

TITLE 1

ADMINISTRATION AND PERSONNEL

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ADMINISTRATION AND PERSONNEL

Chapters:

- 1.02 Election of Town Council Members
- 1.05 Town government
- 1.12 Public purchases: Purchase of land or structures and inventory
- 1.13 Fixed Asset Policy
- 1.15 Fire Department
- 1.16 Fire Protection District
- 1.17 Fire Protection Fund
- 1.18 Fire Equipment Fund
- 1.24 Deputy Marshal
- 1.28 Use of Town owned tools and equipment
- 1.31 Multi-Hazard Mitigation Plan
- 1.32 National Incident Management System (NIMS)
- 1.35 Park and Recreation Department
- 1.42 Leavenworth Community Center and Library Board
- 1.47 Historic Preservation Commission
- 1.49 Airport Authority District
- 1.52 Housing Authority
- 1.53 Fair Housing
- 1.54 Drug-Free Workplace Certification
- 1.55 Plan Commission Fund
- 1.57 Breeden Memorial Library Fund
- 1.58 Riverboat Casino Impact/Evaluation Fund
- 1.60 Nepotism and Contracting with a Unit by a Relative
- 1.63 Minority hiring

Chapter 1.02

ELECTION OF TOWN COUNCIL MEMBERS

Sections:

1.02.010 Elected at large

1.02.010 Elected at large. Pursuant to Indiana Code 36-5-2-4.1 the legislative body districts are now abolished and all members of the legislative body are to be elected at large. (Ord. 1996-6, S1, Aug. 13, 1996)

Chapter 1.05

TOWN GOVERNMENT

Sections:

- 1.05.010 Town Council powers and duties
- 1.05.020 Clerk of the Council
- 1.05.030 Town Council meetings
- 1.05.040 Presiding officer/Order of business
- 1.05.050 Clerk-Treasurer/Deputy Clerk-Treasurer
- 1.05.060 State statutes
- 1.05.070 Repealer

1.05.010 Town Council powers and duties. The legislative branch of the Town of Leavenworth is the Town Council. The Council shall have exclusive authority to adopt ordinances and appropriate tax monies received the City, and to perform other necessary and desirable legislative functions. (Ord. 1995-2, S1(a), February 1995)

1.05.020 Clerk of the Council. The Clerk-Treasurer shall be the clerk of the Council and shall perform the duties prescribed by I.C. 36-5-6-1 et seq. and such others as the Council may direct. (Ord. 1995-2, S1(b), February 1995)

1.05.030 Town Council meetings. The regular meeting date and time for Council shall be at 7:00 o'clock P.M. on the second Monday of each month. A special meeting may be called by the Town Council president or by a majority of members of the Council. Notice of the same shall be issued by the Clerk. (Res. 1996-08, Nov. 12, 1996) (Res. 3 (1996), July 9, 1996) (Ord. 1995-2, S1(c), February 1995)

1.05.040 Presiding officer/Order of business. The president of the Council, shall be the presiding office of the Council, and meetings shall be conducted pursuant to the applicable statutes and in accordance with the following rules which are hereby adopted as a part of this Ordinance.

(1) Order of Business

The order of business to be followed at a meeting of the Town Council shall be as follows :

- A. Call to order.
- B. Roll call by Clerk-Treasurer.
- C. Reading of minutes and approval.
- D. Reports from committees, boards and commissions.

- E. Public hearings.
- F. Old Business, including ordinances and resolutions already introduced.
- G. New Business, including introduction of ordinances and resolutions.
- H. Miscellaneous Business, including any matters not already considered.
- I. Adjournment.

(2) Addressing the Council

The presiding officer shall allow any citizen of Leavenworth to address the Council and the decision of the presiding officer may not be overruled except upon two-thirds vote of all the members of the Council. When permission is granted the person shall be limited in his remarks to three (3) minutes unless extended by agreement of the Council.

With regard to any other person not a citizen of Leavenworth, the presiding officer shall allow said individual to address the Council if that individual has business with the Town of Leavenworth. The decision of the presiding officer may not be overruled except upon two-thirds vote of all the members of the Council. When permission is granted the person shall be limited in his remarks to three (3) minutes unless extended by agreement of the Council.

Any resident/property owner of the Town of Leavenworth, upon written request, shall be afforded an opportunity to address the Council in its meeting.

(3) Contempt and Disorder in the Council Room

No person shall use violent or contemptuous language, behave in a disorderly manner, or refuse to obey the order of the presiding officer in the Council room while the Council is in session. The presiding officer may order the removal from the Council room of anyone who intentionally disturbs the decorum of a Council meeting.

(4) Introduction and Adopting of Ordinances and Resolutions

- A. All ordinances shall be read two (2) times by title only before passage, and no ordinance shall pass on the same day in which it is introduced unless the provisions of I.C. 36-5-2-1 et seq. are complied with. A synopsis of the ordinance may be read aloud to assist the general public in understanding its content.

- B. Resolutions shall be passed in a majority vote on one (1) reading by title only.
- C. Ordinances and resolutions shall pass by title only. The Clerk-Treasurer shall not be required to read the full text of any ordinance or resolution unless so directed by a two-thirds vote of the Council. The Clerk-Treasurer shall maintain copies of all proposed legislation on file at his office for interested persons.
- D. On the passage or adopting of any ordinance or resolution the yeas and nays shall be taken and entered in the record, and the ordinance or resolution shall be processed in accordance with I.C. 36-5-2-1 et seq.
- E. A presiding officer shall have the right to vote on all issues coming before the Council.

(5) Questions of Order

The presiding officer shall decide all questions of order. He or she shall decide whether any question submitted to the Council for adoption or rejection is decided in the affirmative or negative.

All meetings shall be conducted in accordance with Robert's Rules of Order.

(6) Appeal from Decision of Presiding Officer

From any decision of the presiding officer any member may appeal to the Council. The appeal shall be by motion duly made and seconded. A majority vote as defined in I.C. 36-5-2-9.4 is necessary to overrule the chair.

(7) Suspension of Rules

The order of business may be suspended by a two-thirds (2/3) vote of the members of the Council. (Ord. 1995-2, S1(d), February 1995)

1.05.050 Clerk-Treasurer/Deputy Clerk-Treasurer.

- (1) The Clerk-Treasurer is the fiscal officer of the city. He or she shall perform the duties assigned by I.C. 36-5-6-1 et seq. and such other duties as the Council may, by ordinance, require.
- (2) The Clerk-Treasurer is hereby authorized, pursuant to I.C. 36-5-6-7, to appoint deputy clerk treasurers to be paid solely from funds appropriated for the Office of Clerk-Treasurer. Such deputies shall work under the exclusive

direction of the Clerk-Treasurer, and serve at the pleasure of the Clerk-Treasurer. (Ord. 1995-2, S2(a) & (b), February 1995)

1.05.060 State statutes. Any issue of procedure not specifically addressed in this ordinance shall be resolved by reference to the applicable Indiana Code reference, or prevailing Indiana case law, governing that issue. (Ord. 1995-2, S3, February 1995)

1.05.070 Repealer. All ordinances and parts of ordinances in conflict herewith are hereby repealed. (Ord. 1995-2, S4, February 1995)

Chapter 1.12

**PUBLIC PURCHASES: PURCHASE OF LAND
OR STRUCTURES AND INVENTORY**

Sections:

- 1.12.010 **GENERAL PROVISIONS**
 - 1.12.010.001 Definitions
- 1.12.020 **PURCHASING POLICIES OF TOWN OF LEAVENWORTH,
INDIANA**
 - 1.12.020.001 Publication of notices
 - 1.12.020.002 Receiving offers
 - 1.12.020.003 Small purchases
 - 1.12.020.004 Rules and written policies
- 1.12.030 **PURCHASING AUTHORITY FOR TOWN OF
LEAVENWORTH, INDIANA**
 - 1.12.030.001 Purchasing Agency
 - 1.12.030.002 Purchasing Agents
- 1.12.040 **COMPETITIVE BIDDING**
 - 1.12.040.001 Invitation for Bids
 - 1.12.040.002 Notice of Invitation of Bids
 - 1.12.040.003 Public opening of bids
 - 1.12.040.004 Acceptance and evaluation of bids
 - 1.12.040.005 Awarding of contract
 - 1.12.040.006 Erroneous bid or mistake
 - 1.12.040.007 Maintenance of information by Purchasing Agency
- 1.12.050 **SPECIFICATIONS**
 - 1.12.050.001 General provisions
 - 1.12.050.002 Request for specifications
 - 1.12.050.003 Notice
 - 1.12.050.004 Discussion and revision of specifications
- 1.12.060 **REQUEST FOR PROPOSALS**
 - 1.12.060.001 Rules and policies
 - 1.12.060.002 Content of Request for Proposals
 - 1.12.060.003 Notice
 - 1.12.060.004 Opening of proposals
 - 1.12.060.005 Discussion and revision of proposals
 - 1.12.060.006 Award
 - 1.12.060.007 Register of proposals
- 1.12.070 **SMALL PURCHASES**
 - 1.12.070.001 General provisions
 - 1.12.070.002 Quotes
 - 1.12.070.003 Small purchase policies

- 1.12.080 SPECIAL PURCHASING METHODS**
 - 1.12.080.001 Administrative requirements
 - 1.12.080.002 Emergency conditions
 - 1.12.080.003 Savings to governmental body
 - 1.12.080.004 Auctions
 - 1.12.080.005 Data processing contract or license agreements
 - 1.12.080.006 Compatibility of equipment, accessories, or replacement parts
 - 1.12.080.007 Purchasing method impairs functioning of agency
 - 1.12.080.008 No offer received under other purchasing method
 - 1.12.080.009 Evaluation of supplies or system containing supplies
 - 1.12.080.010 Governmental discount available
 - 1.12.080.011 Single source for supply
 - 1.12.080.012 Efficiency and economic advantages
 - 1.12.080.013 Contact with a federal agency
 - 1.12.080.014 Contract with a state agency
 - 1.12.080.015 Transfer from federal government
 - 1.12.080.016 Acceptance of gift
 - 1.12.080.017 Purchase from a public utility
- 1.12.090 PURCHASES FROM THE DEPARTMENT OF CORRECTION**
- 1.12.100 PURCHASE OF REHABILITATION CENTER PRODUCTS**
 - 1.12.100.001 Definitions
 - 1.12.100.002 General provisions
- 1.12.110 PURCHASES FROM QUALIFIED NONPROFIT AGENCIES FOR PERSONS WITH SEVERE DISABILITIES**
- 1.12.120 SMALL BUSINESS SET-ASIDE PURCHASES**
 - 1.12.120.001 Definitions
 - 1.12.120.002 Rules
 - 1.12.120.003 Designation as a Small Business Set-Aside
 - 1.12.120.004 Award of contract
 - 1.12.120.005 Rejection of officers
 - 1.12.120.006 Assistance from Department of Commerce
- 1.12.130 PETROLEUM PRODUCTS**
- 1.12.140 SERVICES**
 - 1.12.140.001 Definitions
 - 1.12.140.002 General provisions
 - 1.12.140.003 Rules and policies
 - 1.12.140.004 Contracts for collection services
- 1.12.150 QUALIFICATIONS AND DUTIES OF OFFERORS**
 - 1.12.150.001 Responsibility of offeror
 - 1.12.150.002 Responsiveness of offeror
 - 1.12.150.003 Prequalified contractors
 - 1.12.150.004 Evidence of financial responsibility
 - 1.12.150.005 Performance Bond
 - 1.12.150.006 Affirmation by offeror

1.12.160	PURCHASING PREFERENCES
1.12.160.001	Rules
1.12.160.002	Allowable preferences
1.12.160.003	Claiming a preference
1.12.160.004	Computation of adjusted offer
1.12.160.005	Contract award
1.12.160.006	Price preferences
1.12.160.007	Coal mined in Indiana
1.12.160.008	Supplies manufactured in the United States
1.12.170	CONTRACT PROVISIONS
1.12.170.001	Cost plus a percentage of cost contract
1.12.170.002	Cost reimbursement contract
1.12.170.003	Time period
1.12.170.004	Appropriations
1.12.170.005	Renewal of contracts
1.12.170.006	Early performance
1.12.170.007	Late performance
1.12.170.008	Modification of contracts
1.12.170.009	Adjustments in price
1.12.180	OTHER ADMINISTRATIVE REQUIREMENTS
1.12.180.001	Public notice
1.12.180.002	Electronic transmissions of material
1.12.180.003	Acceptance of offer
1.12.180.004	Award of contracts
1.12.180.005	Cancellation of solicitation and rejection of offers
1.12.180.006	Offers opened after time stated in solicitation
1.12.180.007	Contract and purchasing records

1.12.010 GENERAL PROVISIONS. The “Public Purchasing Law” applies to every expenditure of public funds by a governmental body, unless specifically exempted in IC 5-22. (IC 5-22-1-1)

1.12.010.001 Definitions. IC 5-22-2 contains definitions applicable to the public purchasing statutes. Selected definitions are presented in this section and throughout this chapter.

- (1) "Policy" refers to a governmental body's or purchasing agency's written statement of purchasing procedure or substantive purchasing purposes that does not have the force and effect of law. (IC 5-22-2-21)
- (2) "Purchase" includes buy, procure, rent, lease, or otherwise acquire. The terms includes the following activities: description of requirements; solicitation or selection of sources; preparation and award of contract; all phases of contract administration; and all functions that pertain to purchasing. (IC 5-22-2-24)

- (3) "Purchasing Agency" means a governmental body that is authorized to enter into contracts by this article, rules adopted under this article, or by another law. (IC 5-22-2-25)
- (4) "Purchasing Agent" means an individual authorized by a purchasing agency to act as an agent for the purchasing agency in the administration of the duties of the purchasing agency. (IC 5-22-2-26)
- (5) "Rule" refers to an order, an ordinance, a resolution, or another procedure by which the governmental body is authorized by law to adopt a policy that has the force and effect of law. (IC 5-22-2-29)
- (6) "Supplies" means any property. The term includes equipment, goods, and materials. The term does not include an interest in real property. (IC 5-22-2-38) (Ord. 1999-2, General Provisions, Definitions, Jan. 11, 1999)

1.12.020 PURCHASING POLICIES OF TOWN OF LEAVENWORTH, INDIANA.

1.12.020.001 Publication of Notices.

- (1) Invitation for Bids. All notices of invitation for bids shall be published in accordance with IC 5-3-1 in the Clarion newspaper.

The purchasing agent shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of bids. The notice will be published two times, at least one week apart. The second publication must occur at least ten (10) days prior to the date the bids will be opened.

- (2) Request for Proposals. All notices of request for proposals shall be published in accordance with IC 5-3-1 in the Clarion newspaper.

