

**STATE BOARD OF ACCOUNTS**  
**302 West Washington Street**  
**Room E418**  
**INDIANAPOLIS, INDIANA 46204-2769**

SUPPLEMENTAL COMPLIANCE REPORT

OF

TOWN OF MCCORDSVILLE

HANCOCK COUNTY, INDIANA

January 1, 2012 to December 31, 2015



**FILED**  
09/29/2016



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## SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Catherine C. Gardner	01-01-12 to 12-31-19
President of the Town Council	Brent A. Barnes	01-01-12 to 12-31-12
	Barry Wood	01-01-13 to 12-31-14
	Tom Strayer	01-01-15 to 12-31-15
	Larry Longman	01-01-16 to 12-31-16



# STATE OF INDIANA

AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE TOWN OF MCCORDSVILLE, HANCOCK COUNTY, INDIANA

This report is supplemental to our examination report of the Town of McCordsville (Town), for the period from January 1, 2012 to December 31, 2015. It has been provided as a separate report so that the reader may easily identify any Examination Results and Comments that pertain to the Town. It should be read in conjunction with our Financial Statements Examination Report of the Town, which provides our opinion on the Town's financial statements. This report may be found at [www.in.gov/sboa/](http://www.in.gov/sboa/).

As authorized under Indiana Code 5-11-1, we performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts. The Examination Results and Comments contained herein describe the identified reportable instances of noncompliance found as a result of these procedures. Our tests were not designed to identify all instances of noncompliance; therefore, noncompliance may exist that is unidentified.

Any Official Response to the Examination Results and Comments, incorporated within this report, was not verified for accuracy.

*Paul D. Joyce*  
Paul D. Joyce, CPA  
State Examiner

July 26, 2016

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CLERK-TREASURER  
TOWN OF MCCORDSVILLE

CLERK-TREASURER  
TOWN OF MCCORDSVILLE  
EXAMINATION RESULTS AND COMMENTS

***MOVING TRAFFIC VIOLATIONS***

The Town established an Ordinance Violations Bureau in 2012, pursuant to Indiana Code 33-36-2-1, to collect various fines. The Town used the Ordinance Violations Bureau to collect moving traffic violations.

Fines collected for moving traffic violations by year were as follows:

2012	\$ 68,145
2013	60,990
2014	41,015
2015	<u>40,510</u>
Total	<u>\$ 210,660</u>

Indiana Code 36-1-6-3(c) states: "An ordinance defining a moving traffic violation may not be enforced under IC 33-36 and must be enforced in accordance with IC 34-28-5."

The accounts of each public official and public office should reflect the proper treatment of fines collected for moving traffic violations as required by Indiana Code 36-1-6-3(c), Indiana Code 34-28-5, and this Directive. Failure to do so will result in a civil action against those public officials who are responsible for the improper enforcement and collection of fines for moving traffic violations as allowable by law. (State Examiner Directive 2015-1)

***ERRORS ON CLAIMS***

Of the claims tested 13 percent did not have proper approval by the Fiscal Officer. This error resulted in \$1,404 of expenditures which did not have proper approval by the Fiscal Officer. The Clerk-Treasurer, as the Town's fiscal officer, had not signed the claims or the claim docket that reported these claims.



CLERK-TREASURER  
TOWN OF MCCORDSVILLE  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

Indiana Code 5-11-10-1.6 states in part:

" . . . (b) As used in this section, 'claim' means a bill or an invoice submitted to a governmental entity for goods or services.

(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

- (1) there is a fully itemized invoice or bill for the claim;
- (2) the invoice or bill is approved by the officer or person receiving the goods and services;
- (3) the invoice or bill is filed with the governmental entity's fiscal officer;
- (4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and
- (5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim. . . ."

**OVERDRAWN CASH BALANCE**

The financial statements presented for examination included the Payroll fund with an overdrawn cash balance of \$42,827 at December 31, 2013.

