

TITLE 1

ADMINISTRATION AND PERSONNEL

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Chapter 1.01

ELECTION OF TOWN COUNCIL MEMBERS AT LARGE

Sections:

- 1.01.010** **Town districts abolished**
- 1.01.020** **At large members**
- 1.01.030** **Effective when**

1.01.010 Town districts abolished. That all Town Council Districts within the Town of Birdseye are hereby abolished. (Ord. 93-01, S1, Feb. 4, 1993) (Minutes, April 14, 1993)

1.01.020 At large members. That all members of the Town Council of the Town of Birdseye shall hereafter be elected at large. (Ord. 93-01, S2, Feb. 4, 1993)

1.01.030 Effective when. This ordinance (chapter) shall become effective upon passage and shall be applicable in all subsequent Town elections. (Ord. 93-01, S3, Feb. 4, 1993)

Chapter 1.02

TOWN BOARD DUTIES

Sections:

- 1.02.010 Meetings
- 1.02.020 Duties of the Town Board

1.02.010 Meetings.

- (1) That the regular meetings of the Birdseye Town Board shall be held on the first Thursday of each month at 7:30 p.m. (Res. 92-02, April 9, 1992) (Ord. 15, S1, June 4, 1912) (By-laws, Article 1, Jan. 5, 1884)
- (2) Two members of the board shall always constitute a quorum for the transaction of business; and in case of the absence of the President, may designate one of their members to act as president pro tem. (By-laws, Article 1, Jan. 5, 1884)
- (3) The said regular meetings of said Board shall be held at the specified locations as ordered by said Board, which order shall be made a matter of record. (By-laws, Article 1, Jan. 5, 1884 as amended by numerous public minute records)
- (4) Said meetings shall begin at 7:30 p.m. and adjourn at any time. (Res. 92-02, April 9, 1992) (By-laws, Article I, January 5, 1884)
- (5) Special meetings of the Board may be held upon the call of the President of the Board, stating the call of such meeting, the time and place thereof. (Ord. 15, June 4, 1912)

1.02.020 Duties of the Town Board.

- (1) It shall be the duty of said Board to examine and pass upon all matter properly filed with the Town Clerk in the order and according to the dates of the filing of the same.
- (2) Said Board shall require all claims against said Town to be just and due; and in their discretion may require evidence thereof other than the oath of the claimant.
- (3) They shall keep a seal, and require the office papers to bear the impress thereof in the addition to the signature of the President and one other member of said Board and the attestation of Clerk of said Town.

- (4) They shall supply the Clerk, Marshal and Treasurer with necessary books, stationery and equipment of their respective offices and shall fix a certain table of fees to be allowed said officers for their services to said Town.
- (5) It shall be the duty of said Board to use all reasonable endeavors to improve the town and the streets, alleys and sidewalks thereof and especially the educational facilities and hygiene condition of said town to pass such ordinances as shall be conducive to the best interests thereof and to do any and all acts with a view to the general welfare of said town.
- (6) Said Board shall levy taxes for the year at their first meeting under these by-laws, and require the Clerk of said Town to make out a tax list and assessment-roll of the persons liable to pay tax and the property liable to taxation in said town, and deliver the same to the Treasurer of said Town who shall be required to furnish a copy to the Marshal for his use; and the Board shall also issue a warrant to said Marshal and attach the same to his copy of said tax-list and assessment-roll, which warrant shall command said Marshal to collect said taxes by distress and sale if necessary and pay the same to the Treasurer of said town.
- (7) Said Board shall at their May Meeting in each year determine to amount of tax to be levied for the current year for corporation purposes, and deliver a certified copy of the order of levy to the Auditor of said County, and authorize him to make out the Tax Duplicate for said Town in his office and deliver the same to the County Treasurer for collection.
- (8) Said Board shall have power to alter and amend these by-laws as they see fit. (By-laws, Article II, January 5, 1884)

