

TITLE III: ADMINISTRATION

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CHAPTER 30: TOWN COUNCIL AND OFFICIALS

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OFFICES

' 30.01 ELECTIVE OFFICES.

(A) The elective offices shall be:

- (1) The Town Council; and
- (2) The Clerk-Treasurer.

(B) All members of the Town Council shall be elected on an at-large basis.

(C) The Clerk-Treasurer shall be elected on an at-large basis.

(Am. Ord. 1990-6, passed 8-15-1990)

30.02 TERM OF OFFICES.

(A) *Councilmembers.* The successors of all Town Councilmembers elected in 1991 shall be elected on the November election day in the year of expiration of their respective terms of 4 years, and likewise every 4 years thereafter.

(B) *Existing election authority.* All other election qualifications, standards, and procedures heretofore applying to selection to membership on the Town Council of the town and not to conflict with the foregoing shall remain in full force and effect.

(Am. Ord. 1990-15, passed 12-27-1990; Am. Ord. 1990-15, passed 5-15-1991)

30.03 BONDING.

The amount of required bonding for the Councilmembers and the Clerk-Treasurer shall be:

(A) Clerk-Treasurer, \$10,000.

(B) Councilmembers, \$10,000.

30.04 COUNCIL TO ACT AS BOARD OF PUBLIC UTILITIES; AUTHORITY, DUTIES, AND THE LIKE.

(A) The duties of the Councilmembers shall be, in addition to their regular Council duties, to oversee, direct, and regulate the public utilities owned by the town, acting as a Water and Sewage Board.

(B) Pursuant to I.C. 8-1.5-3-9.1, the town removes itself from the jurisdiction of the Indiana Utility Regulatory Commission.

(C) All authority, responsibility, and control for all purposes, including approval and establishment of rates, charges, and the incurring of indebtedness as it relates to the water utility, is vested in the Town Council.

(D) All rates and charges made by the Town Council regarding the water utility, for a service rendered or to be rendered, shall be nondiscriminatory, just, and reasonable.

(E) The Town Council shall fix reasonable and just rates and charges for services of the water utility in accordance with the terms and provisions of I.C. 8-1.5-3-8, as now or hereafter amended, from time to time as it may be necessary to establish and maintain reasonable, fair, and just rates and charges for services.

(Am. Ord. 1993-5, passed 12-15-1993)

▪ **30.05 ELECTIONS.**

Elections will be held pursuant to I.C. 3-10-7 and any amendments thereto.

Cross-reference:

Election wards, see ' 11.01

▪ **30.06 CLERK-TREASURER.**

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

- (1) Property or services purchased or leased from:
 - (a) The United States government; or
 - (b) An agency or a political subdivision of the United States government.
- (2) License fees or permit fees;
- (3) Insurance premiums;
- (4) Utility payments or utility connection charges;
- (5) Federal grant programs if:
 - (a) Advance funding is not prohibited; and
 - (b) The contracting party provides sufficient security for the amount advanced.
- (6) Grants of state funds authorized by statute;
- (7) Maintenance agreements or service agreements;
- (8) Lease agreements or rental agreements;
- (9) Principal and interest payments on bonds;
- (10) Payroll;
- (11) State, federal, or county taxes; and
- (12) Purchases by town employees for approved work clothing.

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(B) Any payment of expense under this section must be supported by a fully itemized claim.

(C) Allowance and payment of any claims under this section shall be presented to the Town Council for review and allowance at the Town Council's next regular or special meeting following the pre-approved payment of the expense.

(D) Sets petty cash at \$300.

(E) The Clerk-Treasurer, acting as the Program Administrator of the town's Identity Theft Prevention Program, shall:

(1) Train all employees whose duties include creating, opening, closing, or amending account information for the Town Utilities;

(2) Monitor the implementation of the town's Identity Theft Prevention Program.

(3) Report at least annually to the Common Council regarding employee compliance with the Red Flags Rule (15 U.S.C. _ 1681 *et seq.* and 16 C.F.R. 681.2) and suggested or necessary changes to the town's Identity Theft Prevention Program.

(Ord. 1993-2, passed 5-19-1993; Am. Ord. 2007-5, passed 11-28-2007; Am. Ord. 2009-8, passed 10-21-2009)

▪ **30.07 TOWN MANAGER.**

(A) *Creation.* The Office of Town Manager is hereby created.

(B) *Appointment.* The Council may from time to time employ an individual to serve as Town Manager for such compensation and with such responsibilities as are established by Council from time to time. That employment shall be at the pleasure of the Council except as otherwise agreed and in a written contract expressly approved and executed by Council.

(C) *Powers and duties.* Except as either expressly limited by written order, ordinance, or other directive of the Town Council, the Town Manager shall have the powers and authority to perform the administrative duties of the Town Council and other functions as are then appropriate and authorized for the Town Manager under applicable provisions of the law then in force.