The purchasing agent shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of proposals. The notice will be published two times, at least one week apart. The second publication must occur at least seven (7) days prior to the date the proposals will be opened.

- (3) Request for Specifications. All notices of request for specifications shall be published in accordance with IC 5-3-1 in the Clarion newspaper.

The purchasing agent shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of proposals. The notice will be published two times, at least one week apart. The second publication must occur at least seven (7) days prior to the date the proposals will be opened.

- (4) Electronic Notices. Whenever a notice or other material, including specifications, an invitation for bids, request for proposals or request for specifications, is sent by mail, the purchasing agent may also send the notice or other material by electronic means, provided that the transmission of the information is at least as efficient as mailing the information. (Ord. 1999-2, Purchasing Policies of Town of Leavenworth, Indiana, Publication of Notices, Jan. 11, 1999)

1.12.020.002 Receiving Offers.

- (1) Opening of Offers. Bids received in response to an invitation for bids must be opened publicly in the presence of at least one or more witnesses at the time and place designated in the invitation for bids.

Proposals received in response to a request for proposals must be opened so as to avoid disclosure of the contents to competing offerors during the process of negotiation.

Proposals received in response to a request for specifications may be opened as specified in the request for specifications.

- (2) Electronic Receipt of Offers. The purchasing agency may receive electronic offers in response to an invitation to bid, request for proposals or request for specifications.

An electronic offer may only receive an electronic offer if:

- A. The solicitation includes the procedure for the electronic transmission of the offer, and
- B. The purchasing agency receives the offer on a fax machine or other system with a security feature that protects the contents of an electronic offer with the same degree of protection as provided to an offer not transmitted electronically.

- (3) Correction and Withdrawal of Bids. An offeror may correct inadvertent errors in a bid up to the time at which bids will be opened by supplementing the erroneous bid and submitting a revised bid. A bidder may not supplement an inadvertently erroneous bid after the time at which the bids were opened.

A bidder may withdraw a bid containing inadvertent errors up to the time at which bids will be opened and for a period of not more than 24 hours after the time at which the bids were opened.

- (4) Cancellation of Solicitation. When the purchasing agent makes a written determination that it is in the Town's best interests, the purchasing agent may cancel a solicitation or reject all offers, provided that the solicitation included

information concerning the procedure for cancellation. (Ord. 2002-3, Apr. 8, 2002) (Ord. 1999-2, Purchasing Policies of Town of Leavenworth, Indiana, Publication of Notices, Jan. 11, 1999)

1.12.020.003 Small Purchases. The purchasing agent may purchase supplies with an estimated cost of less than \$25,000 on the open market without inviting or receiving quotes.

This policy is effective with enactment of an Ordinance establishing Public Purchases, Purchase of Land or Structures and Inventory, this January 11, 1999. (Ord. 1999-2, Purchasing Policies of Town of Leavenworth, Indiana, Publication of Notices, Jan. 11, 1999)

1.12.020.004 Rules and Written Policies. A governmental body may adopt rules to regulate purchases of the governmental body which may supplement IC 5-22 and not be inconsistent with IC 5-22.

The purchasing agency of a governmental body may establish written policies for purchases made by the purchasing agency. The written policies may apply to all purchases generally or to a specific purchase as stated in the solicitation for the purchase. A written policy may supplement this article or a rule adopted by the purchasing agency's governmental body and not be inconsistent with this article or a rule adopted by the purchasing agency's governmental body. (IC 5-22-3-3) (Ord. 1999-2, Purchasing Policies of Town of Leavenworth, Indiana, Rules and Written Policies, Jan. 11, 1999)

1.12.030 PURCHASING AUTHORITY FOR TOWN OF LEAVENWORTH, INDIANA.

1.12.030.001 Purchasing Agency. The Town Council hereby determines that it is the purchasing agency for the Town. (Ord. 1999-2, Purchasing Authority for Town of Leavenworth, Indiana, Purchasing Agency, Jan. 11, 1999)

1.12.030.002 Purchasing Agents. The Town Council hereby designates the following persons to serve as purchasing agents for the Town:

- (1) Each elected town official;
- (2) Town department heads acting for their department;
- (3) Such town employees as are designated from time to time, in writing. (Ord. 1999-2, Purchasing Authority for Town of Leavenworth, Indiana, Purchasing Agents, Jan. 11, 1999)

1.12.040 COMPETITIVE BIDDING. A purchasing agent shall follow competitive bidding procedures in awarding a contract for supplies, unless another purchasing method is required or authorized by IC 5-22. (IC 5-22-7-1)

1.12.040.001 Invitation for Bids. A purchasing agent shall issue an invitation for bids, as defined in IC 5-22-2-14. Pursuant to IC 5-22-7-2, an invitation for bids must include the following:

- (1) A purchase description. IC 5-22-2-27 defines a "purchase description" as the words used in a solicitation to describe the supplies or services to be purchased. The term includes specifications attached to, or made a part of, the solicitation.
- (2) All contractual terms and conditions that apply to the purchase.
- (3) A statement of the evaluation criteria that will be used, including any of the following: inspection; testing; quality; workmanship; delivery; suitability for a particular purpose; and the requirement imposed under IC 5-22-3-5 regarding offers submitted by trusts.

Evaluation criteria that will affect the bid price and be considered in the evaluation for an award must be objectively measurable. (IC 5-22-7-3)

Only criteria specified in the invitation for bids may be used in bid evaluation (IC 5-22-27-4)

- (4) The time and place for opening the bids.
- (5) A statement concerning whether the bid must be accompanied by a certified check or other evidence of financial responsibility that may be imposed in accordance with the rules or policies of the governmental body.
- (6) A statement concerning the conditions under which a bid may be canceled or rejected in whole or in part as specified under IC 5-22-18-2. (Ord. 1999-2, Competitive Bidding, Invitations for Bids, Jan. 11, 1999)

1.12.040.002 Notice of Invitation of Bids. The purchasing agency shall give notice of the invitation for bids in a manner required by IC 5-3-1. (IC 5-22-7-5) (Ord. 1999-2, Competitive Bidding, Notice of Invitation of Bids, Jan. 11, 1999)

1.12.040.003 Public Opening of Bids. The purchasing agency shall open bids publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. (IC 5-22-7-6) (Ord. 1999-2, Competitive Bidding, Public Opening of bids, Jan. 11, 1999)

1.12.040.004 Acceptance and Evaluation of Bids. Bids must be unconditionally accepted without alteration or correction, except as provided in IC 5-22-7-11 through IC 5-22-7-13 and evaluated based on the requirements provided in the invitation for bids. (IC 5-22-7-7)

- (1) Change in Bid Prices. A purchasing agency may not permit changes in bid prices or other provisions of bids prejudicial to the interest of the governmental body or fair competition after bid opening. (IC 5-22-7-11)

- (2) Additional Terms or Items. If a bidder inserts contract terms or bids on items not specified in the invitation for bids, the purchasing agent shall treat the additional material as a proposal for addition to the contract and may do any of the following:
 - A. Declare the bidder nonresponsive.
 - B. Permit the bidder to withdraw the proposed additions to the contract in order to meet the requirements and criteria provided in the invitation for bids.
 - C. Accept any of the proposed additions to the contract, subject to IC 5-22-7-13. (IC 5-22-7-12)
- (3) Contract Additions. The purchasing agent may not accept proposed additions to the contract that are prejudicial to the interest of the governmental body or fair competition. (IC 5-22-7-13)
- (4) Invitation for Bid Requirements. A decision of the purchasing agent to permit a change to the requirements of the invitation for bids must be supported by a written determination by the purchasing agency. (IC 5-22-7-13) (Ord. 1999-2, Competitive Bidding, Acceptance and Evaluation of Bids, Jan. 11, 1999)

1.12.040.005 Awarding of Contract. A contract must be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder. (IC 5-22-7-8) (Ord. 1999-2, Competitive Bidding, Awarding of Contract, Jan. 11, 1999)

1.12.040.006 Erroneous Bid or Mistake. The governmental body may adopt rules or establish policies to allow any of the following:

- (1) Correction or withdrawal of inadvertently erroneous bids before or after award.
- (2) Cancellation of awards or contracts based on a mistake described in subdivision (1).

Except as provided in rule or policy, a purchasing agency must make a written decision to permit the correction or withdrawal of a bid or cancel awards or contracts based on bid mistakes. (IC 5-22-7-10) (Ord. 1999-2, Competitive Bidding, Erroneous Bid or Mistake, Jan. 11, 1999)

1.12.04.007 Maintenance of Information by Purchasing Agency. The purchasing agency shall maintain the following information:

- (1) The name of each bidder.

- (2) The amount of each bid.
- (3) Other information required by this article and rules adopted under this article.

This information is subject to public inspection after each contract award. (IC 5-22-7-9) (Ord. 1999-2, Competitive Bidding, Maintenance of Information by Purchasing Agency, Jan. 11, 1999)

1.12.050 SPECIFICATIONS.

1.12.050.001 General Provisions.

- (1) Economy. A specification must promote overall economy for the purposes intended and encourage competition in satisfying the governmental body's needs. (IC 5-22-5-3)
- (2) Rules and Policies. A governmental body may adopt rules or establish policies for the preparation, maintenance, and content of specifications. Rules or policies may include a description of requirements for inspecting, testing, or preparing an item for delivery. (IC 5-22-5-1)
- (3) Purchasing Agent Responsibility. A purchasing agent shall prepare, issue, revise maintain, and monitor the use of specifications. (IC 5-22-5-2)
- (4) File of Specifications. The purchasing agency shall maintain an indexed file of specifications prepared by or under the authority of its purchasing agents. (IC 5-22-5-4) (Ord. 1999-2, Specifications, General Provisions, Jan. 11, 1999)

1.12.050.002 Request for Specifications. A request for specifications may be issued if the purchasing agent makes a written determination that the development of specifications by the governmental body is not feasible and the executive of the governmental body approves the use of a request for specifications under IC 5-22-5-5. (IC 5-22-5-5)

A request for specifications must include the following:

- (1) Factors or criteria that will be used in evaluating the specifications.
- (2) A statement concerning the relative importance of evaluation factors.
- (3) A statement concerning whether discussions may be conducted with persons proposing specifications to clarify the specification requirements. (IC 5-22-5-5) (Ord. 1999-2, Specifications, Request for Specifications, Jan. 11, 1999)

1.12.050.003 Notice. The purchasing agent shall give notice of the request for specifications under IC 5-3-1. (IC 5-22-5-5) (Ord. 1999-2, Specifications, Notice, Jan. 11, 1999)

1.12.050.004 Discussion and Revision of Specifications. As provided in the request for specifications, the purchasing agent may discuss proposed specifications with persons proposing specifications to clarify specification requirements. Persons proposing specifications must be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposed specifications. (IC 5-22-5-5) (Ord. 1999-2, Specifications, Discussion and revision of Specifications, Jan. 11, 1999)

1.12.060 REQUEST FOR PROPOSALS. When a purchasing agent makes a written determination that the use of competitive sealed bidding is either not practicable or not advantageous to the governmental body, the purchasing agent may award a contract using the request for proposals process under IC 5-22-9 instead of competitive sealed bidding under IC 5-22-7. (IC 5-22-9-1)

1.12.060.001 Rules and Policies. The governmental body may provide by rule or policy that it is either not practicable or not advantageous to the governmental body to purchase specified types of supplies by competitive sealed bidding and receiving proposals is the preferred method for purchase of that type of supply. (IC 5-22-9-8) (Ord. 1999-2, Request for Proposals, Rules and Policies, Jan. 11, 1999)

1.12.060.002 Content of Request for Proposals. The purchasing agent shall solicit proposals through a request for proposals, which must include the following:

- (1) The factors or criteria that will be used in evaluating the proposals.
- (2) A statement concerning the relative importance of price and the other evaluation factors.
- (3) A statement concerning whether the proposal must be accompanied by a certified check or other evidence of financial responsibility, which may be imposed in accordance with the rules of the governmental body.
- (4) A statement concerning whether discussions may be conducted with responsible offerors, who submit proposals determined to be reasonably susceptible of being selected for award. (IC 5-22-9-2)

The only factors or criteria that may be used in the evaluation of proposals are those specified in the request for proposals. (IC 5-22-9-10) (Ord. 1999-2, Request for Proposals, Content of Request for Proposals, Jan. 11, 1999)

1.12.060.003 Notice. The purchasing agency shall give public notice of the request for proposals in the manner required by IC 5-3-1. (IC 5-22-9-3) (Ord. 1999-2, Request for Proposals, Notice, Jan. 11, 1999)

1.12.060.004 Opening of Proposals. Proposals must be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. (IC 5-22-9-4) (Ord. 1999-2, Request for Proposals, Opening of Proposals, Jan. 11, 1999)

1.12.060.005 Discussion and Revision of Proposals. As provided in the request for proposals or under the rules or policies of the governmental body, discussions may be conducted with, and best and final offers obtained from, responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. (IC 5-22-9-6)

Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals. In conducting discussions with an offeror, information derived from proposals submitted by competing offerors may not be disclosed. (IC 5-22-9-9) (Ord. 1999-2, Request for Proposals, Discussion and Revision of Proposals, Jan. 11, 1999)

1.12.060.006 Award. Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the governmental body, taking into consideration price and the other evaluation factors set forth in the request for proposals. (IC 5-22-9-7)

If provided in the request for proposals, award may be made to more than one offeror whose proposals are determined in writing to be advantageous to the governmental body, taking into consideration price and other evaluation factors set forth in the request for proposals. (IC 5-22-9-7) (Ord. 1999-2, Request for Proposals, Award, Jan. 11, 1999)

1.12.060.007 Register of Proposals. A register of proposals must be prepared and open for public inspection after contract award. The register of proposals must contain the following:

- (1) A copy of the request for proposals.
- (2) A list of all persons to whom copies of the request for proposals were given.
- (3) A list of all proposals received, which must include all the following:
 - A. The names and addresses of all offerors;
 - B. The dollar amount of each offer; and
 - C. The name of the successful offeror and the dollar amount of that offeror's offer.
- (4) The basis on which the award was made.
- (5) The entire contents of the contract file except for proprietary information included with an offer, such as trade secrets, manufacturing processes, and financial information that was not required to be made available for public inspection by the terms of the request for proposals. (IC 5-22-9-5) (Ord. 1999-2, Request for Proposals, Register of Proposals, Jan. 11, 1999)

1.12.070 SMALL PURCHASES

1.12.070.001 General Provisions. Purchase requirements may not be artificially divided so as to constitute a small purchase under IC 5-22-8. (IC 5-22-8-1) (Ord. 1999-2, Small Purchases, General Provisions, Jan. 11, 1999)

1.12.070.002 Quotes.

- (1) Solicitation of Quotes. If the purchasing agent expects the purchase to be at least \$25,000 and not more than \$75,000, the purchasing agent may purchase supplies by inviting quotes from at least three persons known to deal in the lines or classes of supplies to be purchased. (IC 5-22-8-3)

The purchasing agent shall mail an invitation to quote at least seven days before the time fixed for receiving quotes. (5-22-8-3)

- (2) Award of Contract. If the purchasing agent receives a satisfactory quote, the purchasing agent shall award a contract to the lowest responsible and responsive offeror for each line or class of supplies required. (IC 5-22-8-3)
- (3) Rejection of Quotes. The purchasing agent may reject all quotes. (IC 5-22-8-3)
- (4) No Satisfactory Quote Received. If the purchasing agent does not receive a quote from a responsible and responsive offeror, the purchasing agent may purchase the supplies under IC 5-22-10-10. (IC 5-22-8-3) (Ord. 1999-2, Small Purchases, Quotes, Jan. 11, 1999)

1.12.070.003 Small Purchase Policies. If the purchasing agent expects the purchase to be less than \$25,000, the purchasing agent may make a purchase under small purchase policies established by the purchasing agency or under rules adopted by the governmental body. (IC 5-22-8-2) (Ord. 1999-2, Small Purchases, Small Purchase Policies, Jan. 11, 1999)

1.12.080 SPECIAL PURCHASING METHODS. Notwithstanding any other provision of IC 5-22, a purchasing agent may make a purchase under IC 5-22-10 without soliciting bids or proposals. (IC 5-22-10-1)

1.12.080.001 Administrative Requirements.

- (1) Listing of Contracts. A governmental body shall maintain a record listing all contracts made under IC 5-22-10 for a minimum of five years. The record must contain the following information:

- A. Each contractor's name.
- B. The amount and type of each contract.