Chapter 1.06

CLERK

Sections:

1.06.010 Duties of the Clerk

1.06.010 Duties of the Clerk.

- (1) The Clerk of said Town shall note the time of filing all papers on the back or margin thereof and shall number them in order of their filing.
- (2) Said Clerk shall, in a suitable book take notes of the proceedings of said Board, at the time of the proceedings to the end that they may be properly entered in the Town Record which notes and minutes shall be preserved and shall be a part of the Book of said Town.
- (3) He shall in case of inability to attend any meeting of the Board, employ a deputy to act in his place by consent of the board; but the Board in such case may refuse the services of such deputy and appoint a Clerk-Pro. Tem. who may be allowed the same fee for his services as the Clerk.
- (4) Said Clerk shall keep his books and papers open for public inspection at all reasonable times.
- (5) He shall issue all warrants, orders, vouchers, Certificates, Ordinances and etc. when lawfully required so to do, and shall attach the same with signature and affix thereto the seal of said Town.

Chapter 1.07

TREASURER

Sections:

1.07.010 Duties of the Treasurer

1.07.010 Duties of the Treasurer.

- (1) The Treasurer of said Town shall have charge of all money belonging to said Town; and shall pay out such money only upon warrants or vouchers issued according to these by-laws and when any claim is presented to him for payment and he has no funds on hand with which to pay the same, he shall if the same be demanded by the claimant endorse thereon the words; "Demanded this day _____ of _____ 188__" and sign the same after which interest may be collected thereon at the rate of 6% per annum.
- (2) He shall report the financial standing of said Town to the Board of Trustees at any regular meeting on receipt of One Weeks notice from said Board of Trustees.
- (3) He shall give additional bond at any time when the Board shall deem his bond insufficient, and shall give him reasonable notice thereof.
- (4) He shall receive for his fees such sum as the board may allow upon an itemized sworn statement of services rendered; and the Clerk shall issue a voucher therefor as in all other cases.
- (5) He shall file in his office all vouchers of whatever nature, paid by him, marking thereon the date of payment and shall produce the same before the Board in his settlement with them.
- (6) He shall make final settlement with the Board at the end of each fiscal year which shall be at the same time with the first May meeting of the Board of Trustees to wit. The first Saturday in May. (By-laws, Article V, January 5, 1884)

Chapter 1.09

UTILITY CLERK

Sections:

- 1.09.010** Title change
- 1.09.020** Salary derived from

1.09.010 Title change. The Deputy Clerk will be changed to Utility Clerk. (Ord. 92-04, March 25, 1992)

1.09.020 Salary derived from. The Utility Clerk will be paid out of the utilities only. (Ord. 92-04, March 25, 1992)

Chapter 1.12

TOWN MARSHAL

Sections:

1.12.010 Duties of Town Marshal

1.12.010 Duties of Town Marshal.

(1) It shall be the duty of the Marshal of said town to keep a vigilant oversight in said town to arrest all persons who shall violate any Ordinance of said town or the laws of the state of Indiana and forthwith charge them by affidavit before the town Justice and put them to trial without delay unless the state or the accused shall upon good cause shown claim a continuance in which case the offender will be held to bail as provided by the state laws of Ind. and in default thereof such defendant shall be sent to the County Jail if convicted under the state laws or if convicted under the corporation laws to be confined in the prison of said town. (Ord. Unnumbered, October 17, 1885) (By-laws, Article IV, S1, January 5, 1884)

(2) If any person shall be found intoxicated and unruly disturbing the peace by quarreling or fighting or making a noise to the annoyance of the citizens or public within the Corporation it shall be the duty of the Marshal to arrest such person and demand of him surety to keep the peace and upon default to confine such ornery person to the town prison until he shall become sober or quiet and then bring him before the Justice upon the proper charge for trial to be governed as other trials under the state law and such Justice may demand the aid of the prosecutor if within the county. (Ord. Unnumbered, October 17, 1885)

(3) It shall not be lawful to put any person to prison only on default in giving bail for his appearance or good behavior as above provided or for fine and costs.