(D) *Limitations on powers and duties.* The Town Manager shall not have authority to do any of the following without express approval of the Council:

(1) Hire or discharge any town employee;

(2) Suspend any town employee with or without pay for more than 3 working days;

(3) Enter into any contractual commitment for and on behalf of the town having a dollar value, including any contemporaneously related or affiliated contracts, of more than \$5,000; or

(4) Receive service of summons on behalf of the town.

(E) *Review.* It is anticipated that the Council shall provide for reviews of the Town Manager=s job performance periodically, and report the results thereof to that Manager.
(Ord. 1997-8, passed 10-15-1997)

POLICIES

30.15 REIMBURSEMENT FOR EXPENSES INCURRED ON BEHALF OF THE TOWN.

The Town Council shall, from time to time, budget and appropriate monies from the General Fund as follows:

(A) To pay the expenses of and/or to reimburse town officials for expenses incurred in promoting the best interests of the town. The expenses may include, but shall not be limited to:

- (1) Rental of meeting places;
- (2) Meals;
- (3) Decorations;
- (4) Memorabilia;
- (5) Awards;
- (6) Expenses incurred in interviewing job applicants;
- (7) Expenses incurred in promoting industrial, commercial, and/or residential development;
- (8) Expenses incurred in developing relations with other units of government; and

(9) Any other expenses of a civic or governmental nature which are from time to time determined by the Councilmembers to be in the best interest of the town.

(B) To defray the expenses of membership and participation of the town and its representatives in local, regional, state, and national associations of a civic or governmental nature which have as a primary purpose the betterment and improvement of municipal government operations.

(C) All reimbursements or expenditures authorized by this section shall be in compliance with applicable State Board of Accounts Rules and Regulations.

(Ord. 1993-7, passed 11-17-1993; Am. Ord. 1994-2, passed 10-19-1994; Am. Ord. 1995-8, passed 9-20-1995; Am. Ord. 1996-6, passed 8-21-1996; Am. Ord. 1997-7, passed 9-10-1997; Am. Ord. 1999-3, passed 7-21-1999; Am. Ord. 2000-4, passed 7-19-2000; Am. Ord. 2001-13, passed 8-27-2001)

▪ **30.16 SALARIES OF ELECTIVE OFFICERS.**

Salaries of town elected officials shall be in the amounts as established by ordinance of the Town Council from time to time.

▪ **30.17 PURCHASING.**

(A) The Council is hereby established and reaffirmed as the purchasing agency for the town with all of the powers and duties now and hereafter authorized under I.C. 5-22 for a purchasing agency and as may be hereafter supplemented by ordinances, rules, and/or policies adopted by the Council.

(B) The town=s Utility Supervisor, Town Manager, and Town Marshal are each hereby authorized to purchase supplies or services in any transaction where those supplies or services have an estimated cost of less than \$100 on the open market without inviting or receiving quotes, proposals, or bids.

(C) The Clerk-Treasurer is hereby designated as a purchasing agent of Council and is hereby authorized to purchase supplies or services in any transaction where those supplies or services have an estimated cost of less than \$500 on the open market without inviting or receiving quotes, proposals, or bids.

(D) In any transaction where needed supplies or services have an estimated cost of more than \$500 and less than \$1,000, prices shall be obtained from at least 2 qualified potential providers if available, and that proposed transaction shall be presented to Council with a recommendation and the reason(s) for that recommendation, for further action as then determined to be appropriate by Council. If those supplies or services are purchased, written particulars of the prices obtained shall be memorialized in the town=s records and retained for a minimum of 3 full calendar years following the date of purchase.

(E) In any transaction where the estimated cost of supplies is \$1,000 or more but less than \$25,000, at least 3 written quotes shall be obtained and submitted to Council for evaluation and further action which Council determines to be in the best interests of the town and otherwise not in violation of applicable requirements, except where Council has determined that a sufficient need exists and it is not in violation of any applicable legal requirement to do so and expressly directs the transaction to be processed otherwise.

(F) The following purchasing rules for the town are hereby adopted in accordance with the requirements of state law:

(1) Supplies manufactured in the United States are specified and shall be purchased for all town purchases unless the Council determines that:

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

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

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

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

(2) (a) Supplies available from the Department of Corrections as anticipated in I.C. 5-22-11 and/or the Rehabilitation Center as anticipated in I.C. 5-22-12 shall be purchased from those entities except as permitted by then applicable law.

(b) Additional purchasing rules and/or purchasing policies shall be adopted and may thereafter be modified or supplemented by the Council by resolution and/or ordinance, as Council determines to be necessary or advisable from time to time.

(G) A purchasing agent may purchase services in whatever manner and on whatever terms and conditions that purchasing agent determines to be reasonable that are not inconsistent with applicable provisions of state law, ordinances of the town, or rules, policies, or directives from the Council. (Ord. 1998-6, passed 7-15-1998; Am. Ord. passed 8-19-1998; Am. Res. 1998-13, passed 8-19-1998)

Cross-reference:

Board of Parks and Recreation as purchasing agency, see ' 32.36

CHAPTER 31: POLICE AND FIRE DEPARTMENTS

Section

Police Department

- 31.01 Town Marshal
- 31.02 Deputy marshals

POLICE DEPARTMENT

31.01 TOWN MARSHAL.

(A) The Office of Town Marshal shall be filled by appointment by the Town Council, at a salary to be fixed by the Council, pursuant to I.C. 36-5-7-2 and any amendments thereto.