- C. A description of the supplies purchased under each contract. (IC 5-22-10-3)
- (2) Contract Files. A purchasing agent shall maintain the contract records for a special purchase in a separate file. A purchasing agent shall include in the contract file a written determination of the basis for the special purchase and the selection of a particular contractor. The contract records for a special purchase are subject to annual audit by the State Board of Accounts. (IC 5-22-10-3)
- (3) Competition. A special purchase must be made with competition as is practicable under the circumstances. (IC 5-22-10-2) (Ord. 1999-2, Special Purchasing Methods, Administrative Requirements, Jan. 11, 1999)

1.12.080.002 Emergency Conditions. A purchasing agent may make a special purchase when there exists, under emergency conditions, a threat to public health, welfare, or safety. (IC 5-22-10-4) (Ord. 1999-2, Special Purchasing Methods, Emergency Conditions, Jan. 11, 1999)

1.12.080.003 Savings to Governmental Body. A purchasing agent may make a special purchase when there exists a unique opportunity to obtain supplies or services at a substantial savings to the governmental body. (IC 5-22-10-5) (Ord. 1999-2, Special Purchasing Methods, Savings to Governmental Body, Jan. 11, 1999)

1.12.080.004 Auctions. A purchasing agent may make a special purchase at an auction. (IC 5-22-10-6) (Ord. 1999-2, Special Purchasing Methods, Auctions, Jan. 11, 1999)

1.12.080.005 Data Processing Contract or License Agreements. A purchasing agent may make a special purchase of data processing contracts or license agreements for software programs or supplies or services when only one source meets the using agency's reasonable requirements. (IC 5-22-10-7) (Ord. 1999-2, Special Purchasing Methods, Data Processing Contract or License Agreements, Jan. 11, 1999)

1.12.080.006 Compatibility of Equipment, Accessories, or Replacement Parts. A purchasing agent may make a special purchase when the compatibility of equipment, accessories, or replacement parts is a substantial consideration in the purchase and only one source meets the using agency's reasonable requirements. (IC 5-22-10-8) (Ord. 1999-2, Special Purchasing Methods, Compatibility of Equipment, Accessories, or Replacement Parts, Jan. 11, 1999)

1.12.080.007 Purchasing Method Impairs Functioning of Agency. A purchasing agent may make a special purchase when purchase of the required supplies or services under another purchasing method under this article would seriously impair the functioning of the using agency. (IC 5-22-10-9) (Ord. 1999-2, Special Purchasing Methods, Purchasing Methods Impairs Functioning of Agency, Jan. 11, 1999)

1.12.080.008 No Offer Received Under Other Purchasing Method. A purchasing agent may make a special purchase when the purchasing agency has solicited for a purchase under

another purchasing method described in IC 5-22 and has not received a responsive offer. (IC 5-22-10-10) (Ord. 1999-2, Special Purchasing Methods, No Offer Received Under Other Purchasing Method, Jan. 11, 1999)

1.12.080.009 Evaluation of Supplies or System Containing Supplies. A purchasing agent may make a special purchase for the evaluation of supplies or a system containing supplies for any of the following reasons:

- (1) To obtain functional information or comparative data.
- (2) For a purpose that in the judgment of the purchasing agent may advance the long term competitive position of the governmental body. (IC 5-22-10-11) (Ord. 1999-2, Special Purchasing Methods, Evaluation of Supplies or System Containing Supplies, Jan. 11, 1999)

1.12.080.010 Governmental Discount Available. A purchasing agent may make a special purchase when the market structure is based on price but the governmental body is able to receive a dollar or percentage discount of the established price. (IC 5-22-10-12) (Ord. 1999-2, Special Purchasing Methods, Governmental Discount Available, Jan. 11, 1999)

1.12.080.011 Single Source for Supply. Subject to IC 5-22-10-14 and IC 5-22-10-15, a purchasing agent may award a contract for a supply when there is only one source for the supply and the purchasing agent determines in writing that there is only one source for the supply. (IC 5-22-10-13) (Ord. 1999-2, Special Purchasing Methods, Single Source for Supply, Jan. 11, 1999)

1.12.080.012 Efficiency and Economic Advantages. A purchasing agent may make a purchase from a person when the purchasing agent determines in writing that supplies can be purchased from the person or the person's authorized representative at prices equal to or less than the prices stipulated in current federal supply service schedules established by the federal General Services Administration; and it is advantageous to the governmental body's interest in efficiency and economy. (IC 5-22-10-14) (Ord. 1999-2, Special Purchasing Methods, Efficiency and Economic Advantages, Jan. 11, 1999)

1.12.080.013 Contract With A Federal Agency. A purchasing agent may purchase supplies if the purchase is made from a person who has a contract with a federal agency and the person's contract with the federal agency requires the person to make the supplies available to the state or political subdivisions. (IC 5-22-10-15) (Ord. 1999-2, Special Purchasing Methods, Contract with a Federal Agency, Jan. 11, 1999)

1.12.080.014 Contract With A State Agency. A purchasing agent for a political subdivision may purchase supplies if the purchase is made from a person who has a contract with a state agency and the person's contract with the state requires the person to make the supplies or services available to political subdivisions. (IC 5-22-10-15) (Ord. 1999-2, Special Purchasing Methods, Contract with a State Agency, Jan. 11, 1999)

1.12.080.015 Transfer From Federal Government. A purchasing agent may acquire supplies if the purchasing agent determines that the governmental body can obtain the

transfer of the supplies from the federal government under IC 4-13-1.7 at a cost less than would be obtained from purchase of the supplies by soliciting for bids or proposals. (IC 5-22-10-16)

- (1) Appropriation. A governmental body may not make a purchase under this section if title to the property will be transferred to the governmental body before a sufficient appropriation to pay the costs of the purchase is appropriated. However, if the supplies will be transferred to the governmental body upon conditional sale or under a lease, a lease with option to purchase or a contract for the use of the supplies, the governmental body may make the purchase under this section if there are sufficient funds to pay the consideration required for one year of the agreement. (IC 5-22-10-16)
- (2) Notice. A purchasing agent who purchases or leases surplus federal materials shall, at the time of the purchase or lease, or immediately thereafter, give public notice in accordance with IC 5-3-1. (IC 5-22-10-16) (Ord. 1999-2, Special Purchasing Methods, Transfer from Federal Government, Jan. 11, 1999)

1.12.080.016 Acceptance of Gift. A purchasing agent may acquire supplies by accepting a gift for the purchasing agent's governmental body. (IC 5-22-10-17) (Ord. 1999-2, Special Purchasing Methods, Acceptance of Gift, Jan. 11, 1999)

1.12.080.017 Purchase From A Public Utility. A purchasing agent may make a special purchase from a public utility if the purchase or lease price is a negotiated price that considers the results of an independent appraisal that the purchasing agency obtains and an independent appraisal that the public utility obtains. (IC 5-22-10-19) (Ord. 1999-2, Special Purchasing Methods, Purchase from a Public Utility, Jan. 11, 1999)

1.12.090 PURCHASES FROM THE DEPARTMENT OF CORRECTION. Subject to IC 5-22-11-2, a governmental body shall purchase from the department of correction supplies and services produced or manufactured by the department under IC 11-10-6 as listed in the department's printed catalog unless the supplies and services cannot be furnished in a timely manner. (IC 5-22-11-1)

Supplies and services purchased under this chapter must meet the specifications and needs of the purchasing governmental body and be purchased at a fair market value. (IC 5-22-11-2) (Ord. 1999-2, Purchases from the Department of Correction, Jan. 11, 1999)

1.12.100 PURCHASE OF REHABILITATION CENTER PRODUCTS.

1.12.100.001 Definitions.

- (1) "Bureau" refers to the rehabilitation services bureau of the division of disability, aging, and rehabilitation services established under IC 12-12-1-1. (IC 5-22-12-2)

- (2) "Rehabilitation Center" refers to the rehabilitation center established under IC 12-12-3-1. (IC 5-22-12-3) (Ord. 1999-2, Purchase of Rehabilitation Center Products, Definitions, Jan. 11, 1999)

1.12.100.002 General Provisions. A governmental body shall purchase articles produced by the rehabilitation center under the same conditions as articles produced by the department of correction under IC 5-22-11, unless similar articles are produced by the governmental body. (IC 5-22-12-4)

Whenever a governmental body needs an article listed in the catalog published by the bureau, the governmental body:

- (1) Shall give the bureau a reasonable time to produce or supply the article; and
- (2) Except for an article produced by the department of correction, may not elsewhere contract for, purchase or pay a bill for an article described in the catalog unless the article cannot be furnished by the bureau. (IC 5-22-12-6)

A governmental body may contract elsewhere for purchase of an article described in the catalog if the bureau gives a written statement that the bureau cannot furnish the article. (IC 5-22-12-6)

Supplies purchased under this chapter must meet the specifications and needs of the purchasing governmental body and be purchased at a fair market price. (IC 5-22-12-7) (Ord. 1999-2, Purchase of Rehabilitation Center Products, General Provisions, Jan. 11, 1999)

1.12.110 PURCHASES FROM QUALIFIED NONPROFIT AGENCIES FOR PERSONS WITH SEVERE DISABILITIES. The governmental body of a political subdivision may purchase supplies and services without advertising or calling for bids from a qualified agency under the same conditions as supplies produced by the department of correction are purchased under IC 5-22-11. (IC 5-22-13-2)

Supplies and services purchased under this chapter must meet the specifications and needs of the purchasing governmental body and be purchased at a fair market price. (IC 5-22-13-5) (Ord. 1999-2, Purchases from Qualified Non-Profit Agencies for Persons with Severe Disabilities, Jan. 11, 1999)

1.12.120 SMALL BUSINESS SET-ASIDE PURCHASES.

1.12.120.001 Definitions.

- (1) "Small business" means a business that is independently owned and operated, is not dominant in its field of operation, and satisfies the criteria in the rules adopted under IC 5-22-14-3. (IC 5-22-14-1)
- (2) "Small business set-aside" means a purchase in which the solicitation states that offers will be accepted only by small businesses. (IC 5-22-14-2) (Ord. 1999-2, Small Business Set-Aside Purchases, Definitions, Jan. 11, 1999)

1.12.120.002 Rules. A governmental body may adopt rules to implement IC 5-22-14. The rules must establish criteria for determining qualifications as a small business. IC 5-22-14-3 contains criteria which must be included in the rules. The governmental body may also receive assistance from the Indiana Department of Commerce to establish criteria or to implement the rules. (IC 5-22-14-3)

A purchase from a small business under IC 5-22-14 is subject to all other provisions of IC 5-22 and the rules of the governmental body. (IC 5-22-14-10) (Ord. 1999-2, Small Business Set-Aside Purchases, Rules, Jan. 11, 1999)

1.12.120.003 Designation as a Small Business Set-Aside.

- (1) A small business designation must be made before the solicitation for the purchase is issued and the public notice of the purchase must state that the purchase is a small business set-aside. (IC 5-22-14-4)
- (2) If a purchase is designated as a small business set-aside, the solicitation must be confined to small businesses. (IC 5-22-14-6)
- (3) A governmental body that has adopted rules under IC 5-22-14 may identify as a small business set-aside specific supplies for which purchase has been requested under IC 5-22. (IC 5-22-14-4)
- (4) A governmental body may not designate a purchase as a small business set-aside unless there is a reasonable expectation that offers will be obtained from at least two small businesses capable of furnishing the desired supplies or service at a fair and reasonable price. (IC 5-22-14-5) (Ord. 1999-2, Small Business Set-Aside Purchases, Designation as a Small Business Set-Aside, Jan. 11, 1999)

1.12.120.004 Award of Contract. A contract shall be awarded to the lowest responsible and responsive offeror among the small businesses in accordance with the rules of the governmental body. (IC 5-22-14-7) (Ord. 1999-2, Small Business Set-Aside Purchases, Award of Contract, Jan. 11, 1999)

1.12.120.005 Rejection of Offers. If the purchasing agent determines that acceptance of the lowest responsible and responsive offer will result in the payment of an unreasonable price, the purchasing agent shall reject all offers and may withdraw designation of the purchase as a small business set-aside. (Ord. 1999-2, Small Business Set-Aside Purchases, Rejection of Officers, Jan. 11, 1999)

1.12.120.006 Assistance From Department of Commerce. The Department of Commerce may assist a governmental body in doing any of the following:

- (1) Compiling and maintaining a comprehensive list of small businesses.

- (2) Assisting small businesses in complying with the procedures for bidding on governmental contracts.
- (3) Examining requests from governmental bodies for the purchase of supplies to help determine which purchases are to be designated small business set-asides.
- (4) Simplifying specifications and contract terms to increase the opportunities for small business participation in governmental contracts.
- (5) Investigations by a governmental body to determine the responsibility of offerors on small business set-asides. (IC 5-22-14-9) (Ord. 1999-2, Small Business Set-Aside Purchases, Assistance from Department of Commerce, Jan. 11, 1999)

1.12.130 PETROLEUM PRODUCTS. A purchasing agent may award a contract for petroleum products to the lowest responsible and responsive offeror or all responsible and responsive offerors. The contract may allow for the escalation or de-escalation of price.