It is further Ordained that the Marshal or any other Officer of said Town shall refuse or neglect to discharge any duty imposed upon him by the Ordinances of said town shall forfeit to said town a fine in any sum not to exceed \$10.00. (Ord. Unnumbered, October 17, 1885)

(4) The said Marshal shall collect the taxes levied for corporation purpose for the year. (By-laws, Article IV, S2, January 5, 1884)

(5) Said Marshal shall make a verified statement of all money by him collected on account of said Town at least every three months, beginning with the first May meeting which statement shall be filed with the clerk and a copy of the

same with the Treasurer of said Town and at the time of making such statement he shall pay over said money to said Treasurer and take his receipt therefor. (By-laws, Article IV, S3, January 5, 1884)

- (6) The said Marshal shall also be the Street Commissioner of said Town, he shall have the right and it shall be his duty to repair the streets and sidewalks thereof in such manner as the Board of Trustees may direct. It shall further be the duty of said Marshal to take care of all the road tools, to report at the end of his term, what road tools he has on hand and the succeeding Marshal shall be made responsible by virtue of his bond for the care of said tools; further said Marshal shall be charged on his bond with such tools as come into his hands when he came in office and he shall be charged with such tools as he cannot account for to be recovered according to law and in the regular manner. (June 4, 1888) (By-laws, Article IV, S4, January 5, 1884)
- (7) Removal of objectionable matter from streets (See 10.02.060) (Ord. 2, S6, Sept. 5, 1892) (Ord. 2, S6, Feb. 17, 1884)

Chapter 1.13

RESERVE MARSHAL

Sections:

- 1.13.010** **Appointed/powers and liabilities**
- 1.13.020** **Term of Office**

1.13.010 Appointed/powers and liabilities. The duly appointed Marshal of the Town of Birdseye is hereby authorized to appoint one (1) reserve marshal, subject to prior approval by said Town Council, which reserve marshal shall have all powers and liabilities of the marshal in executing the orders of said Town Council and in enforcing laws. (Ord. 91-04, S1, Aug. 1, 1991)

1.13.020 Term of Office. The reserve marshal shall serve only during the term of office of the appointing marshal and may be dismissed by said marshal at any time. Compensation of said reserve marshal shall be as from time to time established by the Town Council and until subsequently changed shall be \$0.00 per month. Bond for said reserve officer shall be \$0.00. (Ord. 91-04, S2, Aug. 1, 1991)

Chapter 1.18

COLLECTION OF FINES

Sections:

1.18.010 Enforcement

1.18.010 Enforcement. Be it ordained by the Board of Trustees of the incorporated town of Birdseye, Dubois County, Indiana, that in all cases hereafter where any person not a female is convicted and fined by a Justice of the Peace of the Town of Birdseye, Dubois County, Indiana for the violation of any ordinance of said town and shall fail to pay or replevy the fine and costs in accordance with the judgement of the court trying the case, he shall in addition of committal in such a case provided, be adjudged and required to pay said fine and costs, by manual labor, on the streets or other public works of said town under the direction of the Marshal according to the provisions of Sec. 57 of an act entitled, "An Act for the incorporation of towns, defining their powers, providing for the election of officers thereof and declaring their duties," approved June 11, 1852 and amended by the General Assembly of the State of Indiana Mar. 12, 1877, and that for the purpose of carrying out the provisions of this ordinance. The Marshal of said town is hereby authorized empowered in all such cases to employ the persons so adjudged, as aforesaid at manual labor upon the streets or other public works of said town at such work as may at the time be necessary and proper to have done working not less than six nor more than ten hours per day until said fines and costs are fully paid and satisfied, computing said labor at seventy five cents per day unless the same is sooner paid or replevied and for the purpose of enforcing the performance of said labor, and for safe custody of said person while performing the same he is hereby authorized if he deems necessary to attach to their person a ball and chain and is also authorized if required to use all proper means to compel said persons to work and at night to deliver him or them to the jailer of said town for safe keeping and for which service and board said jailer shall receive the sum of fifty cents per day for each day, and be allowed but one commitment and one discarding fee to be paid by the town. (Ord. 4, S1, Sept. 5, 1892)