(B) The Town Marshal shall be entitled to an allowance as appropriated in each annual budget for police equipment and maintenance of same, and he or she shall account for it to the Town Council at times to be designated by the Town Council.

(C) The duties of the Town Marshal are to uphold the laws of the state, all federal laws, and this code and any other ordinances of the town; to bring violations to the attention of both the citizens and the Town Council; and to aid in the prosecution of these violations.

(D) The Town Marshal shall, within 10 days of his or her appointment, give bond, payable to the State of Indiana, in an amount as the Town Council shall direct, pursuant to I.C. 5-4-1-18. The bond is currently set at \$8,500.

(E) The Town Marshal shall have an office at the Town Building and the use of a patrol car.

' 31.02 DEPUTY MARSHALS.

(A) The Town Marshal is authorized to appoint 3 deputy marshals, subject as he or she, himself or herself is to liabilities and possessing the same enforcement powers, pursuant to I.C. 36-5-7-6.

(B) Deputies may be dismissed by the Town Marshal at his or her discretion.

(C) The bond for each deputy shall be \$2,500.

(D) The compensation for service shall be set by the Town Council, along with the terms of service.

CHAPTER 32: TOWN ORGANIZATIONS

Section

Plan Commission

- 32.01 Establishment
- 32.02 Capacity of Plan Commission
- 32.03 Membership

Department of Economic Development

- 32.15 Department of Economic Development; Economic Development Commission
- 32.16 Development Council

Department of Parks and Recreation

- 32.30 Creation
- 32.31 Board
- 32.32 Terms
- 32.33 President; Vice-President
- 32.34 Powers of Board
- 32.35 Budget
- 32.36 Board as purchasing agency

Department of Redevelopment

- 32.50 Department of Redevelopment

Cross-reference:

Council to act as Board of Public Utilities, see ' 30.04
Violations Bureau, see Ch. 36

PLAN COMMISSION**▸ 32.01 ESTABLISHMENT.**

There is established by the Town Council, in order to promote the orderly development of the town, a Town Plan Commission for the town pursuant to I.C. 36-7-4-200 *et seq.*

▸ 32.02 CAPACITY OF PLAN COMMISSION.

The Plan Commission shall, when requested to do so, serve in an advisory capacity to the presently established boards and officials of the Counties of Huntington and Wells, and of the state, together with such other officials and established boards as may be pertinent with respect thereto. The Plan Commission shall have exclusive jurisdiction and control over all planning matters within the town.

▸ 32.03 MEMBERSHIP.

(A) The Town Plan Commission shall consist of 7 members, with qualifications, terms of office, and methods of appointment as provided in I.C. 36-7-4-207, as set forth in this section.

(B) Three of the members of the Town Plan Commission shall consist of the 3 members of the Town Council, whose terms as members of the Plan Commission shall be coextensive with the terms of office to which they have respectively been elected or appointed.

(C) The other 4 members of the Plan Commission shall be appointed by the President of the Town Council, 2 of whom shall serve for a term of 3 years, and 2 of whom shall serve for a term of 4 years, from the date of their appointment.

(D) The members so appointed by the President of the Town Council shall:

(1) Be qualified by knowledge and experience in matters pertaining to the development of the town;

(2) Be residents of the town; and

(3) Hold no other office in the town government.

(E) The President of the Town Council shall certify the appointment of the citizen members, which certificate of appointment shall be sent to and become a part of the records of the Town Plan Commission.

DEPARTMENT OF ECONOMIC DEVELOPMENT

' 32.15 DEPARTMENT OF ECONOMIC DEVELOPMENT; ECONOMIC DEVELOPMENT COMMISSION.

(A) The Department of Economic Development is established for the town, with powers, duties, and responsibilities as provided by the law as now in effect and as hereinafter in effect from time to time.

(B) The members of the Economic Development Commission shall be appointed by the Town Council. One of the members shall be selected by the Town Council, 1 shall be nominated by the fiscal body of the county in which the town is located, and 1 shall be nominated by the Town Council.

(Ord. 1983-1, passed 6-15-1983)

Statutory reference:

Appointment of Economic Development Commission by towns, see I.C. 36-7-12-6

' 32.16 DEVELOPMENT COUNCIL.

(A) The town contributes annually 10% of its revenues from the Wells County Economic Development Income Tax to the Wells County Economic Development Council (Development Council) to enable the Development Council to maintain an office, hire personnel, and generally support economic development opportunities on behalf of each governmental unit adopting an ordinance similar to this section.

(1) To the extent permitted by law, the Wells County Auditor is authorized to remit that portion of the revenues directly to the Development Council within 30 days of receipt of the revenues from the State of Indiana.

