

TOWN OF ST. JOHN, LAKE COUNTY, INDIANA

ORDINANCE NO. 1556

AN ORDINANCE ESTABLISHING POLICIES AND PROCEDURES TO COMPLY WITH RECENTLY AMENDED STATE IMMIGRATION LAW REQUIRING THE TOWN TO USE THE U.S. DEPARTMENT OF HOMELAND SECURITY E-VERIFY PROGRAM TO VERIFY EMPLOYMENT ELIGIBILITY FOR NEWLY HIRED TOWN EMPLOYEES, PUBLIC BENEFIT RECIPIENTS, REQUIRING BUSINESSES AWARDED GRANTS BY THE TOWN AND CONTRACTORS PROVIDING SERVICES UNDER A PUBLIC CONTRACT FOR SERVICES, TO CERTIFY ELIGIBILITY OF THEIR EMPLOYEES THROUGH THE E-VERIFY PROGRAM, NOTIFYING TOWN LAW ENFORCEMENT OFFICERS OF THEIR DUTY TO ENFORCE STATE AND FEDERAL IMMIGRATION LAW, AND ALL MATTERS RELATED THERETO.

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana, (hereinafter referred to as the "Town Council") has been informed and advised by its Town Attorneys that the Indiana General Assembly recently adopted Senate Enrolled Act 590, effective July 1, 2011, amending and adding provisions to I.C. §§ 22-5-1.7 *et seq.*; 12-32-1 *et seq.*; and 5-2-18.2 *et seq.*; pertaining to State Immigration Law; and

WHEREAS, the Town Council has been informed and advised by its Town Attorneys that the Town does not presently have an Ordinance in effect establishing policy and procedures as required pursuant to Senate Enrolled Act 590, effective July 1, 2011, amending and adding provisions to I.C. §§ 22-5-1.7 *et seq.*; 12-32-1 *et seq.*; and 5-2-18.2 *et seq.*; pertaining to State Immigration Law; and

WHEREAS, the Town Council has been informed and advised by its Town Attorneys that the recently promulgated Statutory amendments and additions pertaining to Indiana Immigration Law under Senate Enrolled Act 590, require the Town to enroll in and use the U.S. Department of Homeland Security E-Verify program to verify the employment eligibility of all newly hired Town employees, verify the eligibility of public benefit recipients for the distribution of Local, State and Federal public benefits, and requiring businesses awarded grants by the Town and contractors awarded public service contracts with the Town, to certify the eligibility of their employees through the E-Verify program to the Town, and notifying Town Law Enforcement Officers of their duty to cooperate and enforce State and Federal Immigration Law, all as set forth in recently promulgated I.C. §§ 22-5-1.7 *et seq.*; 12-32-1 *et seq.*; and 5-2-18.2 *et seq.*; and

WHEREAS, the Town Council, having reviewed the recently promulgated Statutory amendments and additions pertaining to Indiana Immigration Law under Senate Enrolled Act 590, and having reviewed the recommendations of its Town Attorneys pertaining to the provisions under I.C. §§ 22-5-1.7 *et seq.*; 12-32-1 *et seq.*; and 5-2-18.2 *et seq.*, now concurs that it is advisable, necessary, and in the best interests of the residents of the Town of St. John that the Town enroll in and use the U.S. Department of Homeland Security E-Verify program to verify the eligibility of all newly hired Town employees, public benefit recipients, to require businesses

awarded grants by the Town and contractors awarded public service contracts with the Town to certify the eligibility of its employees through the E-Verify program to the Town, and notifying Town Law Enforcement Officers of the duty to cooperate and enforce State and Federal Immigration Law, in order that the Town is in compliance with State Immigration Law.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA, AS FOLLOWS:

SECTION ONE: That there is hereby established policies and procedures for the Town of St. John, Lake County, Indiana, in compliance with Senate Enrolled Act 590, effective July 1, 2011, amending and adding provisions to I.C. §§ 22-5-1.7 *et seq.*; 12-32-1 *et seq.*; and 5-2-18.2 *et seq.*; pertaining to State Immigration Law, which said program policies and procedures are attached hereto and incorporated as *Exhibit A*.

SECTION TWO: That the provisions of I.C. §§ 22-5-1.7 *et seq.*; 12-32-1 *et seq.*; and 5-2-18.2 *et seq.*, each as amended from time to time, pertaining to State Immigration Law, are hereby incorporated by reference into the E-Verify program policies and procedures for the Town of St. John, Lake County, Indiana.

SECTION THREE: That this Ordinance shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

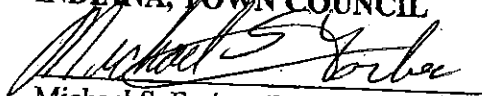
SECTION FOUR: That all Rules, Regulations, Policies, Practices, Customs, or Ordinances of the Town of St. John in conflict with the provisions of this Ordinance are hereby repealed, and any provisions stated in this Ordinance and any other Ordinances in conflict or inconsistent with the recently amended State Immigration Law, are hereby deemed null and void.

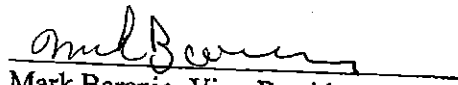
SECTION FIVE: If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such determination shall not affect any other section, clause, provision or portion of this Ordinance.

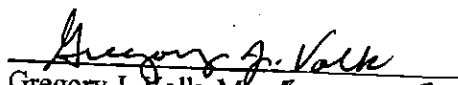
SECTION SIX: That this Ordinance shall take effect, and be in full force and effect, from and after its passage and adoption by the Town Council of the Town of St. John, Lake County, Indiana, in conformance with applicable law.