Chapter 1.21

PUBLIC EMPLOYEES' RETIREMENT FUND

Sections:

1.21.010 Participant in PERF

1.21.020 Contributions

1.21.030 Positions covered

1.21.040 Positions covered not part-time

1.21.050 Clerk-Treasurer-membership beginning date

1.21.060 Effective when

1.21.010 Participant in PERF. The Town of Birdseye elects to become a participant in the Public Employees' Retirement Fund as established by the Acts of 1945, Chapter 340, and all Acts amendatory and supplemental thereto. (Res. Unnumbered, S1, Oct. 3, 1996)

1.21.020 Contributions. The Town of Birdseye agrees to make the required contributions under the Public Employees' Retirement Fund Act, which is the Act of 1945, Chapter 340, and all Acts amendatory thereof and supplemental thereto, including specifically the Acts of 1955, Chapter 329, commonly designated as "The Indiana Public Employees' Social Security Integration and Supplemental Retirement Benefit Act." (Res. Unnumbered, S2, Oct. 3, 1996)

1.21.030 Positions covered. Pursuant to IC 5-10.3-7-2(6) employees occupying positions normally requiring performance of service of less than one thousand (1,000) hours during a year are excluded from P.E.R.F. coverage. This is to certify that all positions listed below are classified as full time and normally require the performance of service of at least one thousand (1,000) hours during a year. (Res. Unnumbered, S3, Oct. 3, 1996) (Appendix A, Oct. 3, 1996)

- (1) Town of Birdseye Clerk-Treasurer

1.21.040 Positions covered not part-time. It is hereby declared that none of the classifications or positions specified in Section 1.21.030 are compensated on a fee basis or of an emergency nature, or in a part-time category. (Res. Unnumbered, S4, Oct. 3, 1996)

1.21.050 Clerk-Treasurer-membership beginning date. The active participating membership of the Town of Birdseye Clerk/Treasurer shall begin on January 1, 1997. (Res. Unnumbered, S5, Oct. 3, 1996)

1.21.060 Effective when. This Resolution shall be in full force and effect from date of passage (Oct. 3, 1996) and upon approval of the Board of Trustees of the Public Employees'

Retirement Fund of Indiana, (Nov. 15, 1996) except that active participating membership shall begin on the date set forth in Section 1.21.050. (Res. Unnumbered, S6, Oct. 3, 1996)

Chapter 1.22

MILEAGE REIMBURSEMENT

Sections:

1.22.010 Rate per mile

1.22.010 Rate per mile. The Clerk/Treasurer of the Town of Birdseye will receive mileage at the rate of 25¢ per mile while doing the Town's business, effective Jan. 1, 1992. (Ord. 92-03, no date)

Chapter 1.30

USE OF TOWN HALL

Sections:

1.30.010 Policy for Town Hall usage

1.30.010 Policy for Town Hall usage. The Board of Town Trustees of Birdseye, Indiana at their January 4, 1984 meeting did resolve to allow no usage of town hall for individuals or groups or clubs other than Board controlled organizations or groups (such as the Birdseye Park Board and the Economic Development Board) and the Volunteer Fire Department without first obtaining permission from said town trustees. (Res. 84-1, March 1, 1984)

Chapter 1.34

PARK AND RECREATION BOARD

Sections:

- 1.34.010 Created**
- 1.34.020 Members**
- 1.34.030 Terms**
- 1.34.040 Election of Officers**
- 1.34.050 Powers and duties**
- 1.34.060 Submission of annual budget**
- 1.34.070 Allowed to create nonreverting operating fund by Ordinance**

