

## **Chapter 2 - ADMINISTRATION <sup>[1]</sup>**

<sup>(1)</sup> **Cross reference**— Organization and enforcement of building code, § 10-74 et seq.; administration of environmental preservation, § 14-19 et seq. law enforcement, ch. 26; enforcement of zoning regulations, § 46-257 et seq.

### **ARTICLE I. - IN GENERAL**

#### **Sec. 2-1. - Mischief and theft of Town property.**

(a) It shall be unlawful for any person, entity or agent to recklessly knowingly, or intentionally vandalize, damage, deface or to without authorization alter property belonging to the Town, or in any way or manner cause the Town to suffer pecuniary loss from the destruction of Town property.

(b) It shall be unlawful for any person, entity or agent to obtain, take, carry, drive, lead away, conceal, abandon, sell, convey, encumber or possess property, or to secure, transfer, or extend a right to property belonging to the Town without authorization from the Town and/or its agents.

(c) Any violation of the terms and provisions of subsection (a) or (b) of this section shall constitute an infraction subjecting the person, entity or agent who committed the infraction to a fine of Five Hundred dollars (\$500.00) per incident. Each occurrence that the above terms are violated shall constitute a separate infraction and in addition may subject the person, entity or agent to criminal and civil prosecution.

(d) The Police Commissioner is authorized to enforce the terms and provisions of this section.

(Ord. No. 2005-5, §§ 1—4, 2-4-2006)

**Secs. 2-2 – 2-20 – Reserved**

## **ARTICLE II. - TOWN COUNCIL**

### **Sec. 2-21. - Three-Member Council.**

- (a) The Town Council is the Town legislative body.
- (b) The Council consists of Three members whose terms of office are Four years, beginning at noon on January 1 after election and continuing until successors are elected and qualified.
- (c) Three Councilmembers shall be elected from the Town at large, and each member is elected by the vote of the entire town.

(Ord. No. 92-7, §§ 1, 2, 12-9-1992)

**State law reference**— Town Council generally, IC 36-5-2-2; terms of members, IC 36-5-2-3; districts, IC 36-5-2-5.

### **Sec. 2-22. - Members to be residents.**

Town Council members shall be residents of the Town.

### **Sec. 2-23. - President of the Council.**

- (a) The Town Council shall select at its first annual meeting One of its members to be its President for a definite term which may not exceed their term of office.
- (b) The President is the Town executive.

**State law reference**— Election of President, IC 36-5-2-7; Town executive, IC 36-5-2-2.

### **Sec. 2-24. - Commissioners.**

- (a) At the first meeting of the Town Council, or as soon as possible following that meeting, it shall be the duty of the Council President to appoint the following:
  - (1) Beach Commissioner.
  - (2) Building Commissioner.
  - (3) Environmental Commissioner.
  - (4) Fire Commissioner.
  - (5) Maintenance Commissioner.
  - (6) Parks Commissioner.
  - (7) Police Commissioner.
  - (8) Roads Commissioner.
- (b) Duties and powers. The Commissioners shall have the management and control of the affairs of the department for which the Commissioners were established. It shall be

the duty of each Commissioner to report to the Town Council at any time the Council calls upon it to do so, or when it is deemed necessary.

(Ord. No. 2007-6, § I, 12-18-2007)

**Editor's note**— Ord. No. 2007-6, § I, adopted December 18, 2007, amended § 2-24 in its entirety to read as herein set out. Formerly, § 2-24 pertained to standing committees, commissions, and commissioners, and derived from original codification.

**Sec. 2-25. - Special committees; appointment and expiration.**

- (a) The President of the Council may appoint committees for special purposes.
- (b) Special committees shall expire when the purpose for which they were appointed has been accomplished, or at such time as the Council may deem appropriate.

**Sec. 2-26. - Quorum and votes to pass.**

- (a) A majority of all elected members of the Town Council constitutes a quorum.
- (b) Passage of ordinances, orders or resolutions shall be governed by applicable state statutes.

**State law reference**— Quorum, IC 36-5-2-9.2; majority, Two-thirds and unanimous votes, IC 36-5-2-9.4—36-5-2-9.8.

**Sec. 2-27. - Powers of the Town Council.**

The Council may:

- (1) Adopt ordinances and resolutions for the performance of functions of the Town;
- (2) Purchase, hold, and convey any interest in property, for the use of the Town;
- (3) Adopt and use a common seal; and
- (4) Exercise all powers that are needed for the effective operation of local governmental affairs.

**State law reference**— Powers of Council, IC 36-5-2-9; home rule powers of legislative body, IC 36-1-3-1—36-1-3-9.

**Sec. 2-28. - Regular meetings.**

The Town Council shall hold its regular monthly meeting at a date, time and place, and at such hours as the Town Council may direct and determine from time to time.

**Sec. 2-29. - Special meetings.**

- (a) *Call by President or members of the Council.* Special meetings may be convened at any time other than the time fixed for regular meetings, upon call of the President of the Town Council, or upon call of a majority of the members of the Council.
- (b) *Notice.* Notice of special meetings shall be in accordance with state statutes.
- (c) *Scope of business.* The scope of business shall be consistent with state statutes.

**State law reference—** Open door or sunshine law, IC 5-14-1.5-1—5-14-1.5-7.

**Sec. 2-30. - Order of business.**

(a) The following order of business shall be observed at every regular meeting of the Town Council, unless suspended by a majority vote of the Council:

- (1) Meeting called to order.
- (2) Minutes of previous meeting read or copies of minutes distributed for approval.
- (3) Claims presented and docket sheet presented.
- (4) Commissioner reports.
- (5) Old business.
- (6) New business.
- (7) Questions, reports, announcements.
- (8) Meeting adjourned.

(b) Persons wishing to have business placed on the agenda, shall notify the Clerk-Treasurer of the same by 1:00 p.m. on the Thursday prior to the next regular meeting of the Town Council.

**Sec. 2-31. - Parliamentary procedure.**

(a) *Presentation of motions.* When a motion has been made and seconded, the Chair shall state it, (or if in writing) cause it to be read by the Clerk-Treasurer aloud, before debate shall be allowed.

(b) *Procedure for speaking.* When any member is about to speak, that member shall address the Chair, and upon being recognized, shall confine himself to the question before the Council, avoiding all personalities.

(c) *Transgression of rules; censure of member.* If any member, in speaking, or in any other manner, transgresses the rules of the Council, the Chair shall immediately call such member to order. Such member shall not be at liberty to proceed, unless by consent of the other members of the Council. If the violation be such as to require it, that member shall be liable to censure and such other punishment as the Council may impose.