The purchasing agent must purchase the petroleum products from the lowest of the responsible and responsive bidders. The contract must provide that the bidder from whom petroleum products are being purchased shall provide five business days written notice of any change in price. Upon receipt of written notice, the purchasing agent shall request current price quotes in writing based upon terms and conditions of the original offer (as awarded) from all successful responsible and responsive offerors. The purchasing agent shall record the quotes in minutes or memoranda. The purchasing agent shall purchase the petroleum products from the lowest responsible and responsive offeror, taking into account the price change of the current supplier and the price quotes of the other responsible and responsive offerors. (IC 5-22-17-10) (Ord. 1999-2, Petroleum Products, Jan. 11, 1999)

1.12.140 SERVICES.

1.12.140.001 Definitions.

- (1) "Services" means the furnishing of labor, time, or effort by a person, not involving the delivery of specific supplies other than printed documents or other items that are merely incidental to the required performance. (IC 5-22-2-30) (Ord. 1999-2, Services, Definitions, Jan. 11, 1999)

1.12.140.002 General Provisions. The purchasing agency of a governmental body may purchase services using any procedure the governmental body or the purchasing agency of the governmental body considers appropriate. (IC 5-22-6-1)

Payments made or received for contractual services should be supported by a written contract. Each governmental unit is responsible for complying with the provisions of its contracts. (Ord. 1999-2, Services, General Provisions, Jan. 11, 1999)

1.12.140.003 Rules and Policies. A governmental body may adopt rules governing the purchase of services for the governmental body. The purchasing agency of a governmental body may establish policies regarding the purchase of services for the governmental body. (IC 5-22-6-2) (Ord. 1999-2, Services, Rules and Policies, Jan. 11, 1999)

1.12.140.004 Contracts for Collection Services. A unit of local government or an agency of a unit of local government may contract with a collection agency to collect amounts due and authorize the collection agency to collect from the debtor a collection fee. (IC 5-22-6.5-3)

The governmental body shall award a contract for collection services using any procedure authorized by statute. (IC 5-22-6.5-4) (Ord. 1999-2, Services, Contracts for Collection Services, Jan. 11, 1999)

1.12.150 QUALIFICATIONS AND DUTIES OF OFFERORS.

1.12.150.001 Responsibility of Offeror.

- (1) **Written Determination.** If the purchasing agent determines that an offeror is not responsible, that determination must be made in writing by the purchasing agent. (IC 5-22-16-1)
- (2) **Factors.** In determining whether an offeror is responsible, a purchasing agent may consider the following factors:
 - A. The ability and capacity of the offeror to provide the supplies or service.
 - B. The integrity, character, and reputation of the offeror.
 - C. The competency and experience of the offeror. (IC 5-22-16-1)
- (3) **Failure to Provide Information.** If an offeror fails to provide information required by the purchasing agent concerning a determination of whether the offeror is responsible, that offeror may not be considered responsible. Information furnished by an offeror shall not be disclosed outside the purchasing agency without the offeror's prior written consent. (IC 5-22-16-1)
- (4) **Foreign Corporation.** An offeror that is a foreign corporation must be registered with the secretary of state to do business in Indiana in order to be considered responsible. The purchasing agent may award a contract to an offeror pending the offeror's registration with the secretary of state. If, in the judgment of the purchasing agent, the offeror has not registered within a reasonable period, the purchasing agent shall cancel the contract. (IC 5-22-16-4) (Ord. 1999-2, Qualifications and Duties of Offerors, Responsibility of Offeror, Jan. 11, 1999)

1.12.150.002 Responsiveness of Offeror. In determining whether an offeror is responsive, a purchasing agent may consider the following factors:

- (1) Whether the offeror has submitted an offer that conforms in all material respects to the specifications.
- (2) Whether the offeror has submitted an offer that complies specifically with the solicitation and the instructions to offerors.
- (3) Whether the offeror has complied with all applicable statutes, ordinances, resolutions, or rules pertaining to the award of a public contract (IC 5-22-16-2) (Ord. 1999-2, Qualifications and Duties of Offerors, Responsibility of Offeror, Jan. 11, 1999)

1.12.150.003 Prequalified Contractors. Prospective contractors may be prequalified for particular types of supplies. Solicitation mailing lists of potential contractors may include any or all of such prequalified persons.
(IC 5-22-16-3) (Ord. 1999-2, Qualifications and Duties of Offerors, Prequalified Contractors, Jan. 11, 1999)

1.12.150.004 Evidence of Financial Responsibility.

- (1) Solicitation. A purchasing agent may specify in a solicitation that an offeror must provide evidence of financial responsibility in order to be considered responsible. The evidence of financial responsibility may be a bond, certified check, or other evidence specified by the purchasing agent in the solicitation. An offeror must file evidence of financial responsibility in the amount, at the time and as specified by the purchasing agent in the solicitation. (IC 5-22-16-5)
- (2) Amount. If a bond or certified check is required as the evidence of financial responsibility, the amount of the bond or certified check may not be set at more than ten percent of the contract price. The bond, certified check, or other evidence of financial responsibility shall be made payable to the governmental body. (IC 5-22-16-5)
- (3) Check of Successful Offeror. The check of a successful offeror shall be held until delivery or until completion of the contract. (IC 5-22-16-5)
- (4) Check of Unsuccessful Offeror. The check of an unsuccessful offeror shall be returned to the offeror by the purchasing agent upon selection of successful offerors. (IC 5-22-16-5) (Ord. 1999-2, Qualifications and Duties of Offeror, Evidence of Financial responsibility, Jan. 11, 1999)

1.12.150.005 Performance Bond. A performance bond may be required in addition to the bond, certified check or other evidence of financial responsibility if the amount of the

performance bond is stated in the solicitation. (IC 5-22-16-5) (Ord. 1999-2, Qualifications and Duties of Offeror, Performance Bond, Jan. 11, 1999)

1.12.150.006 Affirmation by Offeror. An offeror must file with the purchasing agent an affirmation, made under the penalties for perjury, that states in substance the following:

- (1) The offeror has not entered into a combination or an agreement; relative to the price to be offered by a person; to prevent a person from making an offer; or to induce a person to refrain from making an offer.
- (2) The offeror's offer is made without reference to any other offer.

The purchasing agent may require the affirmation to be made in the contract documents.

The purchasing agent shall reject an offer that the purchasing agent finds to be collusive.

If after the purchasing agent has awarded the contract, the purchasing agent discovers that the successful offeror's affirmation was false, the purchasing agent shall declare the contract forfeited and award a new contract. (IC 5-22-16-6) (Ord. 1999-2, Qualifications and Duties of Offeror, Performance Bond, Jan. 11, 1999)

1.12.160 PURCHASING PREFERENCES.

1.12.160.001 Rules. A governmental body may adopt rules to implement the statutes governing purchasing preferences. (IC 5-22-15-15) (Ord. 1999-2, Purchasing Preferences, Rules, Jan. 11, 1999)

1.12.160.002 Allowable Preferences. An offeror may claim one of the following types of preference for which the offeror is eligible:

- (1) An Indiana business preference under rules adopted under IC 5-22-15-20 or IC 4-13.6-6-2.5
- (2) A preference for supplies as provided by sections 16, 17, 18, and 19 of IC 5-22-15.

An offeror may not claim more than one preference as provided by sections 16, 17, 18, and 19 of IC 5-22-15 for a given supply item. (IC 5-22-15-7) (Ord. 1999-2, Purchasing Preferences, Allowable Preferences, Jan. 11, 1999)

1.12.160.003 Claiming a Preference. An offeror who wants to claim a preference provided under this chapter for a given supply item must indicate in the offer what supply item in the offer is a preferred supply. (IC 5-22-15-8)

A purchasing agent may require an offeror who claims a preference for a given supply item under IC 5-22-15-8 to certify that the supply offered meets the qualifications set for preferred supplies. (IC 5-22-15-9) (Ord. 1999-2, Purchasing Preferences, Claiming a Preference, Jan. 11, 1999)

1.12.160.004 Computation of Adjusted Offer. If an offeror offers a preferred supply for a given supply item, the purchasing agent shall compute an adjusted offer for that item according to the following formula:

- STEP ONE: Determine the price preference percentage for the supply item under this chapter.
- STEP TWO: Multiply the offeror's offer for the supply item by the percentage determined under STEP ONE.
- STEP THREE: Subtract the number determined under STEP TWO from the offeror's offer for the supply item.

This computation does not apply to an absolute preference, as defined in IC 5-22-15-2. (IC 5-22-15-10) (Ord. 1999-2, Purchasing Preferences, Computation of Adjusted Offer, Jan. 11, 1999)

1.12.160.005 Contract Award. Notwithstanding any statute requiring the award of a contract to the lowest offeror, but subject to IC 5-22-15-12, a purchasing agent shall award a contract to the offeror whose total adjusted offer is lower than the total adjusted offer of each other offeror. (IC 5-22-15-11)

The award of a contract under IC 5-22-15-11 is subject to the following:

- (1) A requirement of an applicable statute to award a contract to a responsible and responsive bidder.
- (2) A requirement of an applicable statute to award a contract to the best bidder or, in the case of a purchase under IC 5-22-9, to the offeror whose offer is most advantageous to the governmental body.
- (3) The authority of the purchasing agent under IC 5-22-17-12 to award contracts separately or for a combination of a line or class of supplies. (IC 5-22-15-12)

If the purchasing agent awards contracts separately, or for a combination of a line or class of supplies under an applicable law, the purchasing agent shall compute total adjusted offers and award contracts as if each combination of liens or classes of supplies to be awarded a contract had been solicited separately. (IC 5-22-15-13)

The price paid for preferred supplies purchased under a contract shall be the price offered for the supplies and not the adjusted offer price of the supplies. (IC 5-22-15-14) (Ord. 1999-2, Purchasing Preferences, Contract Award, Jan. 11, 1999)

1.12.160.006 Price Preferences.

- (1) Price preference of ten percent for supplies containing recyclable materials which meet the standards set forth in IC 5-22-15-16. (IC 5-22-15-16)
- (2) Price preference of fifteen percent for supplies containing recyclable materials which meet the standards set forth in IC 5-22-15-17. (IC 5-22-15-17)
- (3) Price preference of ten percent for the purchase of soy diesel/bio diesel which meets the standards set forth in IC 5-22-15-19. (IC 5-22-15-19)
- (4) Price preference to Indiana Businesses. A governmental body may adopt rules to give a preference to an Indiana Business that submits an offer for a purchase if the requirements of IC 5-22-15-20 are met. (IC 5-22-15-20) (Ord. 1999-2, Purchasing Preferences, Price Preference, Jan. 11, 1999)

1.12.160.007 Coal Mined in Indiana. Whenever a purchasing agent purchases coal for use as a fuel, the purchasing agent shall give an absolute preference to coal mined in Indiana. This does not apply if federal law requires the use of low sulphur coal in the circumstances for which the coal is purchased. (IC 5-22-15-22)

"Absolute preference" means a requirement that a governmental body must purchase supplies regardless of price. (IC 5-22-15-22) (Ord. 1999-2, Purchasing Preferences, Coal Mined in Indiana, Jan. 11, 1999)

1.12.160.008 Supplies Manufactured in the United States. A governmental body shall adopt rules to promote the purchase of supplies manufactured in the United States. These rules shall provide that supplies manufactured in the United States shall be specified and purchased unless the governmental body determines that the requirements of IC 5-22-15-21(c) are met. (IC 5-22-15-21) (Ord. 1999-2, Purchasing Preferences, Supplies Manufactured in the United States, Jan. 11, 1999)

1.12.170 CONTRACT PROVISIONS.

1.12.170.001 Cost Plus a Percentage of Cost Contract. A governmental body may not enter into a cost plus a percentage of cost contract. (IC 5-22-17-1) (Ord. 1999-2, Contract Provisions, Cost Plus a Percentage of Cost Contract, Jan. 11, 1999)

1.12.170.002 Cost Reimbursement Contract. A governmental body may enter into a cost reimbursement contract if the purchasing agent determines in writing that the contract is likely to be less costly to the governmental body than any other contract type, or that it is impracticable to obtain the supplies required except under such a contract. (IC 5-22-17-2) (Ord. 1999-2, Contract Provisions, Cost Reimbursement Contract, Jan. 11, 1999)

1.12.170.003 Time Period. A contract for supplies may be entered into for a period not to exceed four years. However, this does not apply to a discounted contractual arrangement for

services or supplies funded through a designated leasing entity. (IC 5-22-17-3) (Ord. 1999-2, Contract Provisions, Time Period, Jan. 11, 1999)

1.12.170.004 Appropriations. The contract must specify that payment and performance obligations are subject to the appropriation and availability of funds. (IC 5-22-17-3)

A political subdivision must have available a sufficient appropriation balance or an approved additional appropriation before a purchasing agent may award a contract. (IC 5-22-17-3)

The foregoing two paragraphs do not apply to a discounted contractual arrangement for services or supplies funded through a designated leasing entity. (IC 5-22-17-3)

When the fiscal body of the governmental body makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of a contract, the contract is considered canceled. (IC 5-22-17-5) (Ord. 1999-2, Contract Provisions, Appropriations, Jan. 11, 1999)

1.12.170.005 Renewal of Contracts. Subject to IC 5-22-17-5, a contract may be renewed any number of items with the agreement of the contractor and purchasing agency. However, the term of a renewed contract may not be longer than the term of the original contract. This does not apply to a contract that contains any provision for escalation of the price of the contract. IC 5-22-17-4) (Ord. 1999-2, Contract Provisions, Renewal of Contracts, Jan. 11, 1999)

1.12.170.006 Early Performance. The purchasing agent may specify in a contract that early performance of the contract will result in increased compensation at either a percentage of the contract amount or a specific dollar amount determined by the purchasing agent. Notice of inclusion of this contract provision must be included in the solicitation. (IC 5-22-17-6) (Ord. 1999-2, Contract Provisions, Early Performance, Jan. 11, 1999)

1.12.170.007 Late Performance. The purchasing agent may specify in a contract that completion of the contract after the termination date of the contract will result in a deduction from the compensation in the contract at either a percentage of the contract amount or a specific dollar amount determined by the purchasing agent. Notice of inclusion of this contract provision must be included in the solicitation. (IC 5-22-17-6) (Ord. 1999-2, Contract Provisions, Late Performance, Jan. 11, 1999)

1.12.170.008 Modification of Contracts. A governmental body may establish policies or adopt rules permitting or requiring any of the following:

- (1) The inclusion of clauses providing for adjustments in prices or time of performance.
- (2) The inclusion of contract provisions dealing with either of the following:
 - A. The unilateral right of the governmental body to order in writing either of the following:

1. Changes in the work within the scope of the contract.
 2. Temporary stopping of the work or delaying performance.
- B. Variations occurring between estimated quantities of work in a contract and actual quantities. (IC 5-22-20-1) (Ord. 1999-2, Contract Provisions, Modification of Contracts, Jan. 11, 1999)

1.12.170.009 Adjustments in Price. Adjustments in price must be computed in one or more of the following ways:

- (1) By agreement on a fixed price adjustment before the beginning of the pertinent performance or as soon after the beginning of the performance as practicable.
- (2) By unit prices specified in the contract or subsequently agreed upon.
- (3) By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon.
- (4) In such other manner as the contracting parties may mutually agree.
- (5) In the absence of agreements by the parties, by a unilateral determination by the governmental body of the costs attributable to the events or situations under such clauses, with adjustment of profit or fee, all as computed by the governmental body in accordance with applicable rules adopted by the governmental body. (IC 5-22-20-2) (Ord. 1999-2, Contract Provisions, Adjustments in Price, Jan. 11, 1999)

1.12.180 OTHER ADMINISTRATIVE REQUIREMENTS.

1.12.180.001 Public Notice. Whenever public notice is required by this article, notice shall be given by publication in the manner prescribed by IC 5-3-1. The purchasing agent may give notice other than as required in IC 5-3-1 that the purchasing agent considers will increase competition. (IC 5-22-18-1)

The purchasing agent shall schedule all notices to provide a reasonable amount of time for preparation and submission of responses after notification. The period between the last publication, mailing or posting of notices and the final date set for submitting offers must be at least seven calendar days. (IC 5-22-18-1) (Ord. 1999-2, Other Administrative Requirements, Public Notice, Jan. 11, 1999)

1.12.180.002 Electronic Transmissions of Material. Whenever IC 5-22 requires that notice or other material be sent by mail, the material may be sent by electronic means as stated in any of the following:

- (1) Rules adopted by the governmental body.