1.34.010 Created. Under the provisions of IC 36-10-3 there is hereby created a municipal Department of Parks and Recreation. (Ord. 83-03, S1, June 2, 1983)

1.34.020 Members. A Park and Recreation Board shall be created composed of:

- (1) Four (4) members appointed by the mayor on the basis of their interest in and knowledge of parks and recreation. No more than two (2) members shall be of the same political party.
- (2) One (1) ex officio member who is a member of and appointed by the board of school trustees.
- (3) One (1) ex officio member who is a member of and appointed by the library district board.

The library district and school boards shall fill any vacancies of their ex officio members. Ex officio board members have all the rights of regular members, including the right to vote.* (Ord. 83-03, S2, June 2, 1983)

1.34.030 Terms. Upon establishment of the board, the terms of the members initially appointed shall be:

- (1) One (1) member for a term of one (1) year,
- (2) One (1) member for a term of two (2) years,

*The two ex officio members are optional for a municipal park and recreation board. Either or both the school and library boards may be represented, but if one or both are to be included the provision must be written in the ordinance.

- (3) One (1) member for a term of three (3) years, and

- (4) One (1) member for a term of four (4) years.

As a term expires, each new appointment shall be made by the mayor for a term of four (4) years. All terms expire on the first Monday in January, but a member shall continue in office until his successor is appointed. If an appointment for a new term is not made by the mayor by the first Monday in April, the incumbent shall serve another term. If a vacancy occurs, the mayor shall appoint a new member for the remainder of the un-expired term. (Ord. 83-03, S3, June 2, 1983)

1.34.040 Election of Officers. 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 either from within or without its own membership. (Ord. 83-03, S4, June 2, 1983)

1.34.050 Powers and duties. The Board shall have the power to perform all acts necessary to acquire and develop sites and facilities and to conduct such programs as are generally understood to be park and recreation functions. In addition the Board shall have all the powers and duties listed in IC 36-10-3. (Ord. 83-03, S5, June 2, 1983)

1.34.060 Submission of annual budget. The Board shall prepare and submit an annual budget in the same manner as other departments of city government as prescribed by the State Board of Accounts. The Board may accept gifts, donations, and subsidies for park and recreation purposes. (Ord. 83-03, S6, June 2, 1983)

1.34.070 Allowed to create nonreverting operating fund by Ordinance. The unit's fiscal body may provide by ordinance that expenditures be made from the special nonreverting operating fund without appropriation. Money from either fund may be disbursed only on approved claims allowed and signed by the President and Secretary of the board. (Ord. 83-03, S7, June 2, 1983)

Chapter 1.35

BIRDSEYE TOWN PARK REGULATIONS

Sections:

1.35.010 Hours to be open

1.35.010 Hours to be open. The Birdseye Town Park in Birdseye, Indiana will be open from April 1st through September 30th from 8:00 a.m. till 11:00 p.m., 7 days a week. (Ord. 92-05, April 9, 1992)

Chapter 1.40

ECONOMIC DEVELOPMENT INCOME TAX

Sections:

1.40.010 Support by Town of Birdseye

1.40.020 Refusal to rescind the Economic Development Income Tax

1.40.010 Support by Town of Birdseye. The Dubois County Income Tax Council imposes the County Economic Development Income Tax on the county taxpayers of Dubois County at a rate of four tenths of one percent (0.4%) effective July 1, 1988.

The County Council of Dubois County did pass and adopt Ordinance #1988-1 on the 29 day of February 1988.

It has now come before the Town Trustees of the Town of Birdseye to cast their vote for the adoption of the Economic Development Income Tax (EDIT).

The Trustees of the Town of Birdseye feel there is a need for this Economic Development Income Tax (EDIT).

