immigration and Naturalization Service;
- (5) A tour of the employee's work area and a work-related job orientation conducted by the immediate supervisor;
- (6) A general orientation conducted by the Town Manager or Clerk-Treasurer to review town policies and answer any questions.

(B) The new employee will sign a statement indicating that he or she has received all six items. Only after these procedures are completed may the employee begin employment.
(‘80 Code, ' 2.02.060 B.)

' 37.127 PROBATIONARY PERIOD.

(A) All newly-hired employees will be placed on probation for a period of 60 calendar days. Near the expiration of that time, a follow-up interview will be conducted by the ultimate supervisor (Town Manager or Clerk-Treasurer) to review the employee's performance. The ultimate supervisor will discover any problems which the employee has, and decide:

- (1) Whether the employee should be retained;
- (2) Whether the employee should continue on probation for one additional 30-day period; or
- (3) Whether the employee should be dismissed.

(B) This section does not apply to members of the Police Department. They will be governed by the provisions of the *Police Manual*.
(‘80 Code, ' 2.02.060 C.)

' 37.128 APPOINTMENT OF POLICE CHIEF.

(A) *Definition.*

- (1) Except as provided in division (A)(2) of this section, **MEMBER OF THE POLICE DEPARTMENT** shall mean, for the purpose of this section, the Police Chief or a police officer appointed to the Department.
- (2) For the purposes of IC 36-8-4-7 and 36-8-3-21, **MEMBER OF THE POLICE DEPARTMENT** does not include the Police Chief hired under a waiver under division (C)(3).

(B) *Employment of police officers restricted to individuals eligible for 1977 fund membership.*

(1) Except as provided in division (B)(2) below, this section applies to all appointments to the Police Department.

(2) This section does not apply to the appointment of a Police Chief under a waiver under division (C)(3). For purposes of IC 36-8-8-7, an individual may not be employed by the town after July 1, 1992, as a member of the Police Department, unless the individual meets the conditions for membership in the 1977 fund.

(C) *Appointment of Police Chief.*

(1) This section applies to the appointment of a Police Chief for the town.

(2) An applicant for the position of Police Chief in the town must meet the following requirements:

(a) Have five years of service as a police officer with a full-time, paid Police Department or agency;

(b) Be a citizen of the United States;

(c) Be a high school graduate or equivalent;

(d) Be at least 21 years of age;

(e) Be free of mental illness;

(f) Be physically fit; and

(g) Have successfully completed the minimum basic training requirements established by the Law Enforcement Training Board under IC 5-2-1.

(3) In addition to the requirements of division (2) above, an applicant for appointment as Police Chief must have at least five years of continuous service with the Lowell Police Department immediately before the appointment. This requirement may be waived by a majority of the Town Council upon request of the Town Executive.

(Ord. 1992-5, passed 4-13-92)

' 37.129 APPLICANT FEE.

A Police Department applicant fee of up to \$40 is hereby established for each person seeking employment with the Police Department. All applicant fees shall be paid at the time each application is submitted or prior to any testing of prospective applicants, but no applicant fee shall be charged to any person who has established indigence. Applicant

fees shall be payable to the Clerk-Treasurer and receipted to the general fund.

(Ord. 1997-14A, passed 6-23-97; Am. Ord. 2000-28, passed 12-14-00; Am. Ord. 2004-02, passed 1-12-04)

Cross-reference:

Fee schedule, see ' 11.002

EMPLOYEE FILES

' 37.140 CONTENT OF FILES.

(A) All town employees shall have a confidential personnel file that will contain the following:

(1) Employment application;

(2) All necessary insurance and tax forms;

(3) Copies of all employee performance evaluations;

(4) Verification letter as to receipt of new employee information;

(5) Records of all disciplinary actions;

(6) Salary or wage record; and

(7) All other pertinent information concerning employee performance.

(B) Employees will also have an Employment Eligibility Verification, as may be required by the United States Department of Justice, Immigration and Naturalization Service, which will be retained as required by law.

('80 Code, ' 2.02.070 A.)

' 37.141 LOCATION OF FILES.

The employee files and any Employment Eligibility Verification will be kept in the town hall offices under the custody and control of the Clerk-Treasurer. ('80 Code, ' 2.02.070 B.)

' 37.142 ACCESSIBILITY.