(2) To the extent not so remitted, the Clerk-Treasurer shall remit the required payment to the Development Council within 30 days of receipt of the revenues.

(B) Periodically, within 30 days after request of the Executive Director of the Development Council, the Town Council shall appoint an individual residing within its corporate boundaries to serve on the Board of Directors of the Development Council for a term as specified by the Town Council.

(C) The Town Council reserves the right to rescind this section effective the next January 1 or July 1 which is at least 6 months after the effective date of the rescinding ordinance; provided that no such rescission shall affect the Development Council=s entitlement to the revenues specified in division (A) of this section until the effective date of the rescission.

(Ord. 1998-3, passed 4-15-1998)

DEPARTMENT OF PARKS AND RECREATION

▸ 32.30 CREATION.

Markle=s Department of Parks and Recreation (Department) is hereby created pursuant to I.C. 36-10-3.
(Ord. 2000-3, passed 6-14-2000)

▸ 32.31 BOARD.

That Department=s Park and Recreation Board (Board) shall be composed of 4 members appointed by the President of the Town Council on the basis of their interest in and knowledge of parks and recreation; provided, however, that no more than 2 members shall be of the same political party.
(Ord. 2000-3, passed 6-14-2000)

▸ 32.32 TERMS.

All terms expire on the first Monday in January, but a member shall continue in office until a successor is appointed. As the term expires, each new appointment shall be made by the Town Council President for a term of 3 years. If an appointment for a new term is not made by that President by the first Monday in April, the incumbent shall serve another term. If a vacancy occurs, the Town Council President shall appoint a new member for the remainder of the unexpired term.
(Ord. 2000-3, passed 6-14-2000)

▸ 32.33 PRESIDENT; VICE-PRESIDENT.

At its first regular meeting in each year, the Board shall elect a President and Vice-President. The Vice-President shall have authority to act as the President of the Board during the absence or disability of the President. The Board may select a Secretary from within or outside its own membership.
(Ord. 2000-3, passed 6-14-2000)

▸ 32.34 POWERS OF BOARD.

The Board shall have the power to perform all acts necessary and/or appropriate to acquire and develop sites and facilities and to conduct such programs as are generally understood to be park and recreation functions, including the powers of a Board as set out in I.C. 36-10-3 or its successor chapter of the Indiana Code as it then exists.
(Ord. 2000-3, passed 6-14-2000)

▸ 32.35 BUDGET.

The Board shall prepare and submit an annual budget in the same manner as other departments of

town government. The Board may accept gifts, donations, and subsidies for park and recreation purposes. (Ord. 2000-3, passed 6-14-2000)

‘ **32.36 BOARD AS PURCHASING AGENCY.**

(A) The Board of Parks and Recreation of the town is hereby designated and confirmed as a purchasing agency of the town, with all of the powers and duties provided under the provisions of I.C. 5-22 as it now exists and may hereafter be modified, supplemented, or superseded, for the acquisition of goods and/or services in whatever circumstances, and in accordance with the procedures as that agency determines to be appropriate and within the authority and budgetary limitations of that department and other applicable authority.

(B) That purchasing agency shall designate, in writing, and may provide operating parameters for 1 or more purchasing agents for that purchasing agency.

(Res. 2000-3, passed 8-16-2000)

Cross-reference:

Other purchasing agents, see ‘ 30.17

DEPARTMENT OF REDEVELOPMENT

‘ **32.50 DEPARTMENT OF REDEVELOPMENT.**

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

(B) The Town Council hereby establishes the Department of Redevelopment of the town (Department). The Department will be controlled by a board of 5 members known as the Markle Redevelopment Commission (Commission).

(C) Pursuant to the Act (I.C. 36-7-14 and I.C. 36-7-25, collectively), all of the territory within the corporate boundaries of the town will be a special taxing district to be known as the Town Redevelopment District for the purpose of levying and collecting special benefit taxes for redevelopment

and economic development purposes as provided in the Act. The Town Council finds and determines that all of the taxable property within this special taxing district will be considered to be benefited by the redevelopment projects and economic development projects carried out under the Act to the extent of the special taxes levied under the Act.

(D) (1) The President of the Town Council shall appoint 3 of the 5 members of the Commission.

(2) The term of office of the members of the Commission shall commence from the date of their appointment and expire on January 1, 2005.

(Ord. 2003-5, passed 9-24-2003; Res. 2003-6, passed 11-19-2003)

CHAPTER 33: FUNDS

Section

Funds

- 33.01 Cumulative Capital Development Fund; ad valorem tax
- 33.02 Cash Reserve Fund
- 33.03 Police Department Community Safety Fund

Fund Administration

- 33.15 Depository

FUNDS

' 33.01 CUMULATIVE CAPITAL DEVELOPMENT FUND; AD VALOREM TAX.

(A) There is recreated and established for the town a Cumulative Capital Development Fund to be funded, utilized, and administered in accordance with I.C. 36-9-15.5 and this section.