(d) *Change of rules.* Any rule or rules of the Council may be changed, altered or amended by a majority vote of the Council, but the amendment shall not be passed at the same meeting it is submitted.

**Sec. 2-32. - Robert's Rules of Order, Newly Revised.**

Any matter not addressed by the standing parliamentary rules contained in this article shall be governed by Robert's Rules of Order, Newly Revised.

**Sec. 2-33. - Ordinances which amend the Town Code.**

All ordinances which are of a general and permanent nature, and which would amend the Town Code, shall be in the following form:

Ord. No. \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

*Include the last Two digits of the calendar year followed by a dash and the chronological number of the Ordinance: Ex. 92-1)*

(Short Title)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DUNE ACRES,  
INDIANA

AMENDING CHAPTER \_\_\_\_\_, ARTICLE \_\_\_\_\_,

SECTION(S) \_\_\_\_\_, OF THE DUNE ACRES TOWN CODE

BY THE INCLUSION/DELETION OF SECTION(S),

ENTITLED \_\_\_\_\_.

*Whereas*, (background statements setting forth the purpose or background of the Ordinance where appropriate)

*Whereas*,

*Whereas*,

*Whereas*,

Now Therefore, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DUNE ACRES, INDIANA, AS FOLLOWS:

*Section I.* Chapter \_\_\_\_\_, Article \_\_\_\_\_, Section(s) \_\_\_\_\_, of the Dune Acres Town Code, is/are hereby amended to read as follows:

(set forth specific amendatory language)

*Section II.* All prior Ordinances or parts thereof inconsistent with any provisions of this Ordinance are hereby repealed.

*Section III.* This Ordinance is hereby passed and adopted at a regular meeting of the Town Council of the Town of Dune Acres, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

<i>Attest</i>	_____
_____	_____
Clerk-Treasurer	Councilmembers

### **Sec. 2-34. - Introduction of ordinances and resolutions.**

(a) *Filing with Clerk-Treasurer.* All ordinances, orders or resolutions shall be introduced by a member of the Town Council, or by any Commissioner or committee of the Council. All ordinances upon introduction shall be consecutively numbered by the Clerk-Treasurer.

(b) *Ordinances passing by unanimous consent.* No ordinance, shall be passed on the same day or at the same meeting that it is introduced, except by unanimous consent, and a motion to suspend the rules, and then only in case there are present and voting at least Two-thirds of all the members elect of the Council.

(c) *Reading of ordinances.* Every proposed ordinance shall receive Two separate readings by the Town Council previous to passage.

(d) *First reading of ordinances.* The first reading of a proposed ordinance shall be for information, but may be read by title only, and such title shall clearly set forth the nature of the contents. The proposed ordinance shall be immediately referred to the proper Commissioner or committee, or may be taken up by the entire Council.

(e) *Second reading of ordinances.* Every proposed ordinance shall be read through by sections at its second reading, and at such reading it shall be in order to commit, to amend, to lay upon the table to postpone or to pass to its third reading by a majority vote of all the members elect. Any proposed ordinance failing to receive a majority vote of all the members-elect at its second reading shall be considered lost. A proposed ordinance may be stricken from the files by a vote of Two-thirds of all the members-elect before or after it has passed its second reading.

(f) *Signing of ordinances.* Every ordinance, order or resolution of the Town Council shall, upon its passage, enrollment, attestation and signature by the Clerk-Treasurer, and presiding officer, be signed by all members of the Council present.

(g) *Clerk-Treasurer to vote in case of tie.* The Clerk-Treasurer shall cast a vote in instances where the vote by the members of the Council has resulted in a tie.

### **Sec. 2-35. - Recording and publishing of ordinances.**

(a) All ordinances, within a reasonable time after their passage, shall be recorded in a book kept for that purpose by the Clerk-Treasurer. A copy of each ordinance shall be forwarded to the Plan Commission secretary.

(b) Any adopted ordinance, order, or resolution which must be promulgated or published before it takes effect shall be done pursuant to applicable state statute.

**State law reference—** Posting of ordinances in Two public places in Dune Acres and publication in Two newspapers, IC 36-4-6-14.

### **Sec. 2-36. - Compensation of Town Council.**

(a) The Town Council shall, by ordinance, fix the compensation of its own members, as well as other Town employees and officers.

(b) The compensation of an elected Town officer may not be changed in the year for which it is fixed.

**State law reference—** Compensation of officers and employees, IC 36-5-3-2.

**Secs. 2-37 – 2.60 – Reserved**

## ARTICLE III. - OFFICERS AND EMPLOYEES

### DIVISION 1. - GENERALLY

#### **Sec. 2-61. - Compensation; salary; paydays.**

- (a) *Compensation; salary.* The Town Council shall fix the compensation of the Town employees by specific ordinance.
- (b) *Payday.* Employees are paid as established.

#### **Sec. 2-62. - Vacation days.**

- (a) Each full-time hourly employee and salary employee shall be eligible for vacation time at the following rates:
  - (1) One week (Forty hours) paid vacation after One complete year of service.
  - (2) Two weeks (Eighty hours) paid vacation after Three complete years of service.
  - (3) Three weeks (One Hundred and Twenty Hours) paid vacation after Ten complete years of service.
  - (4) Four weeks (One Hundred and Sixty hours) paid vacation after Twenty complete years of service.
  - (5) A week shall be Forty hours and a complete year of service shall be on the anniversary of the employee's date of hire.
- (b) Vacation days must be used within the calendar year following the anniversary date of hire or it will be lost.
- (c) No employee shall be allowed to take more than Two consecutive weeks (Eighty hours) of vacation at a time unless authorized by their supervisor.
- (d) All employees shall submit a written vacation request by March 1 in order to have their vacations approved and scheduled.
- (e) As a general rule, only One person in a department shall be allowed to take their vacation at a time. This is to ensure adequate manpower in each department at all times. Exceptions shall be granted by the supervisor only in extreme situations.
- (f) Individuals can begin submitting requests for vacation for the next year in the last week of the current calendar year.
- (g) Vacations shall be approved on a first-come-first-serve basis. In other words, once a vacation request is approved, it cannot be taken by another employee.



(h) Conflict in simultaneous vacation requests shall be settled by the supervisor, taking into account employee seniority and previous vacations as determinants.

(i) If an employee is reasonably certain of their anticipated vacation dates, then the employee is encouraged to request and schedule it rather than take a chance of someone else requesting the same dates.

(j) An employee shall not schedule more time than earned in order to protect certain dates.

(k) If an employee schedules a vacation but is unable to take it, then the employee shall not be required to take it as scheduled. The supervisor must be notified of any change as soon as possible.