The employee files will be kept confidential. Access to such files is explained as follows:

(A) All employee files will be accessible to the Councilmembers, Clerk-Treasurer, Town Manager and the legal counsel of any of the foregoing, representing the foregoing in their official capacities with the town;

(B) Superintendents will have access only to files of the employees under their direct supervision;

(C) All employees or ex-employees will have access to their file upon written request;

(D) Third parties will have access to an employee file only with written consent of that employee or by court order. ('80 Code, ' 2.02.070 C.)

GRIEVANCE PROCEDURES

' 37.155 RATIONALE.

There will be occasions when town employees do not agree with the interpretation of facts surrounding an incident, the severity of a disciplinary action, or the denial of benefits (including salary increases) which the employee feels he or she has deserved, and therefore, the town encourages use of the informal and formal grievance procedures. These grievance

procedures are to be initiated by the employee. Any employee should always feel he or she can point out a problem or make a complaint to his or her supervisor without fear of retaliation. ('80 Code, ' 2.02.080 A.)

' 37.156 PROCEDURES NOT APPLICABLE TO POLICE DEPARTMENT.

Informal and formal grievance procedures delineated in this subchapter do not apply to Police Department members. Police Department members are covered by the grievance procedures in the *Police Manual*. ('80 Code, ' 2.02.080 B.)

' 37.157 INFORMAL GRIEVANCE PROCEDURE.

All grievances are initially considered informal. Any employee who has a problem or complaint should first attempt to resolve the matter with his or her immediate supervisor through an informal discussion. The supervisor should always take such complaint or problem as a work-related issue, not as a personal assessment. Informal grievances should not become part of the employee's personnel file. ('80 Code, ' 2.02.080 C.)

' 37.143 EXCEPTION FOR POLICE DEPARTMENT FILES.

This subchapter does not apply to employee files for members of the Police Department which will be governed according to provisions in the *Police Manual*. ('80 Code, ' 2.02.070 D.)

' 37.158 FORMAL GRIEVANCE PROCEDURE.

When the informal procedure does not produce a resolution, formal channels should be used. There are three levels in the formal procedure:

(A) Level one.

(1) Employee shall submit written complaint or problem to immediate supervisor.

(2) The immediate supervisor will conduct an investigation of the grievance.

(3) The immediate supervisor will render a written decision based on the results of the investigation within ten working days from the date on which the complaint was submitted at level one.

(B) Level two.

(1) Employee shall submit written complaint or problem to next higher authority, within 20 working days from the receipt of the previous decision.

(2) The immediate supervisor will provide the written decision from level one to the next higher authority.

(3) The next higher authority shall conduct an investigation into the complaint or problem.

(4) The next higher authority shall call a hearing of the parties within ten working days of his or her receipt of the complaint at level two.

(5) The next higher authority shall render a written decision within 15 working days from the date on which the complaint reaches this level.

(6) Level two does not apply to clerical-utility employees. Clerical-utility employees will proceed from level one directly to level three.

(C) Level three.

(1) Employee will submit written complaint or problem to the Town Council within 20 days from the receipt of the decision at level two.

(2) Both the supervisor and the next higher authority (at level two) will provide the previous written decisions to the Town Council.

(3) The Council may conduct an independent investigation into the nature and substance of the complaint.

(4) The Council shall hold a hearing within ten working days of the complaint reaching this level.

(5) The Council shall render a final written decision within 15 working days from the date on which the complaint reaches level three.

(D) The time frames mentioned above may be extended so long as it is mutually agreeable to both the employee and reviewing authority.

(E) All material in the formal procedure must be submitted in writing and must be available to all parties concerned.

(F) If an employee feels he or she needs another party to assist him/her through the grievance procedure, nothing herein would bar such help. Documentation of the formal grievance procedure, including all decisions at all levels, all employee complaints and requests, and the like will become part of the employee's personnel file.

('80 Code, ' 2.02.080 D.)

***NEPOTISM AND CONTRACTING
WITH THE TOWN***

' 37.160 DEFINITIONS.

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

DIRECT LINE OF SUPERVISION. An elected officer or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. The term does not include the responsibilities of the executive, legislative body, or fiscal body of the town, as provided by law, to make decisions regarding salary ordinances, budgets, or personnel policies of the town.