Be it, therefore, resolved that: the Trustees of the Town of Birdseye do vote in favor of this Economic Development Income Tax (EDIT). (Res. 88-5, March 18, 1988)

1.40.020 Refusal to rescind the Economic Development Income Tax. The Town Council of the Town of Birdseye, Indiana is voting against the adoption of Ordinance #1994-1 submitted to us by the Dubois County Income Tax Council, for the rescission of the County Economic Development Income Tax in Dubois County. (Ord. 94-01, January 20, 1994)

Chapter 1.43

HOLDING PARADES, FAIRS, PUBLIC FUNCTIONS

Sections:

1.43.010 Permission required

1.43.010 Permission required. The Board of Town Trustees of Birdseye, Indiana at their January 4, 1984 meeting of the Board did unanimously resolve to allow no individuals, groups, or clubs other than Board controlled organizations or groups (such as the Birdseye Park Board and the Economic Development Board) and the Volunteer Fire Department to hold or sponsor projects, parades, fairs or public functions within town limits without first obtaining permission from said Board. (Res. 84-2, March 1, 1984)

Chapter 1.60

FAIR HOUSING ORDINANCE

Sections:

1.60.010	Policy Statement
1.60.020	Definitions
1.60.030	Unlawful practice
1.60.040	Discrimination in the sale or rental of housing
1.60.050	Discrimination in residential real estate-related transactions
1.60.060	Discrimination in the provision of brokerage services
1.60.070	Interference, coercion, or intimidation
1.60.080	Prevention of intimidation in fair housing cases
1.60.090	Exemptions
1.60.100	Administrative enforcement of Ordinance
1.60.120	Separability of Provisions

1.60.010 Policy Statement. It shall be the policy of the Town of Birdseye to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the Federal Civil Rights Act of 1968, as amended, the federal Housing and Community Development Act of 1974, as amended, and Indiana Code 22-9.5-1 et. seq. (Ord. 96-03, S1, July 11, 1996)

1.60.020 Definitions. The definitions set forth in this Section shall apply throughout this Ordinance:

- (1) "Dwelling" means any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by one (1) or more families (I.C. 22-9.5-2-8). (Ord. 96-03, S2(a), July 11, 1996)
- (2) "Family" includes a single individual (I.C. 22-9.5-2-9), with the statue of such family being further defined in subsection (8) of this Section. (Ord. 96-03, S2(b), July 11, 1996)
- (3) "Person" (I.C. 22-9.5-2-11) includes one (1) or more individuals, corporation, partnership, association, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries. (Ord. 96-03, S2(c), July 11, 1996)

- (4) "To rent" (I.C. 22-9.5-2-13) includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy the premises owned by the occupant. (Ord. 96-03, S2(d), July 11, 1996)
- (5) "Discriminatory Housing Practice" means an act that is unlawful under Sections 1.60.040, 1.60.050, 1.60.060, 1.60.070 or 1.60.080 of this Ordinance or I.C. 22-9.5-5. (Ord. 96-03, S2(e), July 11, 1996)
- (6) "Handicap" means, with respect to a person:
- A. A physical or mental impairment which substantially limits one or more of such person's major life activities,
 - B. A record of having such an impairment, or
 - C. Being regarded as having such an impairment,
 - D. An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990.
 - E. Any other impairment defined under I.C. 22-9.5-2-10.
- The term "handicap" shall not include current illegal use of or addiction to a controlled substance as defined in Section 802 of Title 21 of the United States Code [I.C. 22-9.5-2-10(b)]; nor does the term "handicap" include an individual solely because that individual is transvestite [I.C. 22-9.5-2-10(c)]. (Ord. 96-03, S2(f), July 11, 1996)
- (7) "Aggrieved person" includes any person who (I.C. 22-9.5-2-2):
- A. Claims to have been injured by a discriminatory housing practice; or
 - B. Believes that such person will be injured by a discriminatory housing practice that is about to occur. (Ord. 96-03, S2(g), July 11, 1996)
- (8) "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with:
- A. A parent or another person having legal custody of such individual or the written permission of such parent or other person.