(l) Employees are requested to limit the number of vacation days taken as single days. If an employee schedules excessive single vacation days that are costly or detrimental to the operation of the department then they shall be denied.

(Amended by Ord. No. 2012-2)

**Sec. 2-63. - Official surety bonds.**

Individual official surety bonds required by IC 5-4-1-18 shall be provided by the Town. A blanket bond may be obtained to cover the faithful performance of all other employees, commission members, and persons acting on behalf of the Town.

**Sec. 2-64. - Commissions, departments of the Town.**

The Town shall establish such commissions and departments as are deemed necessary by the Town Council to efficiently and effectively carry out the services and functions of the Town.

**Sec. 2-65. - Equal employment opportunity.**

(a) The Town is an equal opportunity employer.

(1) *Prohibited basis of discrimination.* The Town prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, and other aspects of employment, on the basis of race, color, religion, sex, sexual orientation, national origin or ancestry.

(2) *Age.* The Town prohibits age discrimination and protects applicants and employees Forty years of age or older from discrimination in hiring, promotion, discharge, compensation, terms, conditions, or privileges of employment.

(3) *Sex (wages).* In addition to sex discrimination prohibited in subsection (a)(1) of this section, the Town prohibits sex discrimination in payment of wages to women and men performing substantially equal work in the same capacity.

(4) *Harassment or discrimination.* If an employee believes that they have been harassed or discriminated against, the employee can immediately contact a Town Councilmember.

(b) The Town is committed to providing an environment that is free of harassment in the workplace. Harassment based on sex, race, disability, or other protected status is a

violation of federal and state law and will not be tolerated. Unwelcome sexual advances, requests for sexual favors, suggestive comments, jokes, and other verbal or physical conduct of a sexual nature are unacceptable and are considered to be harassment. Any employee who has a complaint of workplace harassment should contact any Town Councilmember. An appropriate investigation and response will occur promptly.

**Sec. 2-66. - Sexual harassment.**

(a) The Town strictly prohibits sexual harassment in the work place by any person, in any form. This policy is consistent with and pursuant to the guidelines of sexual discrimination issued by the Equal Employment Opportunity Commission.

(b) Specifically, it is both illegal and against the policy of the Town for any employee, male or female, to sexually harass another employee or applicant. The EEOC Guidelines identified Three situations in which "unwelcomed sexual advances, request for sexual favors and other verbal or physical conduct of sexual nature" constitute unlawful harassment:

(1) When an employee must submit to such conduct as a condition of employment;

(2) When decisions about an employee's job such as promotion, demotion, benefits, and wages are based on his or her submission to or rejection of such; and/or

(3) When such conduct "unreasonably interferes" with his or her job performance and creates an "intimidating, hostile or offensive working environment."

(c) The first Two categories are commonly referred to as quid pro quo sexual harassment in which acquiescence to sexual advances or some type of sexual consideration is required in exchange for a tangible job benefit. The third category prohibits sexual harassment based on a "hostile or offensive" work environment, even when there was no conditioning of employment benefits for sexual favors. Such harassment typically involves work place conduct such as lewd or explicit sexual remarks, innuendoes, jokes, gestures, touching, discretion's of sexual activity, and display of obscene or suggestive pictures or cartoons.

(d) Any employee or applicant who believes they have been the subject of sexual harassment should report the alleged act immediately (not later than Forty-eight hours after the alleged act occurred) to their supervisor. If the supervisor is the accused party, the individual should report the incident directly to the attorney representing the town. An investigation of all complaints will be undertaken upon notification.

(e) Any supervisor or other employee who has been found by the Town Council, after appropriate investigation, to have sexually harassed another employee or applicant will be subject to appropriate disciplinary action, consistent with the provisions outlined in this article, up to and including termination.

(f) The Town Council recognizes that the question of whether or not a particular action or incident is based upon a purely personal, social relationship between consenting adults that has no discriminatory employment effect, requires a factual determination based upon all facts in the matter.

(g) Given the nature of this type of employment discrimination, the Town Council also recognizes that false accusation of sexual harassment can have serious effects on innocent women and men. Appropriate disciplinary action may, therefore, be taken for false accusations of sexual harassment. The Town Council trusts that all employees will continue to act responsibly to establish a pleasant working environment free of discrimination.

(h) When any complaint is received by the supervisor of an employee or any other Town employee involving sexual discrimination or harassment, the expectation is that the charge will immediately be investigated and that investigation shall be brought to conclusion within Seventy-two hours if possible. The investigation shall include confidentiality to the extent possible and an effective investigation may proceed. Any employee who makes complaints of harassment or provides information regarding such complaints shall be completely protected against any type of retaliation.

**Sec. 2-67. - Training/Introductory Probationary Period.**

(a) All new employees, transferred employees and employees promoted to a new position shall serve a probationary period established by the Town Council for each instance. (Ord. No. 2011-2)

(b) Deleted. (Ord. No. 2011-2)

**Sec. 2-68. - Sick leave.**

(a) If employees cannot report to work due to illness or injury, they must call their supervisor at least One hour before their scheduled shift.

(b) All employees are expected to call in each day they are absent.

(c) Failure to call in for Three consecutive days will be considered voluntary termination.

**Sec. 2-69. - Leave of absence for military duty.**

(a) Military leaves of absence are granted to eligible employees in accordance with state and federal laws and regulations. Pay, benefits and re-employment rights are also governed by laws and regulations and shall be complied with.

(b) In accordance to state statute, all employees of the Town who are members of the Indiana National Guard or of reserve components or retired personnel of the naval, air or ground forces shall be entitled to leave of absences from their respective duties in addition to regular vacation period without loss of time or pay for such time as the members of the National Guard are in the military service on training duties for the state under the order of the Governor as Commander in Chief, or as members of any reserve component under the order of the component authority thereof, for periods not to exceed Fifteen days in any One calendar year.

**Sec. 2-70. - Jury duty.**

(a) Employees who are called for jury duty will be granted necessary time off for regularly scheduled work days that are required to serve in court. Employees who are forced to lose wages as a result of serving on a jury will be entitled to compensation at

their straight time hourly rate, less monies and fees that the employee is entitled to receive for jury service.

(b) Employees shall furnish the Clerk-Treasurer evidence from the Clerk of Court the amount of monies and fees received and the precise days and hours their services were required. Employees become eligible for this benefit after they have worked Sixty days.

(c) If the employee is released by the court for any days or parts of days, the employee will return to work.

**Sec. 2-71. - Clothing allowance.**

(a) All full-time and permanent part-time security personnel, shall be required to wear a uniform while on duty. The Town shall pay for such uniforms.