ELECTED OFFICIAL. The executive or a member of the executive body of the town, a member of the legislative body of the town, or a member of the fiscal body of the town.

EMPLOYED. An individual who is employed by the town on a full-time, part-time, temporary, intermittent, or hourly basis. The term does not include an individual who holds only an elected office. The term includes an individual who is a party to an employment contract with the town.

MEMBER OF THE POLICE DEPARTMENT. The Police Chief or a police officer appointed to the Department.

RELATIVE.

(1) Any of the following:

- (a) A spouse;
- (b) A parent or stepparent;
- (c) A child or stepchild;
- (d) A brother, sister, stepbrother, or stepsister;
- (e) A niece or nephew;
- (f) An aunt or uncle; or
- (g) A daughter-in-law or son-in-law.

(2) An adopted child of an individual is treated as a natural child of the individual. The terms **BROTHER** and **SISTER** include a brother or sister by the half blood.

TOWN. The Town of Lowell, Indiana.
(Ord. 2012-17, passed 6-25-12)

' 37.161 EMPLOYMENT OF RELATIVES.

(A) Individuals who are relatives may not be employed by the town in a position that results in one relative being in the direct line of supervision of the other relative.

(B) With regard to an individual who is employed by the town on the date the individual's relative begins serving a term of an elected office of the town may remain employed by the town and maintain the individual's position or rank even if the individual's employment would violate the prohibition against a relative being in the direct line of supervision of the other relative.

(C) An individual described in division (B) above shall not be promoted to a position, or in the

case of an individual who is a member of a merit police department be promoted to a position that is not within the merit ranks, if the new position would violate the prohibition against one relative being in the direct line of supervision of the other relative.

(Ord. 2012-17, passed 6-25-12)

' 37.162 EXCLUSIONS FROM ' 37.161.

(A) An individual who is employed by the town on July 1, 2012 is not subject to these policies unless the individual has a break in employment with the town. Breaks in employment do not include the following:

(1) The individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave, or worker's compensation.

(2) The individual's employment with the town is terminated followed by an immediate reemployment by the town, without loss of payroll time.

(B) This subchapter does not abrogate or affect an employment contract with the town that:

(1) An individual is a party to; and

(2) Is in effect on the date the individual's relative begins serving a term of an elected office of the town.

(Ord. 2012-17, passed 6-25-12)

' 37.163 CONTRACTING WITH RELATIVES OF CURRENT TOWN ELECTED OFFICIALS.

(A) The town may enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with:

(1) An individual who is a relative of an elected official; or

(2) A business entity that is wholly or partially owned by a relative of an elected official; only if the requirements below are satisfied and the elected official does not violate IC 35-44-1-3.

(B) The town may enter into a contract or renew a contract with an individual or business entity described above if:

(1) The elected official files with the town a full disclosure, which must:

(a) Be in writing;

(b) Describe the contract or purchase to be made by the town;

(c) Describe the relationship that the elected official has to the individual or business entity that contracts or purchases;

(d) Be affirmed under penalty of perjury;

(e) Be submitted to the Town Council and be accepted by the Town Council in a public meeting prior to final action on the contract or purchase; and

(f) Be filed, not later than 15 days after final action on the contract or purchase, with:

1. Indiana State Board of Accounts; and

2. The Clerk of the Circuit Court of Lake County;

(2) The appropriate agency of the town:

(a) Makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered; or

(b) Makes a certified statement of the reasons why the vendor or contractor was selected; and

(3) The town satisfies any other requirements under IC 5-22 and 36-1-12.

(C) An elected official must also comply with the disclosure provisions of IC 35-44-1-3, if applicable.

(D) These provisions do not affect the initial term of a contract in existence at the time the term of office of the elected official begins.

(Ord. 2012-17, passed 6-25-12)

' 37.164 CERTIFICATION REQUIREMENT.

(A) Each elected official of the town must annually certify in writing, subject to the penalties for perjury, that the elected official:

(1) Has not violated the provisions of IC 36-1-20.2 concerning nepotism; and

(2) Is in compliance with the provisions of IC 36-1-21 concerning contracting with the town.

(B) The elected official must submit the certification to the Town Council President not later than December 31 of each year.

(Ord. 2012-17, passed 6-25-12)

' 37.165 INCORPORATION BY REFERENCE.