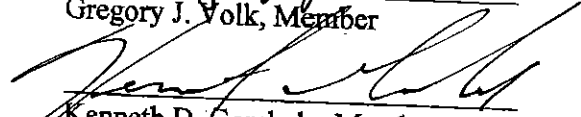
ALL OF WHICH IS PASSED AND ADOPTED BY THE TOWN COUNCIL OF
THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA, THIS 22nd DAY OF
March, 2012.

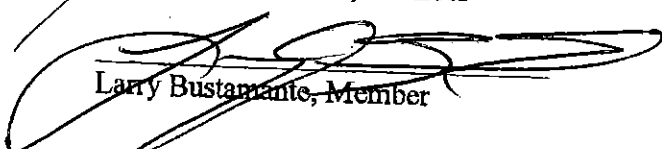
TOWN OF ST. JOHN, LAKE COUNTY,
INDIANA, TOWN COUNCIL


Michael S. Forbes, President

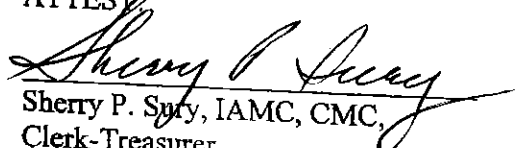

Mark Barenie, Vice-President


Gregory J. Volk, Member


Kenneth D. Gembala, Member


Larry Bustamante, Member

ATTEST


Sherry P. Suty, IAMC, CMC,
Clerk-Treasurer

**PROCEDURE & POLICY FOR COMPLYING WITH THE
INDIANA COMPREHENSIVE IMMIGRATION REFORM BILL**

E-Verify Requirements for Contractors Entering into or Renewing a Public Contract for Services

1. The Town may not enter into or renew a public contract for services with any contractor and any subcontractor after June 30, 2011, unless the contractor and any subcontractor meet the following requirements:
 - a. The public contract contains:
 - i. A provision requiring the contractor to enroll in and verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program;
 - ii. A provision that provides that a contractor is not required to verify the work eligibility status of all newly hired employees of the contractor and any subcontractor through the E-Verify program if the E-Verify program no longer exists;
 - b. The contractor and any subcontractor signs an affidavit affirming that it does not knowingly employ an unauthorized alien, and maintains these certifications on file throughout the duration of the public contract for service;
 - c. The contractor and any subcontractor maintains on file, certification documentation obtained through the E-Verify program on all of its employees throughout the duration of the public contract for service; and
 - d. The contractor maintains on file, certification from any and all subcontractors that the subcontractor does not knowingly or intentionally employ an unauthorized alien.
2. The Town shall terminate a public contract for services with any contractor or subcontractor if the Town determines any of the following violations have occurred and have not been remedied by the contractor or subcontractor following the expiration of thirty (30) days written notice from the Town of said violation:
 - a. The contractor or subcontractor knowingly employs or contracts with an unauthorized alien; and
 - b. The contractor or subcontractor retains an employee or contract with a person that the contractor or subcontractor subsequently learns is an unauthorized alien, including contracts with any subcontractors.
 - c. If a contractor determines that a subcontractor is in violation of this Ordinance, and it provisions, the contractor may terminate a contract with the subcontractor for the violation without the termination constituting a breach of contract with the Town of St. John.
 - d. If a contractor or subcontractor is found to have violated this Ordinance, it is liable to the Town for actual damages.
 - i. There is a rebuttable presumption that a contractor or subcontractor did not knowingly employ an unauthorized alien if the contractor or

subcontractor verified the work eligibility status of the employee through the E-Verify program.

3. The Town may allow a public contract for services to remain in effect by a contractor or subcontractor who commits a violation of this Ordinance until the Town procures a new contractor or subcontractor, if the Town determines that terminating the public contract for services would be detrimental to the public interest or to public property.
4. The Town may not award a grant of more than one thousand dollars (\$1,000) to a business entity unless the business entity meets the following requirements:
 - a. The business entity, by and through a duly authorized representative, signs a sworn affidavit that affirms that the business entity has enrolled and is participating in the E-Verify program;
 - b. The business entity provides documentation to the Town of St. John that it has enrolled and is participating in the E-Verify program; and
 - c. The business entity, by and through a duly authorized representative, signs an affidavit affirming that the business entity does not knowingly employ an unauthorized alien.

Verification of Newly Hired Town Employees

1. The Town shall use the U.S. Department of Homeland Security U.S. Citizenship and Immigration Services E-Verify program to verify the work eligibility status of all newly hired Town employees hired after June 30, 2011.
2. The Town shall not be required to use the E-Verify program to verify the employment eligibility of all newly hired employees if the program ceases to exist.

Verification of Public Benefit Recipients

1. The Town, notwithstanding any other provision under Federal Law or the laws of the State of Indiana, as amended from time to time, shall verify the eligibility of any individual, eighteen (18) years of age or older that applies for local, State or Federal public benefits provided by the Town, by requiring that individual to provide written verification, under the penalty of perjury, that the individual is a United States Citizen or a Qualified Alien for said benefits.
2. The Town shall not require verification of an individual seeking medical treatment for an emergency medical condition, as defined in 42 U.S.C. 1396b(v)(3), from a health care provider, as defined in I.C. 16-18-2-163(a).
3. The Town shall not be required to use the E-Verify program to verify the eligibility of public benefit recipients if the program ceases to exist.

Written Notice to Town Law Enforcement Officers of Duty to Enforce Immigration Law

1. The Town shall provide written notice to all Town Law Enforcement Officers of their duty to cooperate with all State of Indiana and Federal Agencies and Officials on matters pertaining to enforcement of State and Federal immigration laws.