(b) Any employee whose employment is terminated shall be required to return the uniforms or shall be responsible for the payment of such uniforms.

**Sec. 2-72. - Attendance.**

(a) Employees must be at their designated work areas on time and ready to work. Employees shall remain at work until the scheduled quitting time or until properly relieved.

(b) Employees shall notify their supervisor as soon as possible and no later than One hour before the scheduled shift when it is evident that they will be unable to report to work.

(c) Department heads shall maintain attendance records of all their employees.

(d) Employees shall not alter or sign another employee's time card or work sheet. All time sheets shall be signed in ink.

(e) All employees shall have the privilege of a Fifteen-minute break in the morning and afternoon. The breaks should not unduly conflict with departmental operations and shall not be cumulative with starting or closing hours.

**Sec. 2-73. - Training.**

All Town employees are considered to be involved in on-the-job-training.

**Sec. 2-74. - Change of name, address, and telephone.**

Change of address, telephone number, dependents, or marital status should be reported promptly. This is necessary to ensure proper deductions for tax purposes. Such changes must be reported to the Clerk-Treasurer's office.

**Sec. 2-75. - Supervisor.**

One of the persons the employee will be dealing with more closely is the supervisor. The supervisor will be looking to the employee for performance, support and loyalty. The supervisor can be counted on for direction, information and support. The employee should let the supervisor know that help is needed without fear of retaliation.

## **Sec. 2-76. - Retirement age.**

The Town has no mandatory retirement age. However, employees of all ages are expected to possess adequate skills and capabilities to perform their jobs regardless of age.

## **Sec. 2-77. - Drug and alcohol policy.**

(a) *Adoption and implementation of programs.* In accordance with The Drug-Free Work Place Act of 1988 and the Drug-Free Schools and Communities Act Amendments of 1989, the Town has adopted and implemented programs and policies to:

- (1) Ensure that employees are not impaired in their ability to perform assigned duties in a safe and productive manner;
- (2) Create a workplace environment free from the adverse effects of drug abuse and alcohol misuses;
- (3) Prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances;
- (4) Encourage employees to seek professional assistance whenever personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties; and
- (5) Comply with state and federal regulations covering commercial driver's license (CDL) employees.

(b) *Purpose.* The purpose of this policy is to assure worker fitness for duty and to protect our employees and the public from the risks posed by the misuse of alcohol and use of prohibited drugs. This policy is also intended to comply with all applicable state and federal regulations governing workplace anti-drug and alcohol programs in the transit industry. The United States Department of Transportation (DOT) has also published regulations that set standards for the collection and testing of urine and breath specimens. In addition, the federal government published The Drug-Free Workplace Act of 1988, which required the establishment of drug-free workplace policies and the reporting of certain drug-related offenses. This policy incorporates those requirements for safety-sensitive employees and others when so noted.

(c) *Applicability.* This policy applies to all safety-sensitive and non-safety-sensitive employees. Where differences in coverage occur, the differences are noted. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. A safety-sensitive employee is defined as any employee holding a commercial driver's license as a job requirement and who operates a commercial motor vehicle.

(d) *Covered substances.*

- (1) *Illegally used controlled substances or drugs.* Any illegal drug or substance identified in Schedules I through V of section 202 of the Controlled Substance Act (21 USC 812) and further defined by 21 CFR 1300.11 through 1300.15. This includes but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the United States Drug Enforcement Administration or the United States Food and

Drug Administration. Illegal use includes use of any illegal drug, misuses of legally prescribed drugs, and use of illegally obtained prescription drugs.

(2) *Legal drugs.* The appropriate use of legally prescribed drugs and nonprescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to supervisory personnel and medical advice must be sought by the employee, as appropriate, before performing work-related duties. A legally prescribed drug means that an individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing Town business is prohibited.

(3) *Alcohol.* The use of beverages containing alcohol or other substances including medication, mouthwash, food, or candy, that results in alcohol being present in the body while performing Town business is prohibited.

(e) *Prohibited conduct.*

(1) *Manufacture, trafficking, possession, and use.* Employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances on Town premises, in Town vehicles, in uniform, or while on Town business. Employees who violate this provision will be subject to disciplinary action up to and including termination. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

(2) *Intoxication/under the influence.* Any safety-sensitive or non-safety-sensitive employee who is under the influence of a prohibited substance, or not fit for duty shall be removed from immediate job duties pending an evaluation and verification of condition. Employees found to be under the influence of prohibited substances or who fail to pass a drug or alcohol test shall be removed from duty and subject to disciplinary action, up to and including termination. A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR 40, as amended.

(3) *Alcohol use.* No safety-sensitive or non-safety-sensitive employee should report for duty or remain on duty when their ability to perform assigned safety-sensitive functions is adversely affected by alcohol or when their breath alcohol concentration is greater than allowed by law. No safety-sensitive or non-safety-sensitive employee shall use alcohol while on duty, in uniform, while performing safety-sensitive functions, or just before or just after performing a safety-sensitive function. No safety-sensitive or non-safety-sensitive employee shall use alcohol within Four hours of reporting for duty, or during the hours that they are on call. Violation of these provisions is prohibited and punishable by disciplinary action up to and including termination. No safety-sensitive employee shall be on duty while the employee possesses alcohol, unless the alcohol is manifested and transported as part of the shipment.

(4) *Compliance with testing requirements.* All safety-sensitive and non-safety-sensitive employees will be subject to preemployment urine drug testing and in

some cases postemployment. Any safety-sensitive or non-safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and is subject to further adverse administrative action. Any safety-sensitive or non-safety-sensitive employee who is suspected of providing false information in connection with a test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution may be required to undergo an observed collection and is subject to further adverse administrative action. Refusal can include an inability to provide a sufficient urine specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.

a. Safety-sensitive employees may be randomly tested for drugs and alcohol on a random schedule.

1. Each driver shall have an equal chance of being tested.
2. The Town will select a sufficient number of drivers for drug testing each calendar year at an annual rate not less than the minimum required under federal regulations.
3. If the employee is randomly selected for testing, the employee must proceed to the test site, unless the employee is performing a safety-sensitive function at the time of notification. If the employee is performing a task of that nature, the driver must cease performing the task.

b. All employees will be subject to drug and alcohol testing and a criminal and BMV background check under the following guidelines:

1. *Preemployment.* The offer of employment is conditional on the hiree receiving a negative drug and alcohol test result and an acceptable criminal and BMV background check. The Town will designate the time and place to complete the drug testing. Either the Town or the hiree shall request the criminal and BMV background check. At the end of the probationary period, the town will designate a time and place for a second drug test. The second test results must be negative. The town is responsible for all costs of pre-employment screening.