This subchapter is designed to comply with IC 36-1-20.2 and 36-1-21. To the extent not expressly stated herein, the requirements of IC 36-1-20.2 and 36-1-21 are incorporated by reference. To the extent required by IC 36-1-5-4, two copies of IC 36-1-20.2 and 36-1-21 are on file in the office of the Town Clerk-Treasurer for public inspection.

(Ord. 2012-17, passed 6-25-12)

Section

- 38.01 Definitions
- 38.02 Purchasing Agent
- 38.03 Appropriations
- 38.04 Purchase of supplies in excess of \$150,000
- 38.05 Purchase of supplies in excess of \$50,000 but less than \$150,000
- 38.06 Purchase of supplies under \$50,000
- 38.07 Solicitation of quotes
- 38.08 Purchase orders
- 38.09 Emergencies
- 38.10 Exceptions
- 38.11 Bid submissions

CHAPTER 38: PURCHASING POLICIES

departments for all supplies where the total purchase price of the supplies is less than \$50,000.

(B) In addition to the Purchasing Agents identified in division (A) above, each department head is also designated as a Purchasing Agent for their respective department for all supplies where the total purchase price of the supplies is \$2,500 or less. (Ord. 2008-17, passed 8-25-08)

' 38.01 DEFINITIONS.

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

PURCHASING AGENT. An individual authorized by the Town Council to act as its agent to administer the purchasing policies adopted for the town and its various departments.

SUPPLIES. Any type of goods, materials or equipment necessary for town use but shall not include any interest in real property. (Ord. 2008-17, passed 8-25-08)

' 38.02 PURCHASING AGENT.

The Purchasing Agents for the town are hereby designated as follows:

(A) The Director of Administration and the Director of Public Works are designated as the Purchasing Agents for the town and its respective

' 38.03 APPROPRIATIONS.

All purchases shall be limited to items determined to be necessary for the effective operation of the town by a Purchasing Agent and where a sufficient appropriation exists for the purchase of each item prior to the date of purchase. (Ord. 2008-17, passed 8-25-08)

' 38.04 PURCHASE OF SUPPLIES IN EXCESS OF \$150,000.

All purchases of supplies by the town, the total purchase price of which exceeds \$150,000, shall be offered for public bid pursuant to IC ' 5-22-7 et seq. (Ord. 2008-17, passed 8-25-08)

' 38.05 PURCHASE OF SUPPLIES IN EXCESS OF \$50,000 BUT LESS THAN \$150,000.

The Director of Administration or the Director of Public Works shall supervise and direct the invitation of not less than three quotes from persons known to deal in the lines or classes of supplies needed, by mailing or faxing a copy of the specifications not less than seven days before the time set for receiving quotes. All quotes received shall be reviewed by the Town Council at a public meeting and the Council shall, after adequate review, award the contract to the

lowest responsible and responsive quoter, reject all quotes, or if no valid quotes are received for an item, may purchase the quoted items on the open market in conformance with applicable law.

(Ord. 2008-17, passed 8-25-08)

' 38.06 PURCHASE OF SUPPLIES UNDER \$50,000.

The purchase of supplies, the total cost of which does not exceed \$50,000, may be made by either procedure defined in division (A) or (B) below. In making a purchase under this policy, each Purchasing Agent shall act in accordance with good business practices with the primary purpose of serving the needs and best interests of the town, and shall not artificially divide purchases so that they will become subject to this section or so that the purchases will be less than \$50,000. All purchases made pursuant to this section shall be approved in advance by the Town Council President.

(A) The Purchasing Agent shall supervise the invitation of not less than three quotes from persons known to deal in the types or classes of supplies needed, by mailing or faxing a copy of the specifications not less than seven days before the time set for receiving quotes. The quotes shall be received by Purchasing Agent at a designated time and place. The Purchasing Agent shall, after adequate review, award the contract to the lowest responsible and responsive quoter, may reject all quotes, or if no valid quotes are received from any item, purchase it on the open market, in conformance with state law; or

(B) The Purchasing Agent may authorize the purchase of supplies on the open market without the solicitation of written quotations. All purchases to be made in the open market shall be made according to the following procedures:

(1) If the purchase is less than \$10,000, the Purchasing Agent may make the purchase in any manner deemed appropriate by the Purchasing Agent consistent with the purposes of this policy. The Purchasing Agent is not required to invite quotes from

at least three persons known to deal in the lines or classes of supplies to be purchased prior to making a purchase costing \$10,000 or less; however, Purchasing Agents are encouraged to take appropriate action to ensure that the price paid is reasonable.