- (2) Written policies of the purchasing agency.
- (3) A solicitation.

These rules, written policies, and solicitation statements are subject to IC 5-22 and must provide that the transmission of information is at least as efficient and secure as sending the material by mail.

A governmental body may receive electronic offers if both of the following apply:

- (1) The solicitation indicates the procedure for transmitting the electronic offer to the governmental body.
- (2) The governmental body receives the offer on a facsimile (fax) machine or system with a security feature that protects the content of an electronic offer with the same degree of protection as the content of an offer that is not transmitted by a fax machine. (IC 5-22-3-4) (Ord. 1999-2, Other Administrative Requirements, Electronic Transmission of Material, Jan. 11, 1999)

1.12.180.003 Acceptance of Offer. Within thirty days after the acceptance of an offer, the purchasing agent shall deliver in person or by first class mail to the successful offeror the original of each purchase order or lease, retain a copy for the purchasing agent's records and file a copy for public record and inspection as follows:

- (1) When a purchase or lease is made for a county or municipality, the copy of the purchase order or lease must be filed with the fiscal officer of the unit.
- (2) When a purchase or lease is made for a township, the copy of the purchase order or lease must be filed with the fiscal officer of the county.
- (3) When a purchase or lease is made for a school corporation or a quasi-public corporation, the copy of the purchase order or lease must be filed with the records of the corporation. (IC 5-22-18-5) (Ord. 1999-2, Other Administrative Requirements, Acceptance of Offer, Jan. 11, 1999)

1.12.180.004 Award of Contracts.

- (1) Award to Different Offerors. A solicitation may provide that offers will be received and contract will be awarded separately or for any combination of a line or a class of supplies or services contained in the solicitation. (IC 5-22-17-12)

If the solicitation does not indicate how separate contracts might be awarded, the purchasing agent may award separate contracts to different offerors under this section only if the purchasing agent makes a written determination showing that the award of separate contracts is in the interest of efficiency or economy. (IC 5-22-17-12)

- (2) Award To Other Than Lowest Offeror. If the purchasing agent awards a contract for a line or class of supplies or services, or any combination of lines or classes, to an offeror other than the lowest offeror the purchasing agent must make a written determination stating the reasons for awarding a contract to that offeror. (IC 5-22-17-12)
- (3) Unspecified Number of Items. A solicitation may provide that the purchasing agent will award a contract for supplies or services for an unspecified number of items at a fixed price per unit. Such a contract may include a formula or a method for escalation of the unit price. (IC 5-22-17-13) (Ord. 1999-2, Other Administrative Requirements, Award of Contracts, Jan. 11, 1999)

1.12.180.005 Cancellation of Solicitation and Rejection of Offers. When the purchasing agent determines it is in the best interests of the governmental body, a solicitation may be canceled or offers may be rejected in whole or in part as specified in the solicitation. The reasons for a cancellation of a solicitation or rejection of offers must be made a part of the contract file. (IC 5-22-18-2) (Ord. 1999-2, Other Administrative Requirements, Cancellation of Solicitation and Rejection of Offers, Jan. 11, 1999)

1.12.180.006 Offers Opened After Time Stated in Solicitation. Notwithstanding any other law, offers may be opened after the time stated in the solicitation if both of the following apply:

- (1) The governmental body makes a written determination that is in the best interest of the governmental body to delay the opening.
- (2) The day, time and place of the rescheduled opening is announced at the day, time, and place of the originally scheduled opening. (IC 5-22-18-3) (Ord. 1999-2, Other Administrative Requirements, Offers Opened After Time Stated in Solicitation, Jan. 11, 1999)

1.12.180.007 Contract and Purchasing Records. Except as provided by another law, contract and purchasing records are public records subject to public inspection under IC 5-14-3.

A governmental body may establish policies or adopt rules for the protection of documents submitted to the governmental body in response to a solicitation.

Policies or rules may provide procedures for the following:

- (1) Protection of offers before opening to prevent disclosure of contents.
- (2) Afford unobstructed evaluation of offers and award of contracts by the purchasing agent after opening.
- (3) Protection of offers from tampering before and after opening. (IC 5-22-18-4) (Ord. 1999-2, Other Administrative Requirements, Contract and Purchasing Records, Jan. 11, 1999)

Chapter 1.13

FIXED ASSET POLICY

Sections:

1.13.010 Fixed asset value and life expectancy

1.13.010 Fixed asset value and life expectancy. To be considered a Fixed Asset an item must have cost or value of (\$2,000.00) Two Thousand Dollars or greater and have a life expectancy of (1) one year or longer. Amounts below this will be capitalized at the discretion of Leavenworth Public Officials. (Ord. 2004-2, S1, Feb. 5, 2004)

Chapter 1.15

FIRE DEPARTMENT

Sections:

1.15.010 Location

1.15.010 Location. Be it ordained by the Town of Leavenworth through its Board of Trustees that the North 100 ft. of Lot 109 in the Bahr I Addition to the Town of Leavenworth, Indiana, Crawford County along with the newly constructed building (built by the Leavenworth Fireman on said property) is hereby designated as the headquarters of the Leavenworth Fire Department.

This Ordinance shall grant the said Leavenworth Fire Department full use of the building and property for the operation of an active Fire Department from this day forward as long as the said department is active and operates within the laws set out by the State, County, and Town Governments.

It shall be the duty of Leavenworth Fire Chief and his or her officers to see that the department abides by all such laws, and that the building and grounds are maintained in a respectable manner. Submitted this 14th day of November 1988 by the Leavenworth Fire Chief, David Wilkins for approval. (Ord. 1988-20, Nov. 14, 1988)

Chapter 1.16

FIRE PROTECTION DISTRICT

Sections:

1.16.010	Operation of Fire Protection District
1.16.020	Fire District
1.16.030	Passage of Ordinance
1.16.040	Trustees of Fire District
1.16.050	Certification of Ordinance to Crawford County Commissioners

1.16.010 Operation of Fire Protection District. Pursuant to the provisions of Indiana Code 36-8-11 et seq, passed as the Acts of 1971, Public Law 389, Section 2 as amended and as added by Acts 1981, Public Law 309, Section 63, that it is declared the intention of the Board of Trustees of the Town of Leavenworth, Indiana, to allow the Town of Leavenworth to avail itself to the provisions of said chapter and to participate in the operation of a fire protection district encompassing all the described area of the Town of Leavenworth and Jennings, Ohio, and Boone Townships. (Ord. 2009-4, S1, Nov. 7, 2009)

1.16.020 Fire District.

- (1) The name of the Fire District shall be known as "The Leavenworth Fire District".
- (2) The territory is to include all of that area of the Town of Leavenworth and Jennings, Ohio, and Boone Townships as heretofore described in this Ordinance.
- (3) The purpose of this District is to insure the adequacy of the fire protection within the District.
- (4) Presently there exists sufficient need to establish such a district so as to maintain and expand revenues for the continuation of fire protection services and for the improvements of the service in the foreseeable future and to facilitate future planning for the delivery of services on a reasonable basis.
- (5) The public health, safety and welfare of the residents and property owners of the territory can be assured by the securing of sound financial planning for the delivery of fire protection services.
- (6) The operating costs for the protection will be subject to economies and revenues assured as same are not conditioned upon receipt of federal state grants. (Ord. 2009-4, S2, Nov. 7, 2009)

1.16.030 Passage of Ordinance. The Leavenworth Fire District is hereby established on the date of the passage of this Ordinance. (Ord. 2009-4, S3, Nov. 7, 2009)

1.16.040 Trustees of Fire District. The Trustees for said Fire District shall be appointed, within thirty (30) days after the establishment herein. There shall be five (5) Trustees appointed. (Ord. 2009-4, S4, Nov. 7, 2009)

1.16.050 Certification of Ordinance to Crawford County Commissioners. A copy of this Ordinance, upon its passage and signature by the members of the Board of Trustees for the Town of Leavenworth shall be certified to the Board of Commissioners of Crawford County, Indiana. (Ord. 2009-4, S5, Nov. 7, 2009)

Chapter 1.17

FIRE PROTECTION FUND

Sections:

1.17.010 Established

1.17.010 Established. Be it ordained this 8th day of January 1990 the Leavenworth Town Council has adopted Ordinance No. 1990-1 for the establishment of a Fire Protection Fund for the Town of Leavenworth. This fund shall be for the operation of the Town's fire and rescue services. This Ordinance shall supercede any previous Ordinance for fire protection funds. This fund shall be handled by the Town Council through the Clerk-Treasurer as the sewer and water services are handled. The fund shall be divided into 3 sections. No. 1 is for the general fire department operation, No. 2 is for equipment and education, and No. 3 is for the building fund. Divisions 2 and 3 are for earmarked donations and insurance collections which are not figured in the budget and taxation of the fire department annual budget. (Ord. 1990-1, Jan. 8, 1990)

Chapter 1.18

FIRE EQUIPMENT FUND

Sections:

1.18.010 Established

1.18.020 Funds from fire runs deposited into this fund

1.18.030 Donations and fund raising deposited into this fund

1.18.040 Expenditures to be made through a budget

1.18.010 Established. A Fire Equipment Fund, separate from the regular Fire Fund is hereby established for the purpose of Fire Equipment and training expenses. (Ord. 1996-5, S1, Aug. 13, 1996)

1.18.020 Funds from fire runs deposited into this fund. Funds received from charges for fire runs, rescue runs, first responder runs, etc. not covered by existing contracts with another unit, such as a Township, is to be directly deposited in this fund. (Ord. 1996-5, S2, Aug. 13, 1996)

1.18.030 Donations and fund raising deposited into this fund. Donations, fund raising activities for equipment and training, etc., is to be directly deposited in this fund. (Ord. 1996-5, S3, Aug. 13, 1996)

1.18.040 Expenditures to be made through a budget. Expenditures made from the Fire Equipment Fund are to be made through a budget as with any other fund. (Ord. 1996-5, S4, Aug. 13, 1996)

Chapter 1.24

DEPUTY MARSHAL

Sections:

1.24.010 Appointment

1.24.010 Appointment. Be it ordained by the Board of Trustees of the Town of Leavenworth, that it shall be lawful for the Marshal to appoint a Deputy Marshal in the said Town. (Ord. Series 1910, Sept. 7, 1910)

Chapter 1.28

USE OF TOWN OWNED TOOLS AND EQUIPMENT

Sections:

- 1.28.010 Equipment assigned to the Volunteer Fire Department**
- 1.28.020 Use of tractor, bush hog, and grader**
- 1.28.030 Hand tools**
- 1.28.040 Manually operated sewer line clean out rods and attachments**
- 1.28.050 Power operated sewer rotor rooter**
- 1.28.060 Other power operated equipment**
- 1.28.070 Responsibility of equipment**

1.28.010 Equipment assigned to the Volunteer Fire Department. Town owned equipment assigned to the Volunteer Fire Department shall only be used by members of the fire department in the performance of training or fighting fires. The portable water pump may be used by members of the fire department for emergencies and for draining flooded basements of residents of the Town of Leavenworth. (Ord. 1986-11, S1, Jan. 27, 1986)

1.28.020 Use of tractor, bush hog, and grader. The tractor, bush hog and grader shall only be operated by a Town employee and in the performance of work for the Town. This equipment shall not be used by or for private individuals for construction by private contractors. (Ord. 1986-11, S2, Jan. 27, 1986)

1.28.030 Hand tools. Hand tools loaned to the sewer and water employee may be used in the performance of all of his duties including private contracts. However, he is responsible for all tools assigned and shall reimburse the Town for losses. (Ord. 1986-11, S3, Jan. 27, 1986)

1.28.040 Manually operated sewer line clean out rods and attachments. The manually operated sewer line clean out rods and attachments may be used by the sewer maintenance employee for maintenance of individual sewer lines for town residents. No charges will be made for the use of this equipment. (Ord. 1986-11, S4, Jan. 27, 1986)

1.28.050 Power operated sewer rotor rooter. The power operated sewer rotor rooter shall only be operated by the sewer maintenance employee and only within this Town's boundaries. The Town employee may rent this unit for use on private lines of Town residents. The rent shall be \$10.00 per hour which is to be collected by the operator and paid to the sewer fund of this Town at the next Town board meeting. (Ord. 1986-11, S5, Jan. 27, 1986)

1.28.060 Other power operated equipment. All other power equipment, including chain saws and water pumps, shall be operated only by employees of the utility assigned the equipment and only for work on Town utilities. They will not, under any circumstances, be used for private contracts. (Ord. 1986-11, S6, Jan. 27, 1986)