2. *Postaccident.* A safety-sensitive employee will be tested after an accident involving a commercial motor vehicle. The Town will test for alcohol and controlled substances of each surviving driver who was performing a safety-sensitive function with respect to the vehicle if the accident involved the loss of human life or who received a citation under state or local law for a moving traffic violation arising from the accident. An employee subject to testing under this section may not use alcohol for Eight hours after the accident occurs. The employee will be tested as soon as possible after the accident but not to exceed Eight hours.

3. *Reasonable suspicion.* Reasonable suspicion testing determines fitness for duty. Examples include but are not limited to:

- i. Physical signs and symptoms consistent with prohibited substance use.

- ii. Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substance, drugs, alcohol or other prohibited substances.
- iii. Fights (to mean physical contact), assaults and flagrant disregard or violations of established safety, security or other operating procedures.
- iv. Occurrence of a serious or potentially serious accident that may have been caused by prohibited substance abuse or alcohol misuse.

(5) *Return-to-duty testing.*

a. Any safety-sensitive employee who previously tested positive on a drug or alcohol test must test for an alcohol concentration of less than Two One-hundredths if the conduct involved alcohol, or must test for a controlled substances test with a verified negative result if the conduct involved a controlled substance. The safety-sensitive employee must also be evaluated and released to duty by the substance abuse professional before returning to work.

b. Any safety-sensitive employee who returns to duty following a positive test will be required to undergo unannounced random urine and/or breath testing. The follow-up testing will be performed for a period of One to Five years from the date of the driver's return to duty.

(6) *Treatment requirements.* All employees are encouraged to make use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under certain circumstances, employees may be required to undergo treatment for substance abuse or alcohol misuse. Any employee who refuses or fails to comply with requirements for treatment, after care, or return-to-duty shall be subject to disciplinary action, up to and including termination. The cost of any treatment or rehabilitation services will be paid for directly by the employee or their insurance provider. Employees will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program.

(7) *Notifying the Town of criminal drug conviction.* All employees are required to notify the Town of any criminal drug statute conviction for a violation occurring in the workplace within Five days after such conviction. Failure to comply with this subsection shall result in disciplinary action, up to and including termination.

(f) *Testing procedures.*

(1) *Testing required by regulation; warranting circumstances.* Analytical urine drug testing and breath testing for alcohol may be conducted when circumstances warrant or as required by the federal regulations. All safety-sensitive and non-safety-sensitive employees shall be subject to testing prior to employment, for reasonable suspicion, and following an accident as defined in paragraphs of this policy. In addition, as safety-sensitive and non-safety-sensitive employees will be tested prior to returning to duty after failing a drug or alcohol test and after completion of the substance abuse professional's recommended treatment program. Those employees who perform safety-sensitive functions as defined in



this policy shall also be subject to follow-up testing on a random unannounced basis. Follow-up testing will be conducted for a period of One to Five years, with at least Six tests performed the first year.

(2) *Testing in accordance with regulations.* Testing shall be conducted in accordance with all state and federal regulations, the Town Council will enter into an agreement with an appropriate service provider who meets all required regulations.

(3) *Substances to be screened.* The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine. An initial drug screen will be conducted on each urine specimen. For those specimens that are not negative, a confirmatory gas chromatography/mass spectrometry (GC/MS) test will be performed. The test will be considered positive if the amount present is above the minimal thresholds established in appropriate federal regulations. In instances where there is a reason to believe an employee is abusing a substance other than the Five drugs listed in this subsection, the Town reserves the right to test for additional drugs under the Town's own authority using standard laboratory testing protocols.

(4) *Testing conducted by approved technician and equipment.* Test for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) approved evidential breath testing device (EBT) operated by a trained breath alcohol technician (BAT). If the initial test indicates an alcohol concentration of Two One-hundredths or greater, a second test will be performed to confirm the results of the initial test. A safety-sensitive or non-safety-sensitive employee who has a confirmed alcohol concentration of greater than Two One-hundredths but less than Four One-hundredths will be removed from their position for Eight hours unless a retest results in a concentration measure of less than Two One-hundredths. An alcohol concentration of requirements is set forth in 49 CFR 654 for safety-sensitive employees.

(5) *Removal from position on a positive drug or alcohol test; disciplinary action.* Any safety-sensitive or non-safety-sensitive employee who has a confirmed positive drug or alcohol test will be removed from their position, informed of educational and rehabilitation programs available, and referred to a substance abuse professional (SAP) for assessment. A positive drug and/or alcohol test will also result in disciplinary action which may include termination.

(g) *Employment assessment.* Any safety-sensitive or non-safety-sensitive employee who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds will be referred for evaluation by a substance abuse professional (SAP). A substance abuse professional is a licensed or certified physician, psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders. The substance abuse professional will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use or alcohol misuse. Assessment by a substance abuse professional or participating in the Town's employee assistance program (if One exists) does not shield an employee from disciplinary action or guarantee employment or reinstatement with the Town. If a safety-sensitive or non-safety-sensitive employee is allowed to return to duty, they must properly follow the rehabilitation program prescribed by the substance abuse

professional, the employee must have negative return-to-duty drug and alcohol tests, and is subject to unannounced follow-up tests for a period of One to Five years. Employees will be allowed to take accumulated sick leave and vacation leave to participate in the prescribed rehabilitation program.

(h) *Contact.* Any questions regarding this policy or any other aspect of the drug-free and alcohol-free Town program should contact the Town Clerk-Treasurer.

**Sec. 2-78. - Disciplinary action and separation.**

(a) *Employee responsibility.* All employees are expected to accept certain responsibilities including following generally accepted standards for work conduct. Failure to follow department and Town policies, procedures and performance standards may lead to disciplinary action up to and including discharge. Off-duty incidents detrimental to the Town, coworkers and/or job performance will also be considered as part of this policy.

(b) *Application of policy.* This policy will apply uniformly to all employees and outlines the disciplinary action to be taken should offenses occur. The offenses listed in subsection (d) of this section do not constitute a complete list but are reflective of the types of unacceptable conduct. Offenses are considered to be either major or minor.

(c) *Procedure.*

(1) Major offenses are those offenses which are serious enough to warrant disciplinary time off without compensation for the defined period of time or permanent discharge upon First or Second offense. Minor offenses are those offenses which do not warrant any disciplinary time off or discharge until the Third or Fourth offense.

(2) All disciplinary layoffs are to be taken on regularly scheduled work days and are to be taken without pay.

(3) All disciplinary written notices shall be received by the employee within Three working days after the incident resulting in disciplinary time off.