The protections afforded against discrimination on this basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. (Ord. 96-03, S2(h), July 11, 1996)

- (9) "Commission" (I.C. 22-9.5-2-3) means the Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4, et. seq. (Ord. 96-03, S2(i), July 11, 1996)
- (10) "Complainant" (I.C. 22-9.5-2-4) means a person, including the Commission, who files a complaint under I.C. 22-9.5-6. (Ord. 96-03, S2(j), July 11, 1996)

1.60.030 Unlawful practice. Subject to the provisions of subsection (2) of this section, Section 1.60.090 of this Chapter and Title 22-9.5-3 of Indiana Code, the prohibitions against discrimination in the sale or rental of housing set forth Title 21-9.5-5-1 of Indiana Code and in Section 1.60.040 of this Ordinance shall apply to:

- (1) All dwelling except as exempted by subsection (2) and Title 22-9.5-3 of Indiana Code. (Ord. 96-03, S3(a), July 11, 1996)
- (2) Other than the provisions of subsection (3) of this Section, nothing in Section 1.60.040 shall apply to:
 - A. Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at any one time; provided that in the sale of such single-family house by a private individual owner not residing in the house at the time of sale or who was not the most recent resident of such house prior to the sale, the exemption shall apply only to one such sale within any twenty-four month period. The private individual owner may not own any interest in, nor have owned or reserved on this behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be excepted from application of this section only if such house is sold or rented:
 - 1. Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesman, or person and
 - 2. Without the publication, posting or mailing, after notice of advertisement or written notice in violation of Section 1.60.040(3) of this ordinance, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters,

title companies and other such professional assistance as necessary to perfect or transfer this title, or

- B. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence. (Ord. 96-03, S3(b), July 11, 1996)
- (3) For the purposes of Subsection (2), a person shall be deemed to be in the business of selling or renting dwellings if:
- A. He has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or
 - B. He has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or
 - C. He is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families. (Ord. 96-03, S3(c), July 11, 1996)

1.60.040 Discrimination in the sale or rental of housing. As made applicable by Section 1.60.030 and except as exempted by Sections 1.60.030(3) and 1.60.090, it shall be unlawful:

- (1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status or national origin. (Ord. 96-03, S4(a), July 11, 1996)
- (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status or national origin. (Ord. 96-03, S4(b), July 11, 1996)
- (3) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status or national origin, or an intention to make any such preference, limitation, or discrimination. (Ord. 96-03, S4(c), July 11, 1996)

- (4) To represent to any person because of race, color, religion, sex, handicap, familial status or national origin that any dwelling is not available to for inspection, sale, or rental when such dwelling is in fact so available. (Ord. 96-03, S4(d), July 11, 1996)
- (5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status or national origin. (Ord. 96-03, S4(e), July 11, 1996)
- (6) A. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:
 - 1. That buyer or renter;
 - 2. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
 - 3. Any person associated with that person.
- B. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:
 - 1. That person; or
 - 2. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
 - 3. Any person associated with that person.
- C. For purposes of this subsection, discrimination includes:
 - 1. A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;
 - 2. A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations

may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

3. In connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 1988, a failure to design and construct those dwellings in such a manner that-
 - (a) The public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
 - (b) All the doors designed to allow passage into and within all premises with such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
 - (c) All premises within such dwellings contain the following features of adaptive design:
 - i An accessible route into and through the dwellings;
 - ii Light, switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - iii Reinforcements in bathroom walls to allow later installation of grab bars; and
 - iv Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.
- D. Compliance with the appropriate requirements Americans With Disabilities Act of 1990 and of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A 117.1") suffices to satisfy the requirements of paragraph (C) (3) (c).
- E. Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals of whose tenancy would result in substantial physical damage to the property of others. (Ord. 96-03, S4(f), July 11, 1996)