1.28.070 Responsibility of equipment. The operator of any and all Town owned equipment shall be responsible for the condition of the equipment. The operator shall be personally responsible for the repair or replacement for those broken by misuse or negligence. (Ord. 1986-11, S7, Jan. 27, 1986)

Chapter 1.31

CRAWFORD COUNTY MULTI-HAZARD MITIGATION PLAN

Sections:

- 1.31.010 Natural hazards**
- 1.31.020 Pre-disaster mitigation actions**
- 1.31.030 Future funding for mitigation projects**
- 1.31.040 Participation by Town**
- 1.31.050 Adoption**
- 1.31.060 Submission of Mitigation Plan to IDHS and FEMA**

1.31.010 Natural hazards. Leavenworth recognizes the threat that natural hazards pose to people and property. (Res. 2006-1, S1, July 10, 2006)

1.31.020 Pre-disaster mitigation actions. Undertaking hazard mitigation actions before disasters occur will reduce the potential for harm to people and property and save taxpayer dollars. (Res. 2006-1, S2, July 10, 2006)

1.31.030 Future funding for mitigation projects. An adopted multi-hazard mitigation plan is required as a condition of future grant funding for mitigation projects. (Res. 2006-1, S3, July 10, 2006)

1.31.040 Participation by Town. Leavenworth participated jointly in the planning process with the other local units of government within the County to prepare a Multi-Hazard Mitigation Plan. (Res. 2006-1, S4, July 10, 2006)

1.31.050 Adoption. Leavenworth hereby adopts the Crawford County Multi-Hazard Mitigation Plan as an official plan. (Res. 2006-1, S5, July 10, 2006)

1.31.060 Submission of Mitigation Plan to IDHS and FEMA. The Crawford County Emergency Management Agency will submit on behalf of the participating municipalities the adopted Multi-Hazard Mitigation Plan to the Indiana Department of Homeland Security and the Federal Emergency Management Agency for final review and approval. (Res. 2006-1, S6, July 10, 2006)

Chapter 1.32

NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)

Sections:

- 1.32.010 Establishment of response system**
- 1.32.020 Response Operations shall use NIMS**
- 1.32.030 Prior Ordinances**
- 1.32.040 Separability**
- 1.32.050 Effective Date**

1.32.010 Establishment of response system. The Town Board of Leavenworth, Indiana does hereby establish the National Incident Management System (NIMS) as the town's official incident response system and as its standard for incident management. (Ord. 2007-3, S1, June 11, 2007)

1.32.020 Response Operations shall use NIMS. All incident managers and response organizations under the jurisdiction and control of the Town Board shall train, exercise and use NIMS in their response operations. (Ord. 2007-3, S2, June 11, 2007)

1.32.030 Prior Ordinances. All ordinances and/or parts of ordinance in conflict herewith are hereby repealed. (Ord. 2007-3, S3, June 11, 2007)

1.32.040 Separability. If any section, sub-section, sentence, clause, phrase or portion of this Ordinance shall for any reason be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions there under. (Ord. 2007-3, S4, June 11, 2007)

1.32.050 Effective Date. The Ordinance shall be in full force and effect from and after the passage by the Town Board of Leavenworth, Indiana and completion of any other legal requirements, all in the manner as provided by law. (Ord. 2007-3, S5, June 11, 2007)

Chapter 1.35

PARK AND RECREATION DEPARTMENT

Sections:

- 1.35.010 Re-established pursuant to provisions of IC 36-10-3
- 1.35.020 Definitions
- 1.35.030 Members
- 1.35.040 Terms
- 1.35.050 Election of officers
- 1.35.060 Powers and duties
- 1.35.070 Transfer of documents
- 1.35.080 Compensation and per diem allowances
- 1.35.090 Removal of members
- 1.35.100 Meeting schedule
- 1.35.110 Department of Parks and Recreation

1.35.010 Re-established pursuant to provisions of IC 36-10-3. Pursuant to the provisions of IC 36-10-3, there is hereby re-established a Leavenworth Park and Recreation Board. (Ord. 2000-6, S1, Aug. 14, 2000)

1.35.020 Definitions. Definitions as used in this Chapter:

- (1) “Board” refers to the Leavenworth Park and Recreation Board.
- (2) “Department” refers to the Department of Parks and Recreation of the Town of Leavenworth, Indiana.
- (3) “District” means that area being within the jurisdiction of the department which is the territory lying within the corporate boundaries of the Town of Leavenworth, Indiana as such boundaries may change from time to time. (Ord. 2000-6, S2, Aug. 14, 2000)

1.35.030 Members. The Town of Leavenworth Park and Recreation Board is hereby re-established to be composed of five (5) members. Four members are appointed by the President of the Town Council 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. The Board will also have one (1) ex officio member who is a member of and appointed by the board of school trustees. (Ord. 2000-6, S3, Aug. 14, 2000)

1.35.040 Terms. Upon re-establishment of the Board, the terms of the members initially appointed shall be:

- (1) One (1) member for a term ending the first Monday in January, 2001

- (2) One (1) member for a term ending the first Monday in January, 2002
- (3) One (1) member for a term ending the first Monday in January, 2003
- (4) One (1) member for a term ending the first Monday in January, 2004
- (5) School Board appointment ending the first Monday in January, 2004

As a term expires, each new appointment shall be made for a term of four (4) years. All members shall continue in office until a successor is appointed. If an appointment is not made by the first Monday in April, the incumbent is automatically appointed to serve another term. A new member shall be appointed to serve the remainder of any unexpired term due to a vacancy. All members of the Board shall be residents of the Town. Neither a municipal executive nor a member of the Town Council may serve on the Board. (Ord. 2000-6, S4, Aug. 14, 2000)

1.35.050 Election of officers. At its first 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. 2000-6, S5, Aug. 14, 2000)

1.35.060 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. 2000-6, S6, Aug. 14, 2000)

1.35.070 Transfer of documents. The intent of this Ordinance is to comply with IC 36-10-3 and therefore no rights or duties of the present Park and Recreation Board shall be affected by adoption of this Ordinance and all books, papers, documents, rights, duties and other property of the former Board are transferred to and shall become the property, right or duty of the Board created herein. (Ord. 2000-6, S7, Aug. 14, 2000)

1.35.080 Compensation and per diem allowances. The compensation and per diem allowances for members of the Board shall not exceed those limits established by IC 36-10-3 and other applicable laws of the State of Indiana. (Ord. 2000-6, S8, Aug. 14, 2000)

1.35.090 Removal of member. A member may be removed only for cause, upon specific written charges filed against him. The charges shall be filed with and heard by the appointing authority, unless the appointing authority is bringing the charges. If the appointing authority is bringing the charges, the Town Council shall appoint a hearing officer. The persons to hear the charges shall fix a date for a public hearing and give public notice at least ten (10) days in advance of the hearing. At the hearing the member is entitled to present evidence and argument and to be represented by counsel. (Ord. 2000-6, S9, Aug. 14, 2000)

1.35.100 Meeting schedule. All meetings of the Board are open to the public. The Board shall fix the time and place of its regular meetings, but it shall meet at least quarterly.

Special meetings of the Board may be called by the President or by any two (2) members by written request to the Secretary. The Secretary shall send to each member, at least two (2) days before a special meeting, a written notice fixing the time, place, and purpose of the meeting. Written notice of a special meeting is not required if the time of the special meeting is fixed at a regular meeting or if all members are present at the special meeting. (Ord. 2000-6, S10, Aug. 14, 2000)

1.35.110 Department of Parks and Recreation. There is hereby created a Department of Parks and Recreation of the Town of Leavenworth, Indiana, pursuant to the provisions of IC 36-10-3 to operate, control, and manage the Town parks now owned by the Town of Leavenworth and any and all similar parks hereafter established by and for the use of the Town and its citizens, together with all of the recreation facilities situated therein, and to control and conduct such recreation programs and activities for the citizens of this community as its governing board may deem appropriate, all pursuant to the provisions of IC 36-10-3.

The Department shall consist of a Park and Recreation Board, a Director, and such other personnel that the Board may determine to be necessary for the proper operation and management of said Department. (Ord. 2000-6, S11, Aug. 14, 2000)

Chapter 1.42

LEAVENWORTH COMMUNITY CENTER AND LIBRARY BOARD

Sections:

- 1.42.010 Established**
- 1.42.020 Term/Appointments**
- 1.42.030 Duties**
- 1.42.040 Budget**
- 1.42.050 Meeting schedule**

1.42.010 Established. The Leavenworth Town Council establishes a Board of Trustees to manage said Community Center. (Ord. 1996-2, Mar. 12, 1996)

1.42.020 Term/Appointments. The Trustees be appointed for a three year term in the following manner:

- (1) Leavenworth Town Council appointment
- (1) Crawford County Library appointment
- (1) Leavenworth Senior Citizen Club appointment
- (1) Crawford County School Board appointment
- (1) Douglas Breeden (Grant match contributor) appointment (Ord. 1996-2, Mar. 12, 1996)

1.42.030 Duties. The duties of this Board of Trustees shall be the general management and scheduling of activities of said center. (Ord. 1996-2, Mar. 12, 1996)

1.42.040 Budget. Before the first day of January of each year said Board of Trustees shall submit to the Leavenworth Town Council a budget for the ensuing year and a record of receipts and disbursements for the preceding year for approval. (Ord. 1996-2, Mar. 12, 1996)

1.42.050 Meeting schedule. Said Board of Trustees shall establish a regular meeting schedule, and all meetings shall be held in accordance with Indiana Open Door Law (IC 5-14-1.5) (Ord. 1996-2, Mar. 12, 1996)

Chapter 1.47

HISTORIC PRESERVATION COMMISSION

Sections:

- 1.47.010 Established**
- 1.47.020 Members**
- 1.47.030 Powers and duties**
- 1.47.040 Meetings**

1.47.010 Established. Per Title 36-7 (Chapter 11) of the Indiana Code, the Town Council of the Town of Leavenworth, Indiana hereby establishes an Historical Preservation Board, known from this date forward as the Leavenworth Historical Preservation Commission. (Ord. 1993-7-13-1, July 13, 1993)

1.47.020 Members. The commission shall consist of seven (7) voting members being residents of the Town of Leavenworth. The commission can appoint advisory members as deemed necessary. The terms of the members shall be for three (3) years. The terms of the original members shall be staggered with two (2) being for one (1) year, two (2) being for two (2) years, and three (3) being for three (3) years. Members may be reappointed by the commission subject to the approval of the council. (Ord. 1993-7-13-1, July 13, 1993)

1.47.030 Powers and duties. The commission shall follow the codes spelled out in chapter eleven (11), and guidelines handed down by the council. The commission shall work with the Planning and Zoning Commission, and the Park Board in establishing the Historical Preservation Map. (Ord. 1993-7-13-1, July 13, 1993)

1.47.040 Meetings. The commission shall meet on the third (3rd) Thursday of each month at 7:00 P.M. local time in the office of the Leavenworth Fire House. (Ord. 1993-7-13-1, July 13, 1993)

Chapter 1.49

AIRPORT AUTHORITY DISTRICT

Sections:

1.49.010 Created

1.49.020 Members/Duties

1.49.010 Created. Pursuant to the authority granted by Public Law 304, there is hereby created the Leavenworth Airport Authority District which will be coterminous to the incorporated Town of Leavenworth and all land annexed in the future to the Town. (Ord. 1976-1, S1, Sept. 7, 1976)

1.49.020 Members/Duties. Such Airport Authority District shall be under the control of a board of four (4) members, to be known as the "Leavenworth Airport Authority." The members of said Board shall be appointed and shall perform the duties and exercise the powers, all as set forth in Public Law 304. (Ord. 1976-1, S2, Sept. 7, 1976)

Chapter 1.52

HOUSING AUTHORITY

Sections:

1.52.005 Purpose

1.52.010 Established

1.52.020 Official name

1.52.030 Commissioners of the Housing Authority/Terms

1.52.040 Chairman

1.52.005 Purpose. The Board of Trustees, considering the testimony and evidence presented at a public hearing and drawing from its personal knowledge of the need for improved dwelling accommodations and for a housing authority to help meet this need, the Board of Trustees of the Town of Leavenworth, Indiana, hereby finds, determines and declares, that:

- (1) Insanitary and unsafe inhabited dwelling accommodations exist in the Town of Leavenworth, Indiana; and
- (2) There is a shortage of safe and sanitary dwelling accommodations in the Town of Leavenworth, Indiana, available to persons of low income at rentals they can afford; and
- (3) There is a need for a housing authority to function in the Town of Leavenworth, Indiana.,

1.52.010 Established. The Board of Trustees of the Town of Leavenworth, Indiana, herewith, authorizes the establishment of a housing authority to carry out the powers and duties as permitted by IC 18-7-11-1, et. seq. (Ord. 1980-4, S1, Mar. 4, 1980)

1.52.020 Official name. The name of said housing authority shall be "Housing Authority of the Town of Leavenworth, Indiana". (Ord. 1980-4, S2, Mar. 4, 1980)

1.52.030 Members/Terms. Pursuant to the provisions of the Indiana State Housing Authorities Act of 1937, as amended, the Board of Trustees of Leavenworth, Indiana hereby appoints the five persons hereinafter named to serve as Commissioners of the Housing Authority of the Town of Leavenworth, Indiana, and to serve for the number of years appearing after their names, respectively, from the 4th day of March, 1980.