(d) *Schedule of disciplinary action and separation.*

<i>Accidents</i>	<i>First</i>	<i>Second</i>	<i>Third</i>	<i>Fourth</i>
Major accidents (employee is responsible through recklessness for the accident and total damage to all material involved is greater than One Thousand dollars [\$1,000.00])	Subject to discharge			
Minor accidents	Written warning	Subject to		

(employee is responsible through recklessness for the accident and the total damage to all materials involved is less than One Thousand dollars [\$1,000.00])	Three days off	discharge		
Failure to report a vehicular accident immediately including: personal injury, or damage to equipment	Subject to discharge			
Failure to report noticeable personal injury immediately	Written warning Three days off	Subject to discharge		

<i>Attendance</i>	<i>First</i>	<i>Second</i>	<i>Third</i>	<i>Fourth</i>
Absence for Three successive work days without notification to authorized supervisor	Subject to discharge			
Failure to notify authorized supervisor not less than One hour before regular showup time when not reporting for duty	Verbal warning	Written warning	Subject to discharge	
Late reporting for shift work without prior explanation to authorized supervisor	Verbal warning	Written warning	Subject to discharge	
Excessive absenteeism or tardiness	Written warning	Written warning	Subject to discharge	

<i>Conduct</i>	<i>First</i>	<i>Second</i>	<i>Third</i>	<i>Fourth</i>
Reporting to work or on duty while under the influence of alcoholic beverages or illegal drugs	Subject to discharge			
Proven discourtesy to public	Written warning	Written warning Three days off	Subject to discharge	
Disobeying direct order of immediate supervisor (employee is required to perform as ordered; a grievance may be filed)	Written warning	Written warning Three days off	Subject to discharge	
Engaging in horseplay, running, scuffling or throwing things	Written warning	Written warning Three days off	Subject to discharge	
Posting, altering or removing any matter on employer's bulletin boards or Town property unless specifically authorized by department head	Written warning	Written warning Three days off	Subject to discharge	
Unauthorized gambling during working hours	Subject to discharge			
Harassing, threatening, intimidating, coercing, or interfering with fellow employees	Subject to discharge			
Vending, soliciting, or collecting contributions for any purpose, unless authorized by department	Written warning	Written warning Three days off	Subject to discharge	

head				
Violating FCC regulation	Written warning Three days off	Subject to discharge		
Contributing to unsanitary conditions or poor housekeeping	Verbal warning	Written warning	Written warning Three days off	Subject to discharge
Leaving the worksite during the work shift without permission or leaving job before end of shift without supervisor's authorization	Written warning	Written warning Three days off	Subject to discharge	
Provoking, or instigating a fight, or fighting during working hours or on Town worksites	Subject to discharge			
Sleeping on the job during working hours	Written warning Three days off	Subject to discharge		
Knowingly falsifying Town records	Subject to discharge			
Knowingly altering another employee's time card or time records for any reason	Subject to discharge			
Possessing firearms or explosives on work premises without authorization	Subject to discharge			
Theft of any Town government or employee property	Subject to discharge			
Drinking any alcoholic beverage or use of narcotics on Town premises or	Subject to discharge			

during working hours				
Conviction of a felony	Subject to discharge			
Arrest on felony or misdemeanor charge that is related or interrelated to job assignment	Suspension without pay pending acquittal or conviction			
Violation of section 2-80, gifts, gratuities, bribes or rewards	Verbal warning	Written warning	Written warning Subject to discharge	

<i>Equipment</i>	<i>First</i>	<i>Second</i>	<i>Third</i>	<i>Fourth</i>
Unauthorized use of equipment	Subject to discharge			
Failure to keep vehicle clean and ensure the safety and maintenance of assigned equipment	Written warning	Written warning Three days off	Subject to discharge	
Flagrant mistreatment of any Town equipment resulting in the damage of or shortening the useful life of the equipment	Subject to discharge			
Loss of Town equipment— Radios	Three days off without pay	Written warning, Three days off without pay	Subject to discharge	

<i>Miscellaneous</i>	<i>First</i>	<i>Second</i>	<i>Third</i>	<i>Fourth</i>
Unauthorized carrying of a passenger	Subject to discharge			
Loss of driver's license when required for job classification	Reclassification of position for period of loss if position is available. If no position is			

	available, subject to discharge or temporary layoff.			
Lack of current license when required for employee's job classification	Reclassification to another position until current license is obtained. If no other position is available, subject to discharge or temporary layoff.			
Falsification of employment application	Subject to discharge			
Noncompliance with wearing of uniform	Verbal warning	Written warning	Written warning with Three days off	Subject to discharge

<i>Safety</i>	<i>First</i>	<i>Second</i>	<i>Third</i>	<i>Fourth</i>
Failure to report mechanically defective conditions of equipment	Written warning	Written warning Three days off	Subject to discharge	
Failure to wear Town issued safety equipment when it applies	Written warning Three days off	Subject to discharge		
Failure to wear approved footwear when it applies	Verbal warning	Written warning	Written warning Three days off	Subject to discharge
Failure to use safety lights on equipment when it applies	Written warning Three days off	Subject to discharge		
Violation of other safety rules or regulations	Written warning	Written warning Three days off	Subject to discharge	
Failure to properly set safety devices or apparatus when required	Subject to discharge			
Conviction of any moving traffic violation while operating Town	Written warning Three days off	Subject to discharge		

owned equipment				
Observation by any authorized supervisor of any traffic violation while operating Town owned equipment	Written warning	Written warning Three days off	Subject to discharge	

<i>Work Habits</i>	<i>First</i>	<i>Second</i>	<i>Third</i>	<i>Fourth</i>
Causing scrap of material or parts due to carelessness	Written warning Three days off	Subject to discharge		
Removal of Town property from work without authorization from department head	Written warning	Written warning Three days off	Subject to discharge	
Misusing or damaging any Town property or property of any employee	Written warning	Written warning Three days off	Subject to discharge	
Deliberately restricting or delaying service	Subject to discharge			
Leaving worksite in continuous operation without being relieved by supervisor or next shift employee	Subject to discharge			
Failure to report for duty within a reasonable time after call (when on required standby status)	Written warning Three days off	Subject to discharge		

(e) *Offenses.*

- (1) Penalty for Three major offenses within any Thirty-six month period is subject to discharge.
- (2) A minor offense is defined as a rule violation for which the penalty is a



reprimand. Each minor offense against any employee's record that is over Twelve months old shall be cancelled.

(3) A major offense is defined as an offense for which the penalty is disciplinary time off. Each major offense against an employee's record that is over Thirty-six months old shall be cancelled.