1.60.050 Discrimination in residential real estate-related transactions.

- (1) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin. (Ord. 96-03, S5(a), July 11, 1996)
- (2) As used in this section, the term "residential real estate-related transaction" means any of the following:
 - A. The making or purchasing of loans or providing other financial assistance:
 1. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 2. Secured by residential real estate.
 - B. The selling, brokering, or appraising of residential real property. (Ord. 96-03, S5(b), July 11, 1996)
- (3) Nothing in this ordinance prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status. (Ord. 96-03, S5(c), July 11, 1996)

1.60.060 Discrimination in the provision of brokerage services. It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status or national origin. (Ord. 96-03, S6, July 11, 1996)

1.60.070 Interference, coercion, or intimidation. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by sections 1.60.030, 1.60.040, 1.60.050 or 1.60.060 of this chapter. (Ord. 96-03, S7, July 11, 1996)

1.60.080 Prevention of intimidation in fair housing cases. Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

- (1) Any person because of his race, color, religion, sex, handicap, familial status, or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or (Ord. 96-03, S8(a), July 11, 1996)

- (2) Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:
 - A. Participating, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection 15(a); or
 - B. Affording another person or class of persons opportunity or protection so to participate; or (Ord. 96-03, S8(b), July 11, 1996)
- (3) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection (1), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined according to local, state and federal law; and if bodily injury results shall be fined not more than \$10.00 than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life. (Ord. 96-03, S8(c), July 11, 1996)

1.60.090 Exemptions.

- (1) Exemptions defined or set forth under Title 22-9.5-3 et. seq. of Indiana Code shall be exempt from the provisions of this Chapter to include those activities or organizations set forth under subsections (2) and (3) of this section. (Ord. 96-03, S9(a), July 11, 1996)
- (2) Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Ord. 96-03, S9(b), July 11, 1996)
- (3) A. Nothing in this ordinance regarding familial status shall apply with respect to housing or older persons.

- B. As used in this section, "housing for older persons" means housing:
1. Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the state civil rights commission determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program); or
 2. Intended for, and solely occupied by, persons 62 years of age or older; or
 3. Intended and operated for occupancy by at least one person 55 years of age or older per unit. (Ord. 96-03, S9(c), July 11, 1996)

1.60.100 Administrative enforcement of Ordinance.

- (1) The authority and responsibility for properly administering this ordinance and referral of complaints hereunder to the commission as set forth in subsection (2) hereof shall be vested in the Chief Elected Official of the Town of Birdseye, Indiana. (Ord. 96-03, S10(a), July 11, 1996)
- (2) Notwithstanding the provisions of I.C. 2-9.5-4-8, the Town of Birdseye, Indiana, because of a lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this ordinance, herein elects to refer all formal complaints of violation of the articles of this ordinance by complainants to the Indiana Civil Rights Commission ("Commission") for administrative enforcement actions pursuant to Title 22-9.5-6 of Indiana Code and the Chief Elected Official of the Town of Birdseye, Indiana, shall refer all said complaints to the Commission as provided for under subsection (1) of this section to said Commission for purposes of investigation, resolution and appropriate relief as provided for under Title 22-9.5-6 of Indiana Code. (Ord. 96-03, S10(b), July 11, 1996)
- (3) All executive departments and agencies of the Town of Birdseye, Indiana, shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this ordinance and shall cooperate with the Chief Elected Official and the Commission to further such purposes. (Ord. 96-03, S10(c), July 11, 1996)
- (4) The Chief Elected Official of the Town of Birdseye, Indiana, or the Chief Elected Official's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information. (Ord. 96-03, S10(d), July 11, 1996)

1.60.120 Separability of provisions. If any provision of this ordinance or the application thereof to any person or circumstances shall be determined to be invalid, the remainder of the ordinance and the application of its provisions to other persons not similarly situated or to other circumstances shall not be affected thereby. (Ord. 96-03, S12, July 11, 1996)