(2) Once a decision to purchase has been made by the Purchasing Agent, the Purchasing Agent or a designated employee under the direction of the Purchasing Agent shall complete a purchase order as provided in ' 38.08.

(Ord. 2008-17, passed 8-25-08)

' 38.07 SOLICITATION OF QUOTES.

The Purchasing Agent shall direct that the solicitation of quotes for supplies under " 38.05 and 38.06 shall be obtained under the following guidelines:

(A) If there are three or more vendors who are known to deal in the lines or classes of supplies required who maintain a place of business within the town limits of the town, then at least three quotes shall be obtained from vendors located within the town limits.

(B) If there are less than three vendors who deal in the lines or classes of supplies required with a place of business located within the town limits, then quotations shall be solicited from vendors who maintain a place of business in Lake County, Indiana.

(C) If there are less than three vendors known to deal in the lines or classes of supplies required who maintain a place of business in Lake County, then quotations shall be solicited from vendors who maintain a place of business in Indiana.

(D) If there are less than three vendors who are known to deal in the lines or classes of supplies required who maintain a place of business in Indiana, then quotations may be solicited from vendors located outside the State of Indiana.

(Ord. 2008-17, passed 8-25-08)

' 38.08 PURCHASE ORDERS.

(A) All purchases shall be made by completion of a purchase order delivered to the Clerk-Treasurer. Upon receipt of a completed purchase order, the Clerk-Treasurer shall verify that adequate funds are available within the proper budget category. An order for supplies shall not be placed with any vendor until the purchase order for said supplies has been approved by the Clerk-Treasurer.

(B) (1) All orders placed for supplies shall be made in the name of the department as follows:

Town of Lowell	
Department Name	
Supplies	\$\$\$
Delivery	\$\$\$
Total	\$\$\$
Signature of Employee	

(2) The Purchasing Agent should emphasize to the supplier that the supplier's entire name is necessary to ensure proper payment and distribution of expense to the proper department. He or she should insist that the purchase order accompanying the purchase be priced and totaled before signing. Also, he or she should describe on each purchase order the department for which the purchase is made and the purpose for which the item is to be used.

(C) All purchases over \$250 are to be accompanied by a purchase order written for the department for which the purchase is being made. All purchase orders are numbered and any voided purchase order shall be promptly returned to the Clerk-Treasurer for entry in the record.

Note: Pink claim form B Sewer Department
 Blue claim form B Water department
 White claim form B All. Town departments other than Water or Sewer.

(D) All purchase orders must be signed by the Purchasing Agent and the Clerk-Treasurer.

(E) Purchase orders need not be written for:

(1) Purchases under \$250;

(2) Purchases from the regular supplier for routine operating chemicals for the water and wastewater treatment plant which have undergone an annual quotation process; and

(3) Purchases for gasoline from an approved regular supplier.

(F) Purchasing Agents must instruct all suppliers regarding the necessity of including a claim form with each invoice as bills will not be paid from business statements or invoices without a completed claim form.

(G) If a purchase is restricted by an appropriation, it is each Purchasing Agent's obligation to verify that appropriated funds are available. The Clerk-Treasurer will provide this information by phone or at his or her office.

(Ord. 2008-17, passed 8-25-08)

' 38.09 EMERGENCIES.

In the event that a situation should arise that could not reasonably have been foreseen and that threatens the public health, welfare, or safety and requires immediate action, the Purchasing Agent, upon declaration of an emergency, with the approval of the Town Executive, may authorize the purchase of supplies which may be required without receiving bids if at least two quotes are invited from persons known to deal in supplies required, so long as the total purchase price does not exceed \$50,000. In the event the supplies needed exceed \$50,000, then the Purchasing Agent shall present the proposals to the Council in the same manner as provided for emergency public work projects under IC 36-1-12-9. (Ord. 2008-17, passed 8-25-08)

' 38.10 EXCEPTIONS.