(4) A written warning notice for infractions of these rules must be given to the employee and Town Council, (excluding the Marshal's Department).

(5) Discharge must be written notice; a copy of such notice must be directed to the Town Council.

(6) All grievances arising as protests to penalties imposed for infractions of these rules and regulations must be filed within Five working days of receipt of such notice.

(7) This policy is provided to give supervisors suggested guidelines for handling performance issues. This is not intended as a contract and does not invalidate the at-will relationship between the employee and the Town.

**Sec. 2-79. - Grievance procedure.**

(a) *Purpose.*

(1) The Town has the right, as an employer, to make decisions surrounding employment practices, and these decisions affect all those who are employed by the Town.

(2) Policies and regulations are conditions of employment and are not themselves subject to challenges. However, interpretation or application of a policy may be subject to question. Therefore, it is the policy of the Town to establish a grievance procedure to clarify the interpretation and/or application of the personnel plan, along with other problems or questions as the need arises. This procedure provides the employee a vehicle to ensure that job actions are not arbitrarily and selectively applied.

(3) A grievance shall be defined as any disagreement by an employee over the application of personnel policy, or on any personnel action that the employee alleges to be unfair.

(b) *Grievance procedures.* The following procedures are established for all employees:

(1) *Step I.* All grievances are to be heard and resolved at the lowest possible organizational level. The employee who feels aggrieved should schedule an appointed time to discuss this situation with their immediate supervisor within Five working days after such incident has occurred. Every effort should be extended to resolve the issue satisfactorily at this level.

(2) *Step II.*

a. Failing to satisfactorily settle the grievance within Three days, the grievance shall be put in writing and forwarded to a Liaison Committee within the Town Council. The Liaison Committee shall consist of Two

Councilmembers. One Councilmember shall be the elected official that is the Commissioner of the department that the employee works in except the Councilmember cannot be a family member to the aggrieved party.

b. The written grievance shall be submitted within Two working days of the initial supervisor's decision. The employee is responsible for preparing and submitting the written grievance. The supervisor shall submit their analysis of what transpired at the initial meeting to the liaison committee.

c. Failing to satisfactorily settle the grievance with the Liaison Committee the grievance then shall be sent to the full Council for a special meeting. The Town Council or designee will meet with the employee and the supervisor within Five working days.

d. Time limits may be extended by the Council, if necessary.

e. The employee has the right to obtain legal council or other representation at any time.

f. A written record shall be made of all charges, countercharges, findings, and determinations whenever a grievance is filed and facts presented, and decisions will not set precedence.

g. In such cases where the supervisor is an elected official the same procedure shall be followed and the Town Council's decision shall be final.

**Sec. 2-80. - Gifts, gratuities, bribes, or rewards.**

All Town employees, shall not solicit or accept from any person, business, or organization any gift, including money, tangible or intangible personal property, food, beverage, loan, promise, service, or entertainment, for the benefit of the Town employees or the departments if it may reasonably be inferred that the person, business, or organization:

(1) Seeks to influence action of an official nature or seeks to affect the performance or nonperformance of an official duty; or

(2) Has an interest which may substantially affect, directly or indirectly, performance or nonperformance of an official duty.

**Secs. 2-81 – 2.103 – Reserved**

**DIVISION 2. - CLERK-TREASURER**

**Sec. 2-104. - Term of office.**

The Town Clerk-Treasurer is an elected position whose term of office is for Four years,

beginning at noon on January 1 after their election and continuing until a successor is elected and qualified.

**State law reference**— Clerk-Treasurer's term of office, IC 36-5-6-3; election of Clerk-Treasurer, IC 36-5-6-4.

**Sec. 2-105. - Powers and duties.**

(a) *Oaths, depositions, etc.* The Town Clerk-Treasurer may administer oaths, take depositions, and take acknowledgments of instruments as required by law.

(b) *Ex officio Councilmember.* The Town Clerk-Treasurer is the clerk of the Town Council and whenever the Town Council has an even number of members, the Clerk-Treasurer is an ex officio member for the purpose of casting the deciding vote to break a tie.

(c) *Other duties.* The Town Clerk-Treasurer may perform all duties prescribed by law, which include but are not limited to the following:

- (1) Receive and care for all Town money and pay the money out only on order of the Town Council.
- (2) Keep accounts showing when and from what sources the Clerk-Treasurer has received Town money and where and to whom the Clerk-Treasurer has paid out Town money.
- (3) Prescribe payroll and account forms for all Town offices.
- (4) Prescribe the manner in which creditors, officers, and employees shall be paid.
- (5) Manage the finances and accounts of the Town and make investments of Town money.
- (6) Prepare for the legislative body the budget estimates of miscellaneous revenue, financial statements, and the proposed tax rate.
- (7) Maintain custody of the Town seal and the records of the legislative body.
- (8) Issue all licenses authorized by statute and collect the fees fixed by ordinance.
- (9) Serve as clerk of the legislative body by attending its meetings and recording its proceedings.
- (10) Administer oaths, take depositions, and take acknowledgment of instruments that are required by statute to be acknowledged, without charging a fee.
- (11) Perform all other duties prescribed by statute.

(d) *Disaster recovery plan; tape backup.* Each night there is to be a tape backup of all programs in the Clerk-Treasurer's office computer system. Tape backup is to be rotated every day and taken off site every night by an employee of the Clerk-Treasurer's office. The tape backup should ensure the least amount of down time in case of a disaster.

(e) *Disaster recovery plan; disk backup.* Disks backups are to be taken of all programs

in the Clerk-Treasurer's office once a month. One of these disk backups is to be placed in safe and the other is to be taken off the work site by an employee of the Clerk-Treasurer's office. At the end of the year, several disk backups are required. One is placed on site in a safe. One is placed in the Town's safe in a bank and One is taken off site by an employee of the Clerk-Treasurer's office.

(f) *Disaster recovery plan; forms.* The Clerk-Treasurer will take a supply of critical forms off site in order to be able to function on a temporary basis.

(g) *Disaster recovery plan; hardware vendor.* The Clerk-Treasurer's office will contact the hardware vendor immediately. Each employee of the Clerk-Treasurer's office shall keep a copy of the hardware vendor and telephone number off-site.

(h) *Logical security.* Each employee in the Clerk-Treasurer's office has their own identification passwords to provide sufficient access restrictions. Each employee in the Clerk-Treasurer's office has the ability to change their password every Thirty days.

**State law reference—** Clerk-Treasurer authorized to administer oaths and related powers, IC 36-5-6-5; Clerk-Treasurer's role with regard to Town Council, IC 36-5-2-8.