(B) An ad valorem property tax levy will be imposed, and the revenue therefrom will be retained to fund the aforementioned Cumulative Capital Development Fund.

(C) The maximum rate of levy under division (B) is subject to amendment by a subsequent ordinance of the Town Council and shall not exceed amounts as set by the Town Council from time to time.

(D) The funds accumulated in the Cumulative Capital Development Fund will be used for the following statutorily allowed purposes:

- (1) To purchase, construct, equip, and maintain buildings for public purposes;
- (2) To acquire the land, and any improvements on it, that are necessary for the construction of public buildings;

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(3) To demolish any improvements on land acquired under this section, and to level, grade, and prepare the land for the construction of a public building;

(4) To acquire land or rights-of-way to be used as a public way or other means of ingress or egress to land acquired for the construction of a public building;

(5) To acquire land or rights-of-way to be used for public ways or sidewalks;

(6) To construct and maintain public ways or sidewalks;

(7) To acquire land or rights-of-way for the construction of sanitary or storm sewers and surface runoff, or all;

(8) To construct and maintain sanitary or storm sewers, or surface runoff, or all;

(9) To acquire, by purchase or lease, or to pay all or part of the purchase price of a utility;

(10) To purchase or lease land, buildings, or rights-of-way for the use of any utility that is acquired or operated by the unit;

(11) To purchase or acquire land, with or without buildings, for park or recreation purposes;

(12) To purchase, lease, or pay all or part of the purchase price of motor vehicles for the use of the Police or Fire Department, or both, including ambulances and firefighting vehicles with the necessary equipment, ladders, and hoses;

(13) To retire in whole or in part any general obligation bonds of the unit that were issued for the purpose of acquiring or constructing improvements or properties that would qualify for the use of cumulative capital improvement funds; or

(14) To purchase or lease equipment and other nonconsumable personal property needed by the unit for any public transportation use.

(E) Notwithstanding division (D) of this section, funds accumulated in the Cumulative Capital Development Fund may be spent for purposes other than the purposes enumerated in division (D), if the other purpose is necessary 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 issues a declaration that the public health, welfare, or safety of the town is in immediate danger and the expenditure of the cumulative capital development funds is required.

(F) The establishment and recreation of this Fund takes effect upon approval by the State Board of Tax Commissioners.

(Ord. 1996-3, passed 7-17-1996)

▪ **33.02 CASH RESERVE FUND.**

The Town Council authorizes the Clerk-Treasurer to establish a Cash Reserve Fund in the sanitation utility.

(Ord. 1995-3, passed 4-20-1995)

▪ **33.03 POLICE DEPARTMENT COMMUNITY SAFETY FUND.**

A Police Department Community Safety Fund is hereby established, to be funded by donations to support and promote community safety.

(Ord. 2000-2, passed 5-17-2000)

FUND ADMINISTRATION

▪ **33.15 DEPOSITORY.**

The Town Council hereby designates the State Bank of Markle as the depository for the public funds of the town for the Town Fund, Water Utility Fund, and Sanitation Utility Fund.

(Ord. 1997-9, passed 12-17-1997)

CHAPTER 34: PERSONNEL POLICIES

Section

- 34.01 Vacations
- 34.02 Holidays
- 34.03 Sick pay plan
- 34.04 Bereavement leave
- 34.05 Employees serving as members of Volunteer Fire Department
- 34.06 Employment Handbook
- 34.07 Nepotism in employment and contracting

▪ 34.01 VACATIONS.

(A) All full-time employees are entitled to 2 weeks of vacation with pay per year after 1 year of service.

(B) All full-time employees are entitled to 3 weeks of vacation with pay per year after 10 years of service.

(C) Vacation leave does not accrue beyond the calendar year within which it was earned.

(D) Unused vacation leave will be paid upon termination or retirement.

(Ord. 1993-7, passed 11-17-1993; Am. Ord. 1994-2, passed 10-19-1994; Am. Ord. 1995-8, passed 9-20-1995; Am. Ord. 1996-6, passed 8-21-1996; Am. Ord. 1997-7, passed 9-10-1997; Am. Ord. 1999-3, passed 7-21-1999; Am. Ord. 2000-4, passed 7-19-2000; Am. Ord. 2001-13, passed 8-27-2001)

▪ 34.02 HOLIDAYS

(A) All town employees shall receive the following days off for holiday observance. The employee shall receive his or her regular pay for that day:

- (1) New Year=s Day;
- (2) Good Friday;
- (3) Memorial Day;

- (4) Independence Day;
- (5) Labor Day;
- (6) Veterans= Day;
- (7) Election Day, spring and fall (Clerk-Treasurer only);
- (8) Thanksgiving Day and the day after Thanksgiving;
- (9) Christmas Eve Day; and
- (10) Christmas Day.

(B) When a holiday falls on Saturday or Sunday, the holiday shall be observed on the following Monday.