Notwithstanding any provisions in this chapter to the contrary, the Purchasing Agent may purchase supplies without giving notice or receiving bids if:

(A) The purchase is made from a supplier who has a contract with the state agency and the supplier's contract with the state requires him or her to make the supplies available to political subdivisions as provided in IC ' 4-18-1.6 or IC ' 5-22-17-9; or

(B) The purchase is made from a supplier who has a contract with a federal agency and the supplier's contract with that agency requires the supplier to make the supplies available to the state or political subdivisions.

(Ord. 2008-17, passed 8-25-08)

' 38.11 BID SUBMISSIONS.

(A) (1) Contractors proposing to submit bids on any town project estimated to be at \$150,000 or more must, prior to the opening of bids, submit a statement made under oath and subject to perjury laws, on a form designated by the town and must include:

(a) A copy of a printout of the Indiana Secretary of State's online records for the bidder dated within 60 days of the submission of said document showing that the bidder is in existence, current with the Indiana Secretary of State's Business Entity Reports, and eligible for a certificate of good standing. If the bidder is an individual, sole proprietor or partnership, this division shall not apply;

(b) A list identifying all former business names;

(c) Any determinations by a court or governmental agency for violations of federal, state, or local laws including, but not limited to violations of contracting or antitrust laws, tax or licensing laws, environmental laws, the Occupational Safety and Health Act (OSHA), or federal Davis-Bacon and related acts;

(d) A statement on staffing capabilities, including labor sources;

(e) Evidence of participation in apprenticeship and training programs, applicable to the work to be performed on the project, which are approved by and registered with the United States Department of Labor's Office of Apprenticeship, or its successor organization. The required evidence includes a copy of all applicable apprenticeship certificates or standards for these training programs;

(f) A copy of a written plan for employee drug testing that: (i) covers all employees of the bidder who will perform work on the public work project; and (ii) meets, or exceeds, the requirements set forth in IC 4-13-18-5 or IC 4-13-18-6;

(g) The name and description of the management experience of each of the bidder's project managers and superintendents that bidder intends to assign to work on the project;

(h) Proof of any professional or trade license required by law for any trade or specialty area in which bidder is seeking a contract award, and disclosure of any suspension or revocation within the previous five years of any professional or trade license held by the company, or of any director, officer or manager employed by the bidder;

(i) Evidence that the contractor is utilizing a surety company which is on the United States Department of Treasury's Listing of Approved Sureties;

(j) A written statement of any federal, state or local tax liens or tax delinquencies owed to any federal, state or local taxing body in the last five years;

(k) A statement that individuals who will perform work on the public work project on behalf of the bidder will be properly classified as either: (i) an employee; or (ii) an independent contractor, under all applicable state and federal laws and local ordinances; and

(1) A list of projects of similar size and scope of work that the bidder has performed in the State of Indiana within three years prior to the date on which the bid is due.

(2) The town reserves the right to demand supplemental information from the bidder, (additional) verification of the information provided by the bidder, and may also conduct random inquiries of the bidder's current and prior customers.

(B) *Post-bid submissions from subcontractors.*

(1) All bidders shall provide a written list that discloses the name, address, and type of work for each first-tier subcontractor from whom the bidder has accepted a bid and/or intends to hire on any part of the public work project, including individuals performing work as independent contractors, within five business days after the date the bids are due.

(2) In addition, each such first-tier subcontractor shall be required to adhere to the requirements of division (A) as though it were bidding directly to the town, except that first-tier subcontractors shall submit the required information (including the name, address, and type of work for each of their first-tier subcontractors) to the successful bidder no later than five business days after the subcontractor's first day of work on the public work project and the bidder shall then forward said information to the town. Payment shall be withheld from any first-tier subcontractor who fails to timely submit said information until such information is submitted and approved by the Town Council.

(3) Upon request, the town may require any second and lower-tier subcontractors to provide the required information (including name, address, type of work on the project and the name of the higher-tier subcontractor). Payments shall be withheld from any second or lower-tiered contractor who fails to timely submit this information until this information is submitted and approved by the town. Additionally, the town may require the successful bidder and relevant subcontractor to remove the second or lower-tier subcontractor from the project and replace it with a responsive and responsible subcontractor.