Robert Easley, One year

Eddie Young, Two years

Paul Roberson, Three years

Steve Willis, Four years

Larry Jones, Four years (Res. unnumbered, Mar. 4, 1980)

1.52.040 Chairman. The Board of Trustees of the Town of Leavenworth, Indiana designates Larry Jones to serve for one year as the first Chairman of the Housing Authority of the Town of Leavenworth, Indiana. (Res. unnumbered, Mar. 4, 1980)

Chapter 1.53

FAIR HOUSING

Sections:

- 1.53.010 Policy statement
- 1.53.020 Definitions
- 1.53.030 Unlawful practice
- 1.53.040 Discrimination in the sale or rental of housing
- 1.53.050 Discrimination in residential real estate-related transactions
- 1.53.060 Discrimination in the provision of brokerage services
- 1.53.070 Interference, coercion, or intimidation
- 1.53.080 Prevention of intimidation in fair housing cases
- 1.53.090 Exemptions
- 1.53.100 Administrative enforcement of Ordinance
- 1.53.120 Separability of provisions

1.53.010 Policy statement. It shall be the policy of the Civil Town of Leavenworth to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the federal Civil Rights Acts 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. 1996-8, S1, Nov. 12, 1996)

1.53.020 Definitions. The definitions set forth in this Section shall apply throughout this ordinance:

- (1) "Dwelling" means any building, structure, or part of 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. 1996-8, S2(a), Nov. 12, 1996)
- (2) "Family" includes a single individual (I.C. 22-9.5-2-9), with the status of such family being further defined in subsection (8) of this Section. (Ord. 1996-8, S2(b), Nov. 12, 1996)
- (3) "Person" (I.C. 22-9.5-2-11) includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, jointstock companies, trusts, non-incorporated organizations, trustees, trustees in cases under Title II of the United States Code, receivers, and fiduciaries. (Ord. 1996-8, S2(c), Nov. 12, 1996)

- (4) "To rent" (I.C. 22-9.5-2-13) includes to lease, to sublease, to let and otherwise to grant for consideration the right to occupy the premises owned by the occupant. (Ord. 1996-8, S2(d), Nov. 12, 1996)
- (5) "Discriminatory Housing Practice" means an act that is unfair under Sections 1.53.040, 1.53.050, 1.53.060, 1.53.070 or 1.53.080 of this Chapter or I.C. (Ord. 1996-8, S2(e), Nov. 12, 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 addition 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 a transvestite [I.C. 22-9.5-2-10(c)]. (Ord. 1996-8, S2(f), Nov. 12, 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;
 - B. Believes that such person will be injured by a discriminatory housing practice that is about to occur. (Ord. 1996-8, S2(g), Nov. 12, 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. 1996-8, S2(h), Nov. 12, 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. 1996-8, S2(i), Nov. 12, 1996)

- (10) "Complainant" (I.C.22-9.5-2-4) means a person, including the Commission, who filed a complaint under I.C. 22-9.5-6. (Ord. 1996-8, S2(j), Nov. 12, 1996)

1.53.030 Unlawful practice. Subject to the provisions of Subsection (2) of Section 1.53.030, Section 1.53.090 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 22-9.5-5-1 of Indiana Code and in Section 1.53.040 of this Chapter shall apply to:

- (1) All dwellings except as exempted by Subsection (2) and Title 22-9.5-3 of Indiana Code. (Ord. 1996-8, S3(a), Nov. 12, 1996)
- (2) Other than the provisions of Subsection (3) of Section 1.53.030, nothing on Section 1.53.040 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 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 his 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 4(c) 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. 1996-8, S3(b), Nov. 12, 1996)

- (3) For the purpose 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. 1996-8, S3(c), Nov. 12, 1996)

1.53.040 Discrimination in the sale or rental of housing. As made applicable by Section 1.53.030 and except as exempted by Sections 1.53.030(2) and 1.53.090, it shall be unlawful:

- (1) To refuse to sell or rent after the mailing 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, handicap or national origin. (Ord. 1996-8, S4(a), Nov. 12, 1996)
- (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision or services of facilities in connection therewith, because of race, color, religion, sex, familial status, handicap or national origin. (Ord. 1996-8, S4(b), Nov. 12, 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. 1996-8, S4(c), Nov. 12, 1996)
- (4) To represent to any person because of race, color, religion, sex, handicap, familial status or national origin that any dwelling that is not available for inspection, sale, or rental when such dwelling is in fact so available. (Ord. 1996-8, S4(d), Nov. 12, 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. 1996-8, S4(e), Nov. 12, 1996)

- (6) A. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer 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 intended 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 within 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 dwelling;
 - 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. 1996-8, S4(f), Nov. 12, 1996)

1.53.050 Discrimination in residential real estate-related transactions:

- (1) It shall be unlawful for any person or other entity whose business include engaging in residential real estate related transactions to discriminate against any person 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. 1996-8, S5(a), Nov. 12, 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. 1996-8, S5(b), Nov. 12, 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. 1996-8, S5(c), Nov. 12, 1996)

1.53.060 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 use 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. 1996-8, S6, Nov. 12, 1996)

1.53.070 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 an account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by Sections 1.53.030, 1.53.040, 1.53.050 or 1.53.060 of this Chapter. (Ord. 1996-8, S7, Nov. 12, 1996)

1.53.080 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. 1996-8, S8(a), Nov. 12, 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 person 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 (1), or;

- B. Affording another person or class of persons opportunity or protection so to participate; or (Ord. 1996-8, S8(b), Nov. 12, 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 not more that \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned for not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life. (Ord. 1996-8, S8(c), Nov. 12, 1996)

1.53.090 Exemptions.

- (1) Exemption defined or set forth under Title 22-9.5-3 et. seq. of Indiana Code shall be exempt from the provisions of this Ordinance to include those activities or organizations set forth under Subsections (2) and (3) of this Section. (Ord. 1996-8, S9(a), Nov. 12, 1996)
- (2) Nothing in this ordinance 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 dwelling 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. 1996-8, S9(b), Nov. 12, 1996)
- (3) A. Nothing in this ordinance regarding familial status shall apply with respect to housing for 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 the elderly persons (as defined in the state or federal program); or

2. Intended for, and solely occupied by, person 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. 1996-8, S9(c), Nov. 12, 1996)

1.53.100 Administrative enforcement of Ordinance:

- (1) The authority and responsibility for properly administering this ordinance an referral of complaints hereunder to the Commission as set forth in Subsection (2) hereof shall be vested in the Chief Executive Officer of the Town of Leavenworth. (Ord. 1996-8, S10(a), Nov. 12, 1996)
- (2) All executive departments and agencies of the Town of Leavenworth 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 Executive Officer and Commission to further such purposes. (Ord. 1996-8, S10(b), Nov. 12, 1996)
- (3) The Chief Executive Officer of the Town of Leavenworth or the Chief Executive Officer's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information. (Ord. 1996-8, S10(c), Nov. 12, 1996)

1.53.120 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. 1996-8, S12, Nov. 12, 1996)

Chapter 1.54

DRUG-FREE WORKPLACE CERTIFICATION

Sections:

- 1.54.005 Executive Order No. 90-5
- 1.54.010 Certification

1.54.005 Executive Order No. 90-5. This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Administration is requiring the inclusion of this certification in all contracts with and grants from the State of Indiana in excess of \$25,000. No award of a contract or grant shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000, shall be valid unless and until this certification has been fully executed by the Contractor or Grantee and attached to the contract or agreement as part of the contract documents. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of contract payments, termination of the contract or agreement and/or debarment of contracting opportunities with the State for up to three (3) years.

1.54.010 Certification. The Contractor/Grantee certifies and agrees that it will provide a drug-free workplace by:

- (1) Publishing and providing to all of its employees a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and
- (2) Establishing a drug-free awareness program to inform employees about (A) the dangers of drug abuse in the workplace; (B) the Contractor's policy of maintaining a drug-free workplace (C) any available drug counseling, rehabilitation, and employee assistance programs; and (D) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- (3) Notifying all employees in the statement required by subparagraph (1) above that as a condition of continued employment the employee will (A) abide by the terms of the statement; and (B) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- (4) Notifying in writing the contracting State Agency and the Indiana Department of Administration within ten (10) days after receiving notice

from an employee under subdivision (3)(B) above, or otherwise receiving actual notice of such conviction;

- (5) Within thirty (30) days after receiving notice under subdivision (3)(B) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the in the workplace; (A) take appropriate personnel action against the employee, up to and including termination; or (B) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency; and
- (6) Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (1) through (6) above.

THE UNDERSIGNED AFFIRMS, UNDER PENALTIES OF PERJURY, THAT HE OR SHE IS AUTHORIZED TO EXECUTE THIS CERTIFICATION ON BEHALF OF THE DESIGNATED ORGANIZATION.

Leavenworth Town Council
Printed Name of Organization

CF-96-112
Requisition/Contract/Grant ID Number

John W. Stutzman
Signature of Authorized Representative

6/13/96
Date

John W. Stutzman, Town Council President
Printed Name and Title

Chapter 1.55

PLAN COMMISSION FUND

Sections:

1.55.010 Established

1.55.020 Purpose

1.55.010 Established. There is now established in the Office of the Clerk-Treasurer of the Town of Leavenworth, Indiana, a non-reverting fund known as the "Plan Commission Fund" pursuant to I.C. 36-1-3 et seq. The fund is to be controlled by the Plan Commission of the Town of Leavenworth, Indiana. (Res. 3 (1995), Feb., 1995)

1.55.020 Purpose. The purpose of the Plan Commission Fund is for a zoning study and analysis, with a particular reference to rezoning, variance, and/or annexation of the real estate for a proposed riverboat gaming site. Distribution of money from the Plan Commission Fund shall be made only after first presenting a proper claim and obtaining approval from the Town Council. (Res. 3 (1995), Feb., 1995)

Chapter 1.57

BREEDEN MEMORIAL LIBRARY FUND

Sections:

1.57.010 Created

1.57.020 Purpose

1.57.010 Created. The Clerk-Treasurer of the Town of Leavenworth be authorized to create an account in the name of Breeden Memorial Library Fund. (Ord. 2011-4, July 11, 2011)

1.57.020 Purpose. Donations deposited to the account are to pay for operation of said library. (Ord. 2011-4, July 11, 2011)

Chapter 1.58

RIVERBOAT CASINO IMPACT/EVALUATION FUND

Sections:

1.58.010 Established

1.58.020 Purpose

1.58.030 Agreement for contribution to fund

1.58.010 Established. There is now established in the Office of the Clerk-Treasurer of the Town of Leavenworth, Indiana, a non-reverting fund known as the "Riverboat Casino Impact/Evaluation Fund" pursuant to I.C. 36-1-3 et seq. The Fund is to be controlled by the Town Council of the Town of Leavenworth, Indiana. (Res. 4, Feb., 1995)

1.58.020 Purpose. The purpose of the Riverboat Casino Impact/Evaluation Fund is for the evaluation and analysis of the Riverboat License Application(s) and determination of the impact of a riverboat casino and related development projects by the applicant(s) in the Town of Leavenworth, Indiana. Distribution of money from the Riverboat Casino Impact/Evaluation Fund shall be made only after first presenting a proper claim and obtaining approval from the Town Council. (Res. 4, Feb., 1995)

1.58.030 Agreement for contribution to fund.

- (1) Leavenworth has created a non-reverting fund known as the Riverboat Casino Impact/Evaluation Fund (the "Fund").
- (2) Riverboat License Applicant shall pay into the Fund simultaneously with its creation the amount of Twenty Thousand and 00/100 Dollars (\$20,000.00).
- (3) Riverboat License Applicant shall pay into the Fund such additional amounts as necessary to prevent the Fund balance from falling below Ten Thousand and 00/100 Dollars (\$10,000.00).
- (4) The parties agree that Leavenworth shall use this deposit, together with future deposits, for the purpose of the evaluation and analysis of the impact of a riverboat casino and related development projects by the Riverboat License Applicant in the Town of Leavenworth, Indiana or within its jurisdictional area.
- (5) Further, Leavenworth may also use the deposits for any other uses which are related to the economic development needs of the Town of Leavenworth and/or Crawford County, Indiana, arising as a result of the possibility of the Town receiving a riverboat dock site.

- (6) In the event that Casino does not obtain a riverboat gaming license, or obtains said license but no longer does business in Crawford County, Indiana, Casino will reimburse all costs and expenses incurred by Leavenworth as a direct or indirect result of Casino's business operation and its impact on Leavenworth and Crawford County, Indiana. In order to provide security for this obligation, Casino shall post a surety bond or letter of credit with the Clerk-Treasurer of Leavenworth in an amount to be determined by the parties after review of Casino's development proposals. (Agreement 1995-2-3, Feb. 14, 1995)

Chapter 1.60

NEPOTISM AND CONTRACTING WITH A UNIT BY A RELATIVE

Sections:

- 1.60.010 Adoption
- 1.60.020 Indiana Code Compliance
- 1.60.030 Effective - Nepotism Policy
- 1.60.040 Effective - Contracting with a Unit by a Relative Policy
- 1.60.050 Unit can adopt more stringent or detailed requirements
- 1.60.060 A single member of the legislative body cannot act for the body
- 1.60.070 A single member of the governing bodies cannot act for the body
- 1.60.080 No participation in vote, approval or decision that involves relatives
- 1.60.090 Cooperation, Implementation and Compliance
- 1.60.100 Failure to cooperate or implement - Nepotism Policy
- 1.60.110 Failure to cooperate or implement – Contracting with a Unit by a Relative
- 1.60.120 Inclusion of Indiana Code
- 1.60.130 Public Inspection

1.60.010 Adoption. The Town of Leavenworth finds that it is necessary and desirable to adopt a policy of conduct with regard to nepotism in the employment with the Town of Leavenworth and in contracting with the Town of Leavenworth in order to continue to be able to provide local government services to its residents and to comply with the new laws effective July 1, 2012 known as IC 36-1-20.2 and IC 36-1-21, respectively. (Ord. 2012-3, S1, November 12, 2012)

1.60.020 Indiana Code Compliance. The Town of Leavenworth shall have a Nepotism and a Contracting with a Unit policy that complies with the minimum requirements of IC 36-1-20.2 (hereinafter "Nepotism Policy") and IC 36-1-21 (hereinafter "Contracting with a Unit by a Relative Policy") and implementation will begin. (Ord. 2012-3, S2, November 12, 2012)

1.60.030 Effective - Nepotism Policy. The Town of Leavenworth Nepotism Policy is hereby established effective 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. In addition a copy of IC 36-1-20.2. (Ord. 2012-3, S3, November 12, 2012)

1.60.040 Effective - Contracting with a Unit by a Relative Policy. The Town of Leavenworth Contracting with a Unit by a Relative Policy is hereby established effective November 12, 2012 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. In addition a copy of the IC

36-1-21 Nepotism in effect on July 1 is attached hereto. (Ord. 2012-3, S4, November 12, 2012)

1.60.050 Unit can adopt more stringent or detailed requirements. The Town of Leavenworth 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. (Ord. 2012-3, S5, November 12, 2012)

1.60.060 A single member of the legislative body cannot act for the body. The Town of Leavenworth 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. See, [IC 36-4-6-11] [IC 36-5-2.-9.4] (Ord. 2012-3, S6, November 12, 2012)

1.60.070 A single member of the governing bodies cannot act for the body. The Town of Leavenworth finds that a single member of governing bodies with authority over employees in the Town of Leavenworth 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. See, (insert statute cite e.g. parkboard, plan commission etc.) (Ord. 2012-3, S7, November 12, 2012)

1.60.080 No participation in vote, approval or decision that involves relatives. Furthermore, the Town of Leavenworth in accordance with IC 36-1-20.2 Section 9 finds that no part of the legislative body shall participate in any vote, approval or decision of any kind that involves any relative employed by the town. (Ord. 2012-3, S8, November 12, 2012)

1.60.090 Cooperation, Implementation and Compliance. All elected and appointed officials and employees of the Town of Leavenworth are hereby directed to cooperate fully in the implementation of the policies created by this Resolution/Ordinance and demonstrating compliance with these same policies. (Ord. 2012-3, S9, November 12, 2012)

1.60.100 Failure to cooperate or implement - Nepotism Policy. Failure to abide by or cooperate with the implementation, compliance and certifications connected with the Nepotism Policy is a violation and may result in the 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 Leavenworth who fails to abide by or cooperate with the implementation, with the compliance and with mandated certifications of the Nepotism Policy may be subject to action allowed by law. (Ord. 2012-3, S10, November 12, 2012)

1.60.110 Failure to cooperate or implement - Contracting with a Unit by a Relative Policy. Failure to abide by or cooperate with the implementation, compliance and certifications connected with the Contracting with Unit by a Relative Policy is a violation and may result in the discipline, including termination, of an employee or a curative action.