(C) It shall be the responsibility of the Town Marshal to see that a police officer is on duty during the night shift on all holidays. The working officer may have the next day off. (Ord. 1993-7, passed 11-17-1993; Am. Ord. 1994-2, passed 10-19-1994; Am. Ord. 1995-8, passed 9-20-1995; Am. Ord. 1996-6, passed 8-21-1996; Am. Ord. 1997-7, passed 9-10-1997; Am. Ord. 1999-3, passed 7-21-1999; Am. Ord. 2000-4, passed 7-19-2000; Am. Ord. 2001-13, passed 8-27-2001)

▪ **34.03 SICK PAY PLAN.**

(A) Full-time employees shall receive 5 paid personal or sick days per year after 1 full year of employment. Time off pursuant to the Family and Medical Leave Act is fully addressed in the town=s Employee Handbook.

(B) Full-time employees shall receive 1 additional paid personal or sick day for each year of service after the first year up to a maximum of 10 paid personal or sick days.

(C) The eligibility for paid personal or sick days is calculated using the employee=s anniversary date of employment, and the accumulation and utilization of the days shall be figured upon the calendar year.

(D) Employees must notify the Clerk-Treasurer=s office at least 18 hours prior to using a personal day.

(E) Unused personal or sick days do not accumulate beyond the calendar year accrued, except where the eligibility date is within 30 days of the end of the calendar year. Upon the occurrence of the eligibility within 30 days of the calendar year, the personal days or sick days accrued by virtue of the anniversary date shall be added to the next calendar year.

(F) Employees injured on the job shall be paid for the remainder of the injured employee=s shift on the day of the injury.

(G) Employees entitled to Workers= Compensation benefits may coordinate the benefits allowed by this section with Workers= Compensation benefits.

(1) In the event of an overlap or duplication of benefits, the employee shall first be paid by Workers= Compensation. The employee is then entitled to benefits accrued to the employee, not paid by Workers= Compensation, but due under this section, but in no event shall the employee be entitled to collect duplicate benefits.

(2) In the event of a duplication of benefits to the employee, the employee shall be required to reimburse the town out of successive pay periods or by direct payment to the Clerk-Treasurer for disbursement to the General Fund.

(Ord. 1993-7, passed 11-17-1993; Am. Ord. 1994-2, passed 10-19-1994; Am. Ord. 1995-8, passed 9-20-1995; Am. Ord. 1996-6, passed 8-21-1996; Am. Ord. 1997-7, passed 9-10-1997; Am. Ord. 1999-3, passed 7-21-1999; Am. Ord. 2000-4, passed 7-19-2000; Am. Ord. 2001-13, passed 8-27-2001)

▪ **34.04 BEREAVEMENT LEAVE.**

Bereavement leave, not in excess of 3 calendar days following the date of death, shall be allowed in case of death of an employee=s spouse, brother, sister, parent, child, or spouse=s parent.

(Ord. 1993-7, passed 11-17-1993; Am. Ord. 1994-2, passed 10-19-1994; Am. Ord. 1995-8, passed 9-20-1995; Am. Ord. 1996-6, passed 8-21-1996; Am. Ord. 1997-7, passed 9-10-1997; Am. Ord. 1999-3, passed 7-21-1999; Am. Ord. 2000-4, passed 7-19-2000; Am. Ord. 2001-13, passed 8-27-2001)

▪ **34.05 EMPLOYEES SERVING AS MEMBERS OF VOLUNTEER FIRE DEPARTMENT.**

(A) To the extent that the following is not inconsistent with either Indiana Law or an express directive contained in a then effective ordinance or resolution of the Town Council, an employee who has been dispatched by Huntington or Wells County and as a result provided emergency service as a member of the Markle Volunteer Fire Department and Rescue Unit, Inc. during time which is also that employee=s regular working time as a town employee, shall be paid by the town for that regular working time as a town employee without decrease or increase in compensation to that employee from the town as a result of that employee service.

(B) An employee dispatched as provided in division (A) above need not clock out to leave, but an adequate record of time spent in any emergency service during time paid for by the town under division (A) shall be determined and maintained by that employee=s immediate supervisor.

(Ord. 1998-7, passed 7-15-1998)

▸ 34.06 EMPLOYMENT HANDBOOK.

(A) The form of Employment Handbook attached to Res. 1995-11 and incorporated by reference herein is hereby examined and approved by the Board, and the policies, procedures, and provisions contained therein shall supersede prior employment policies to the extent those policies are inconsistent with express provisions contained in that Employment Handbook; provided, however, that any new privilege or benefit set forth in the Handbook shall apply only prospectively after adoption.

(B) The Clerk-Treasurer of the town is hereby authorized and directed to show the Employment Handbook adopted as of the date of this section and arrange for duplication and distribution of the Employment Handbook to the town=s employees, with a copy to be made part of the permanent record in the office of the Clerk-Treasurer.

(Res. 1995-11, passed 10-18-1995)

Editor=s Note:

Two copies of the provisions adopted by reference in this section are available for public inspection at the office of the Clerk-Treasurer during regular business hours.