(4) Failure of a subcontractor to submit the required information shall not disqualify the successful bidder from performing work on the project and shall not constitute a contractual default and/or breach by the successful bidder. However, the town may withhold all payments otherwise due for work performed by a subcontractor, until the subcontractor submits the required information and the town approves such information. The town may also require that successful bidder to remove the subcontractor from the project and replace it with a responsive and responsible subcontractor.

(5) The disclosure of a subcontractor ("disclosed subcontractor") by a bidder or a subcontractor shall not create any rights in the disclosed subcontractor. Thus, a bidder and/or subcontractor may substitute another subcontractor ("substitute subcontractor") for a disclosed subcontractor by giving the town written notice of the name, address, and type of work of the substitute subcontractor. The substitute subcontractor is subject to all of the obligations of a subcontractor under this division.

(C) *Validity of pre-qualification classification.*

(1) Upon designation by the town that a contractor's or subcontractor's submission in anticipation of a bid is complete and timely, and upon any further consideration deemed necessary by the town, the contractor or subcontractor may be pre-qualified for future town public works projects. A contractor's classification as "qualified" shall exempt the contractor or sub-contractor from the comprehensive submission requirements contained herein for a period of 12 months. Thereafter, contractors or subcontractors who are pre-qualified must submit a complete application for continuation of "pre-qualified" standing, on a form provided by the town, (also referred to as the "short form") by December 31 for the upcoming calendar year. Failure by any pre-qualified contractor or subcontractor to timely submit its complete application for continuation of "pre-qualified" standing shall result in automatic removal of the designation, effective January 1 of the upcoming year. However, the "removed" contractor or subcontractor shall still be permitted to bid on town public works projects.

(2) Any material changes to the contractor's status, at any time, must be reported in writing within ten days of its occurrence to the town. The pre-qualification designation is solely within the discretion of the town and the town specifically reserves the right to change or revoke the designation for a stated written reason(s).

(3) Denial of pre-qualification shall be in writing and shall be forwarded to the contractor within seven working days of such decision. Any contractor denied or losing pre-qualification status may request reconsideration of the decision by submitting such request in writing to the town within five business days of receipt of notice of denial.

(D) *Incomplete submissions by bidders.* It is the sole responsibility of the potential bidder to comply with all submission requirements applicable to the bidder in division (A) above by no later than the public bid opening. Post-bid submissions must be submitted in accordance with division (B) above. Submissions deemed inadequate, incomplete, or untimely by the town may result in the automatic disqualification of the bid.

(E) *Responsive and responsible bidder determination.* The town, after review of complete and timely submissions, shall, in its sole discretion, after taking into account all information in the submission requirements, determine whether a bidder is responsive and responsible. The town specifically reserves the right to utilize all information provided in the contractor or subcontractor's submission or any information obtained by the town through its own independent verification of the information provided by the contractor.

(F) (1) *Certified payroll.* For projects in which the cost is at least \$250,000, the successful bidder and all subcontractors working on a public work project shall submit a certified payroll report utilizing the federal form now known as a WH-347, which must be prepared on a weekly basis and submitted to the town within ten calendar days after the end of each week in which the bidder or subcontractor performed its work on the public work project. These certified payroll

reports shall identify the job title and craft of each employee on the project, e.g. journeyman electrician or apprentice electrician. In the event any contractor or subcontractor uses independent contractors to perform work on the project, such individual must be identified on the WH-347 form with the same information as is required for employees.

(2) The town may withhold payment due for work performed by a bidder if the bidder fails to timely submit its certified payroll reports until such time as such certified payroll reports are submitted. The town may also withhold payment due for work performed by a subcontractor if the subcontractor fails to timely submit its certified payroll reports until such time as such certified payroll reports are submitted. The town shall not withhold payment to a bidder for work performed by the bidder or for work performed by subcontractors who have submitted their certified payroll reports, because one or more other subcontractors failed to timely submit their certified payroll reports.

(G) *Public records.* All information submitted by a bidder or a subcontractor pursuant to this division, including certified payrolls, are public records subject to review pursuant to the Indiana Access to Public Records law (IC 5-14-3).

(H) *Penalties.* Any bidder that willfully makes, or willfully causes to be made, a false, deceptive or fraudulent statement, or willfully submits false, deceptive or fraudulent information in connection with any submission made to the town shall be disqualified from bidding on all town projects for a period of three years.

(Ord. 2015-38, passed 12-28-15)