### **Sec. 2-106. - Deputies and employees.**

(a) The Clerk-Treasurer may appoint the number of deputies and employees authorized by the Town Council.

(b) Deputies and employees so hired serve at the pleasure of the Clerk-Treasurer.

**State law reference—** Clerk-Treasurer to appoint deputies and employees, IC 36-5-6-7.

### **Sec. 2-107. - Clerk-Treasurer to make claim payments.**

(a) The Town Council authorizes the Clerk-Treasurer of the Town to make claim payments for lawful Town purposes and certain kinds of expenses, as follows in subsection (b) of this section.

(b) The Town Clerk-Treasurer, being the Town Fiscal Officer, may make claim payments in advance of Town Council allowance 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 and service agreements.
- (8) Lease agreements or rental agreements.
- (9) Principal and interest payments on bonds.
- (10) Payroll.
- (11) State, federal, or county taxes.

(c) Each payment of expenses under this section must be supported by a fully itemized claim. The Town Council shall review and allow the claim at the Council's next regular or special meeting following the preapproved payment of the expense.

(d) The Town Council shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expenses.

(Ord. No. 92-2, §§ 1, 2, 7-8-1992)

**State law reference**— Similar provisions, IC 36-4-18-4.

**Sec. 2-108. - Official files.**

- (a) The Clerk-Treasurer's personnel files shall be the official files.
- (b) The department heads may keep satellite files that are copies of the originals sent to the Clerk-Treasurer.

**Secs. 2-109 – 2-129 – Reserved**

## **ARTICLE IV. - FINANCE**

### **DIVISION 1. - GENERALLY**

#### **Sec. 2-130. - Rainy Day Fund.**

(a) The Town determines that there should be and that there is hereby created the Town of Dune Acres Rainy Day Fund pursuant to IC 36-1-8-5.1.

(b) That the Clerk of the Town or her designated representative should be and is hereby authorized and empowered to transfer to the Rainy Day Fund an amount not exceeding Ten percent of the Town's total budget from all funds which are deemed to be unused and unencumbered during the fiscal year.

(Ord. No. 2006-5, 12-19-2006)

**Editor's note**— Ord. No. 2006-5, adopted December 19, 2006, did not specify manner of inclusion; hence, inclusion as § 2-130 is at the discretion of the editor.

#### **Secs. 2-131 – 2-156 – Reserved**

### **DIVISION 2. - PURCHASING**

#### **Sec. 2-157. - Purchasing agency.**

The Town Council is the purchasing agency for the Town with all of the powers and duties authorized under IC 5-22, entitled "Public Purchasing."

(Ord. No. 2001-4, § 1, 6-19-2001)

#### **Sec. 2-158. - Purchasing agents.**

The Town Councilmembers, Clerk-Treasurer or Commissioners shall be the purchasing agents for the Town Council with all of the powers and duties authorized under IC 5-22, entitled "Public Purchasing."

(Ord. No. 2001-4, § 2, 6-19-2001)

#### **Sec. 2-159. - Supplies manufactured in the United States.**

Supplies manufactured in the United States shall be specified for all Town purchases and shall be purchased, unless the Town Council, determines that any of the following apply:

(1) The supplies are not manufactured in the United States in reasonably

available quantities;

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

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

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

(Ord. No. 2001-4, § 3, 6-19-2001)

**State law reference**— Similar provisions, IC 5-22-15-21.

**Sec. 2-160. - Purchases less than Twenty-five Thousand dollars (\$25,000.00).**

The purchasing agent may purchase supplies with an estimated cost of less than Twenty-five Thousand dollars (\$25,000.00) on the open market without inviting or receiving quotes or bids so long as the purchase is in the purchasing agent's budget or the purchasing agent receives the express authority from the purchasing agency.

(Ord. No. 2001-4, § 4, 6-19-2001)

**Sec. 2-161. - Purchase of services.**

The purchasing agent for the Town may purchase services in whatever manner they determine to be reasonable.

(Ord. No. 2001-4, § 5, 6-19-2001)

**Secs. 2-162 – 2-179 - Reserved**

## **ARTICLE V. – CONFLICT OF INTEREST AND NEPOTISM**

### **Sec. 2-180. – Policy with Regard to Nepotism in the Employment with the Town of Dune Acres and in Contracting with the Town of Dune Acres.**

(a) The Town of Dune Acres Nepotism Policy is hereby established by adopting the minimum requirements provisions of IC 36-1-20.2, and including all future supplements and amendments thereto which become law from time to time, and making them a part hereof as if fully set out herein. (IC 36-1-20.2)

(b) The Town of Dune Acres Contracting with a Unit by a Relative Policy is hereby established by adopting the minimum requirements provisions of IC 36-1-21, and including all future supplements and amendments thereto which become law from time to time, and making them a part hereof as if fully set out herein. (IC 36-1-21)

(c) The Town of Dune Acres finds that both IC 36-1-20.2 and IC 36-1-21 specifically allow a unit to adopt requirements that are “more stringent or detailed” and that more detailed are necessary.

(d) The Town of Dune Acres further finds that a single member of the legislative body cannot act for the body to make work assignments, compensation, grievances, advancement or a performance evaluation without prior authority of a majority of the body and therefore without such authority by the majority he/she will not be in the direct line of supervision. (IC 36-4-6-11; IC 36-5-2-9-4)

(e) The Town of Dune Acres finds that a single member of governing bodies with authority over employees in the Town of Dune Acres cannot act for the governing body to make work assignments, compensation, grievances, advancement or a performance evaluation without prior authority of a majority of the body, when a statute provides that a majority is needed to act, and therefore without such authority by the majority the single member will not be in the direct line of supervision.

(f) All elected and appointed officials and employees of the Town of Dune Acres are hereby directed to cooperate fully in the implementation of the policies created by this Ordinance and demonstrating compliance with these same policies.

(g) Failure to abide by or cooperate with the implementation compliance and and certifications connected with the Nepotism Policy is a violation and may result in discipline, including termination, of an employee or a transfer from the direct line of supervision or other curative action. An elected or appointed official of the Town of Dune Acres who fails to abide by or cooperated with the implementation, with the compliance and with mandated certifications of either the Nepotism Policy may be subject to action allowed by law.

(h) Failure to abide by or cooperate with the implementation compliance and and certifications connected with the Contracting with Unit by a Relative Policy is a violation and may result in discipline, including termination, of an employee or a curative action. An elected or appointed official of the Town of Dune Acres who fails to abide by or cooperated with the implementation, with the compliance and with mandated



certifications of either the Nepotism Policy or the Contracting with Unit by a Relative Policy may be subject to action allowed by law.

(Ord. 2012-1)