▸ 34.07 NEPOTISM IN EMPLOYMENT AND CONTRACTING.

(A) *Minimum requirements.* The town=s Nepotism Policy and Contracting with the Town by Certain Relatives Policy are established hereby and do, and at all times hereafter shall, comply with all then applicable requirements of Indiana law as to those matters; including but not limited to the provisions of I.C. 36-1-20.2 and I.C. 36-1-211, which requirements and provisions are a part hereof as if fully set out, and are hereby incorporated, herein. Further, two copies of I.C. 36-1-20.2 and I.C. 36-1-21, and as they are hereafter supplemented or amended, are and shall continuously be maintained on file in the office of the town=s Clerk-Treasurer for public inspection as may be required by I.C. 36-1-5-4.

(B) *More stringent or detailed provisions regarding nepotism.* Anti-nepotism provisions which are more stringent or detailed than the provisions of state law may be adopted and implemented by the town except as otherwise prohibited by applicable authority.

(C) *Non-compliance.* Failure to comply with the requirements and provisions of this chapter may result in remedial and/or disciplinary action, as allowed by law.

(Ord. 2012-1, passed 6-20-2012)

CHAPTER 35: PUBLIC RECORDS

Section

- 35.01 Local policy
- 35.02 Records exempted from disclosure by statute
- 35.03 Records declared exempt from disclosure by the town
- 35.04 Names and addresses
- 35.05 Records access officer; guidelines
- 35.06 Request to inspect or copy; time for response
- 35.07 Fees
- 35.08 Deposit
- 35.09 Unauthorized alteration

- 35.99 Penalty

▪ **35.01 LOCAL POLICY.**

A fundamental philosophy of the American constitutional form of representative government is that government is the servant of the people and not their master. Accordingly, it is the public policy of the town that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees as permitted by applicable law. This code section by its adoption of the provisions of I.C. 5-14-3 as amended, shall be construed according to the policy and direction of that statute.
(Ord. 2002-13, passed 11-20-2002)

▪ **35.02 RECORDS EXEMPTED FROM DISCLOSURE BY STATUTE.**

As required by statute, the following public records are exempted from public disclosure unless access to the record is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(A) Those declared confidential by state statute;

(B) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute;

(C) Those records that are required to be kept confidential by federal law;

(D) Those records containing trade secrets;

(E) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute;

(F) Documents declared confidential by or under rules adopted by the Supreme Court of Indiana;

(G) Medical records and charts created by a provider, unless the requester has written consent of the subject; and

(H) The telephone number, social security number, and address of a consumer of a municipality-owned utility.

(Ord. 2002-13, passed 11-20-2002)

' 35.03 RECORDS DECLARED EXEMPT FROM DISCLOSURE BY THE TOWN.

In addition to those records listed in ' 35.02 and as permitted by statute, the town hereby declares the following areas of public records also exempt from disclosure:

(A) Investigatory records of a law enforcement agency, except those law enforcement records which must be available for inspection and copying as provided in I.C. 5-14-3-5, as amended;

(B) The work product of an attorney representing the town or any of its departments or agencies or any individual;

(C) Test questions, scoring keys, and other examination data used in administering any licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again;

(D) Scores of tests or license examinations if the person is identified by name and has not consented to the release of the score;

(E) Records that contain intra-agency or interagency advisory or deliberative material that are expressions of opinion or are of a speculative nature, that are communicated for the purposes of decision making;

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

(G) Personnel files of public employees, except for:

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

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

(3) Information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged; however,

(4) Notwithstanding any contrary provisions of this division (G), all personnel file information shall be made available to the affected employee or his or her representative.

(H) Administrative or technical information that would jeopardize a record-keeping or security system;

(I) Computer programs, computer codes, computer filing systems, and other software that are owned by the town or entrusted to it by license;

(J) Records specifically prepared for discussion or developed during discussion in an executive session; and

(K) The identity of a donor of a gift made to the town or public agency, if a donor requires nondisclosure of his or her identity as a condition of making a gift.
(Ord. 2002-13, passed 11-20-2002)

▪ **35.04 NAMES AND ADDRESSES.**

(A) Notwithstanding any other portion of this policy, the town is not required to create or provide copies of lists of names and addresses unless the town is required to publish those lists and disseminate them to the public pursuant to statute. However, if the town has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the list unless access to the list is prohibited by law.

(B) The following lists of names and addresses may not be disclosed by the town to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

(1) A list of employees of the town;

(2) A list of persons attending conferences or meetings at a state institution of higher education;
and/or

(3) A list of persons involved in programs or activities conducted or supervised by the state institution of higher education.

(Ord. 2002-13, passed 11-20-2002)

▪ **35.05 RECORDS ACCESS OFFICER; GUIDELINES.**

(A) In order to implement this section, the Clerk-Treasurer is hereby designated as the person responsible for the public records release decisions, and will be referred to as the Records Access Officer.