An elected or appointed official of the Town of Leavenworth who fails to abide by or cooperate 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. 2012-3, S11, November 12, 2012)

1.60.120 Inclusion of Indiana Code. A copy of the provisions of IC 36-1-20.2 and IC 36-1-21 effective July 1, 2012 are annexed hereto. (Ord. 2012-3, S12, November 12, 2012)

1.60.130 Public Inspection. Two (2) copies of IC 36-1-20.2 and IC 36-1-21, and as supplemented or amended, are on file in the office of the Clerk-Treasurer for the Town of Leavenworth for public inspection as maybe required by IC 36-1-5-4. (Ord. 2012-3, S13, November 12, 2012)

Chapter 20.2. Nepotism

Sec. 1. This chapter applies to all units.

Sec. 2. An individual who is employed by a unit on July 1, 2012, is not subject to this chapter unless the individual has a break in employment with the unit. The following are not considered a break in employment with the unit:

- (1) The individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave, or worker's compensation.
- (2) The individual's employment with the unit is terminated followed by immediate reemployment by the unit, without loss of payroll time.

Sec. 3. For purposes of this chapter, the performance of the duties of:

- (1) a precinct election officer (as defined in IC 3-5-2-40.1) that are imposed by IC 3; or
- (2) a volunteer firefighter;

is not considered employment by a unit.

Sec. 4. As used in this chapter, "direct line of supervision" means an elected officer or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. The term does not include the responsibilities of the executive, legislative body, or fiscal body of a unit, as provided by law, to make decisions regarding salary ordinances, budgets, or personnel policies of the unit.

Sec. 5. As used in this chapter, "employed" means an individual who is employed by a unit on a full-time, part-time, temporary, intermittent, or hourly basis. The term does not include an individual who holds only an elected office. The term includes an individual who is a party to an employment contract with the unit.

Sec. 6. As used in this chapter, "member of the fire department" means the fire chief or a firefighter appointed to the department.

Sec. 7. As used in this chapter, "member of the police department" means the police chief or a police officer appointed to the department.

Sec. 8. (a) As used in this chapter, "relative" means any of the following:

- (1) A spouse.
- (2) A parent or stepparent.

- (3) A child or stepchild.
- (4) A brother, sister, stepbrother, or stepsister.
- (5) A niece or nephew.
- (6) An aunt or uncle.
- (7) A daughter-in-law or son-in-law.

- (b) For purposes of this section, an adopted child of an individual is treated as a natural child of the individual.
- (c) For purposes of this section, the terms "brother" and "sister" include a brother or sister by the half blood.

Sec. 9. (a) This chapter establishes minimum requirements regarding employment of relatives. The legislative body of the unit shall adopt a policy that includes, at a minimum, the requirements set forth in this chapter. However, the policy may:

- (1) include requirements that are more stringent or detailed than any provision in this chapter; and
- (2) apply to individuals who are exempted or excluded from the application of this chapter.

The unit may prohibit the employment of a relative that is not otherwise prohibited by this chapter.

- (b) The annual report filed by a unit with the state board of accounts under IC 5-11-13-1 must include a statement by the executive of the unit stating whether the unit has implemented a policy under this chapter.

Sec. 10. Individuals who are relatives may not be employed by a unit in a position that results in one (1) relative being in the direct line of supervision of the other relative.

Sec. 11. (a) This section applies to an individual who:

- (1) is employed by a unit on the date the individual's relative begins serving a term of an elected office of the unit; and
- (2) is not exempt from the application of this chapter under section 2 of this chapter.

- (b) Unless a policy adopted under section 9 of this chapter provides otherwise, an individual may remain employed by a unit and maintain the individual's position or rank even if the individual's employment would violate section 10

of this chapter.

(c) Unless a policy adopted under section 9 of this chapter provides otherwise, an individual described in subsection (b) may not:

- (1) be promoted to a position; or
- (2) be promoted to a position that is not within the merit ranks, in the case of an individual who is a member of a merit police department or merit fire department;

if the new position would violate section 10 of this chapter.

Sec. 12. This chapter does not abrogate or affect an employment contract with a unit that:

- (1) an individual is a party to; and
- (2) is in effect on the date the individual's relative begins serving a term of an elected office of the unit.

Sec. 13. Unless the policy adopted under section 9 of this chapter provides otherwise, a sheriff's spouse may be employed as prison matron for the county under IC 36-8-10-5 and the spouse may be in the sheriff's direct line of supervision.

Sec. 14. Unless the policy adopted under section 9 of this chapter provides otherwise, an individual:

- (1) who served as coroner;
- (2) who is currently ineligible to serve as coroner under Article 6, Section 2(b) of the Constitution of the State of Indiana;
- (3) who, as coroner, received certification under IC 36-2-14-22.3; and
- (4) whose successor in the office of coroner is a relative of the individual;

may be hired in the position of deputy coroner and be in the coroner's direct line of supervision.

Sec. 15. If the township trustee's office is located in the township trustee's personal residence, unless the policy adopted under section 9 of this chapter provides otherwise the township trustee may hire only one (1) employee who is a relative. The employee:

- (1) may be hired to work only in the township trustee's office;
- (2) may be in the township trustee's direct line of supervision; and

- (3) may not receive total salary, benefits, and compensation that exceed five thousand dollars (\$5,000) per year.

Sec. 16. Each elected officer of the unit shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this chapter. An officer shall submit the certification to the executive of the unit not later than December 31 of each year.

Sec. 17. If the state board of accounts finds that a unit has not implemented a policy under this chapter, the state board of accounts shall forward the information to the department of local government finance.

Sec. 18. If a unit has not implemented a policy under this chapter, the department of local government finance may not approve:

- (1) the unit's budget; or
- (2) any additional appropriations for the unit;

for the ensuing calendar year until the state board of accounts certifies to the department of local government finance that the unit is in compliance with this chapter.

Chapter 21. Contracting With a Unit

Sec. 1. This chapter applies only to a unit.

Sec. 2. As used in this chapter, "elected official" means:

- (1) the executive or a member of the executive body of the unit;
- (2) a member of the legislative body of the unit; or
- (3) a member of the fiscal body of the unit.

Sec. 3. (a) As used in this chapter, "relative" means any of the following:

- (1) A spouse.
- (2) A parent or stepparent.
- (3) A child or stepchild.
- (4) A brother, sister, stepbrother, or stepsister.
- (5) A niece or nephew.
- (6) An aunt or uncle.

(7) A daughter-in-law or son-in-law.

(b) For purposes of this section, an adopted child of an individual is treated as a natural child of the individual.

(c) For purposes of this section, the terms "brother" and "sister" include a brother or sister by the half blood.

Sec. 4. (a) This chapter establishes minimum requirements regarding contracting with a unit. The legislative body of the unit shall adopt a policy that includes, at a minimum, the requirements set forth in this chapter. However, the policy may:

(1) include requirements that are more stringent or detailed than any provision in this chapter; and

(2) apply to individuals who are exempted or excluded from the application of this chapter.

The unit may prohibit or restrict an individual from entering into a contract with the unit that is not otherwise prohibited or restricted by this chapter.

(b) The annual report filed by a unit with the state board of accounts under IC 5-11-13-1 must include a statement by the executive of the unit stating whether the unit has implemented a policy under this chapter.

Sec. 5. (a) A unit may enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with:

(1) an individual who is a relative of an elected official; or

(2) a business entity that is wholly or partially owned by a relative of an elected official;

only if the requirements of this section are satisfied and the elected official does not violate IC 35-44-1-3.

(b) A unit may enter into a contract or renew a contract with an individual or business entity described in subsection (a) if:

(1) the elected official files with the unit a full disclosure, which must:

(A) be in writing;

(B) describe the contract or purchase to be made by the unit;

(C) describe the relationship that the elected official has to the

individual or business entity that contracts or purchases;

- (D) be affirmed under penalty of perjury;
 - (E) be submitted to the legislative body of the unit and be accepted by the legislative body in a public meeting of the unit prior to final action on the contract or purchase; and
 - (F) be filed, not later than fifteen (15) days after final action on the contract or purchase, with:
 - (i) the state board of accounts; and
 - (ii) the clerk of the circuit court in the county where the unit takes final action on the contract or purchase;
- (2) the appropriate agency of the unit:
- (A) makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered;
or
 - (B) makes a certified statement of the reasons why the vendor or contractor was selected; and
- (3) the unit satisfies any other requirements under IC 5-22 or IC 36-1-12.
- (c) An elected official shall also comply with the disclosure provisions of IC 35-44-1-3, if applicable.
- (d) This section does not affect the initial term of a contract in existence at the time the term of office of the elected official of the unit begins.

Sec. 6. Each elected officer of the unit shall annually certify in writing, subject to the penalties for perjury, that the officer is in compliance with this chapter. An officer shall submit the certification to the executive of the unit not later than December 31 of each year.

Sec. 7. If the state board of accounts finds that a unit has not implemented a policy under this chapter, the state board of accounts shall forward the information to the department of local government finance.

Sec. 8. If a unit has not implemented a policy under this chapter, the department of local government finance may not approve:

- (1) the unit's budget; or
- (2) any additional appropriations for the unit;

for the ensuing calendar year until the state board of accounts certifies to the

department of local government finance that the unit has adopted a policy under this chapter.

Appendix B

Sample

VERIFICATION OF APPLICANT FOR EMPLOYMENT FOR COMPLIANCE WITH MUNICIPAL NEPOTISM POLICY

I, _____ (printed name), have reviewed the direct line of supervision for the position I am seeking with the “Blank City or Town” and I am not a relative of any employee who will be in my direct line of supervision in the position of _____.

I understand that Relative means my spouse, parent or stepparent, child or stepchild, brother, sister, stepbrother, stepsister, niece, nephew, aunt, uncle, daughter-in-law or son-in-law (including half-bloods and adopted children).

I hereby verify under the penalty of perjury that the foregoing statements are true. Dated this _____ day of _____, 20_____.

(signature)

(printed name)

16

Appendix C

Sample

MAYOR/COUNCIL MEMBER DISCLOSURE OF RELATIVE’S CONTRACT WITH MUNICIPALITY

Indiana Code 36-1-21-5

A governing body of a municipality may enter into a contract or renew a contract for goods, services or public works with an individual who is or a business entity that has an ownership interest by an individual who is a relative of the Mayor or a council member of the municipality if a Disclosure of Relative’s Contract is made by the above noted elected official and the elected official does not violation IC 36-44-1-3.1, the criminal Conflict of Interest law. In addition the appropriate municipal governing body makes certain certified statements regarding price or selection of the contractor.

In foregoing consists only of excerpts and clarifying language from I.C. 36-1-21-5. Care should be taken to review I.C. 36-1-21-5 and 35-44-1-3.1 in their entirety.

1. Name of Elected Office (Mayor/Councilmembers) Submitting Disclosure:
2. Name of Office:
3. Name of Municipality:
4. Description of Contract for purchase or public works (Describe the kind of contract, the project name, the governing body or person(s) proposing to execute the contract for the municipality, the length of the contract term and the contractor):
5. Describe all of the ownership interests of the Contractor:
6. Describe the relationship of the Contractor from which the municipality of contracting for the purchase of goods, services or public works to the Elected Official

17

submitting the Disclosure (Elected Official is Mayor or Councilmember) (the relationship is the disclosure of which one of the following relatives – spouse, parent, stepparent, child, stepchild, adopted child, brother, half-brother, stepbrother, sister, half-sister, stepsister, niece or nephew, aunt or uncle, daughter-in-law or son-in-law if the Contractor or has an ownership interest in the Contractor):

(Attach extra pages as needed)

7. The appropriate agency of the municipality contracting for the goods, services or public works made its certified statements as required by law on the _____ day of _____, 20____ and believes that it has complied with state law.

8. Effective Dates: (Disclosure of a Relative’s contract must be submitted to the Legislative Body of the municipality prior to final action on the contract for goods, services or public works.):

Date

Submitted to Council Anticipated Date of Action on Contract or Purchase

9. Affirmation of Elected Official: This disclosure was submitted to the municipality of _____ for acceptance by its Legislative Body in a public meeting prior to final action on the contract or purchase. I affirm, under penalty of perjury, the truth and completeness of the statements made above, and that I am the above named

public servant.

Signed: Date:

(Signature of Elected Official)

10. Acceptance of Disclosure: The Council of the municipality this day of , 20 took action at tis public meeting to accept the above Disclosure prior to the final action on the contract.

Signed: (Signature of Presiding Officer of the Council)

Within 15 days after final action on the contract which is the subject of this Disclosure, copies of this statement must be filed with the State Board of Accounts, Indiana Government Center

South, 302 West Washington Street, Room E418, Indianapolis, Indiana, 46204-2738 and the

18

Clerk of the Circuit Court of the county in which the municipality executed the contract.

Appendix D

Sample

CERTIFICATION OF ELECTED OFFICIAL TO THE EXECUTIVE OF THE "BLANK CITY OR TOWN" ON COMPLIANCE WITH MUNICIPAL NEPOTISM POLICY

I, (printed name), the elected (insert office) of "Blank City or Town" certify that I have not violated the "Blank City or Town" Contracting with a Unit Policy of IC 36-1-21, as amended or supplemented, relating to contracts of my relatives' business interests with the "Blank City or Town" as further described in document adopting the policy . I understand that Relative means my spouse, parent or stepparent, child or stepchild, brother, sister, stepbrother, stepsister, niece, nephew, aunt, uncle, daughter-in-law or son-in-law (including half-bloods and adopted children). I intend for this to be submitted to the Mayor or Town Council President prior to the end of this calendar year.

Chapter 1.63

MINORITY HIRING

Sections:

1.63.010 Minority hiring encouraged

1.63.010 Minority hiring encouraged. That “minority” hiring (as defined in I.C. 4-33-14-2) is hereby encouraged and approved. (Res. 6 (1996), Aug. 13, 1996)