(B) The Records Access Officer shall be guided by the Access to Public Records Act (I.C. 5-14-3), as amended, and shall also be guided by this policy and any state and federal law regarding privacy, confidentiality, and disclosure requirements of certain records.

(Ord. 2002-13, passed 11-20-2002)

▪ **35.06 REQUEST TO INSPECT OR COPY; TIME FOR RESPONSE.**

(A) Any person may inspect and copy the public records of the town during regular business hours, unless the records are otherwise exempted from disclosure as provided herein, under I.C. 5-14-3-4, or other applicable state or federal law. This section is subject to I.C. 5-14-3-5, as amended, relating to information that must be disclosed relating to an individual's arrest.

(B) A request for inspection or copying must:

(1) Identify with reasonable particularity the record being requested; and

(2) Be in writing or in a form provided by the town.

(C) The town must respond to hand-delivered requests within 24 business hours. The town must respond to written requests received by mail or facsimile within 7 calendar days.

(D) If there is reasonable access to a machine capable of reproducing the record, the town shall provide at least 1 copy of the record to the person based on the fees set forth herein. The compilation and copying of any public documents will be provided within a reasonable period of time after the request is made, but may not unreasonably interfere with the operations of the town. If the town does not have reasonable access to a machine capable of reproducing the record, the person is only entitled to inspect and manually transcribe the record.

(Ord. 2002-13, passed 11-20-2002)

▪ **35.07 FEES.**

(A) The town may not charge any fee to inspect a public record, or to search for, examine, or review a record to determine whether the record may be disclosed.

(B) The town shall charge a uniform fee as set forth in the fee schedule attached to Res. 2005-05A for the certification, copying, or facsimile machine transmission of public records.

(C) Notwithstanding divisions (A) or (B) of this section, the town shall collect any certification, copying, or facsimile machine transmission, or search fee as required by statute or by court order.

(D) Fees shall be paid in advance. If the exact fee cannot be determined at the time the request is made, an estimated fee shall be paid in advance and the balance due prior to delivery of the public documents. Any overpayment of fees will be refunded to the person making the request at the time of delivery.

(Ord. 2002-13, passed 11-20-2002; Am. Res. 2005-05A, passed 10-19-2005)

▪ **35.08 DEPOSIT.**

All fees received from a person pursuant to this policy shall be deposited into the General Fund.
(Ord. 2002-13, passed 11-20-2002)

▪ **35.09 UNAUTHORIZED ALTERATION.**

It shall be unlawful for any person having or obtaining access to a public record to alter the content of the public record from its original state.

(Ord. 2002-13, passed 11-20-2002) Penalty, see ' 35.99

' 35.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of ' 10.99.

(B) Any person violating ' 35.09 shall be subject to a fine not exceeding \$2,500 for each offense. A complaint for violation seeking the imposition of a fine may be filed with any court of competent jurisdiction.

(Ord. 2002-13, passed 11-20-2002)

CHAPTER 36: VIOLATIONS BUREAU

Section

- 36.01 Creation
- 36.02 Violations Clerk
- 36.03 Duties of Clerk
- 36.04 Penalty schedule
- 36.05 Conflict

▪ **36.01 CREATION.**

There shall be created an Ordinance Violations Bureau pursuant to I.C. 33-36, as amended, for the town.

(Ord. 1995-12, passed 10-18-1995)

▪ **36.02 VIOLATIONS CLERK.**

The Town Clerk-Treasurer is appointed and shall serve as the Violations Clerk, who administers the Bureau.

(Ord. 1995-12, passed 10-18-1995)

▪ **36.03 DUTIES OF CLERK.**

The Clerk-Treasurer or his or her staff, as his or her agents, shall accept written/appearances, waivers of trial, admissions of violations, and payment of civil penalties in the amount of and for the violation as provided below.

(Ord. 1995-12, passed 10-18-1995)

▸ 36.04 PENALTY SCHEDULE.

The schedule of ordinance and code provisions shall be subject to the jurisdiction of the Ordinance Violations Bureau. The first violations within a calendar year of these provisions shall be subject to the civil penalty as set forth in the schedule attached to Ord. 1995-12, which is hereby adopted by reference as if fully set out herein.

(Ord. 1995-12, passed 10-18-1995)

Editor=s Note:

Two copies of the provisions adopted by reference in this section are available for public inspection at the office of the Clerk-Treasurer during regular business hours.

▸ 36.05 CONFLICT.

To the extent that any of the penalty provisions contained in this chapter are in conflict with the town code, the penalty provisions contained in this chapter shall be controlling. If there is an admission to the Clerk-Treasurer, in his or her capacity as Violations Bureau Clerk, as to any of the above-referenced town code violations, the penalties prescribed herein shall be assessed by the Clerk-Treasurer. However, if the alleged violator denies the allegation, then the matter will be referred to a court of appropriate jurisdiction, and the penalty provisions of the town code shall be controlling over the penalties prescribed herein.

(Ord. 1995-12, passed 10-18-1995)