The cash balance of any fund may not be reduced below zero. Routinely overdrawn funds could be an indicator of serious financial problems which should be investigated by the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

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July 29, 2016

Cathy Gardner  
Clerk-Treasurer  
6280 W. 800 N.  
McCordsville, IN 46055

Re: Ordinance Violations Bureau Operations

Dear Cathy:

As requested, the following is my opinion with regard to whether or not our Ordinance Violations Bureau can accept the admission of an individual for a violation of our ordinances regarding traffic, including violation of our speed ordinances, parking ordinances, stop sign ordinances and public street and thoroughfare ordinances.

Our Ordinance Violations Bureau is established pursuant to Indiana Code 33-36-3. Pursuant to that statute, the Town Council as the legislative body of McCordsville, Indiana, has by ordinance designated a schedule of ordinances and code provisions that are subject to "admission of violation" before the violations clerk and the amount of civil penalty to be assessed to a violator who "elects to admit a violation under this chapter."

It is the procedure of the McCordsville Police Department to not issue summons or complaints for moving traffic violations within McCordsville, Indiana. However, it is their procedure to issue a citation for violation of an ordinance, which is decidedly different. Furthermore, payment for such ordinance violations are received by the Ordinance Violations Bureau only if the alleged violator admits his violation and elects to pay the designated penalty for such violation to the Ordinance Violations Bureau. Such a process does not constitute enforcement of a moving traffic violation as that is defined under Indiana Code 34-28-5-1.

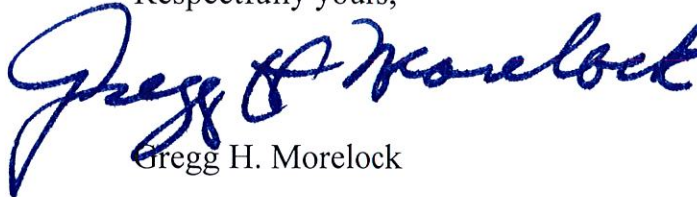
Cathy Gardner  
July 29, 2016  
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That code provision says that an action to enforce a "statute" defining an "infraction" shall be brought in the name of the state of Indiana by the prosecuting attorney for the Judicial Circuit in which the infraction allegedly took place. Citations issued for violation of our code of ordinances are not actions to enforce a "statute" nor are ordinance violations considered "infractions", so as to come within the confines of this code provision. Furthermore, we are following the provisions of Indiana Code 34-28-5-1, because if the violator does not elect to admit a violation, the violation is then prosecuted through the court system in the name of the municipal corporation as provided in subpart (b). A complaint and summons is filed, properly served upon the defendant, and they are allowed the opportunity to present their case in court at a trial pursuant to the Indiana Rules of Trial Procedure.

Indiana Code 36-1-6-3, which is entitled "Proceeding to Enforce Ordinance", and which references the necessity to prosecute ordinance violations pursuant to Indiana Code 34-28-5-1, clearly and unequivocally only apply to a legal proceeding to enforce our ordinances and just as equally and unequivocally do not apply to the voluntary admission and/or payment of an associated fine by violator. It is equally clear from the language of the aforementioned statutes, that the issuance of a citation is not a proceeding to enforce an ordinance, because clearly such proceeding can only be initiated by the filing of a complaint and the issuance of a summons.

Therefore, it is my opinion the issuance of a citation for an ordinance violation followed by the voluntary admission of the alleged violator and the voluntary payment of the associated fine does not constitute a proceeding to enforce an ordinance; and therefore, is strictly relegated to the province of an Ordinance Violations Bureau once established. Should you have further questions, please feel free to contact me.

Respectfully yours,

A handwritten signature in blue ink, reading "Gregg H. Morelock". The signature is stylized with a large, flowing "G" and "M".

Gregg H. Morelock

GHM/sls

CLERK-TREASURER  
TOWN OF MCCORDSVILLE  
EXIT CONFERENCE

The contents of this report were discussed on July 26, 2016, with Catherine C. Gardner, Clerk-Treasurer, and Tonya Galbraith, Town Manager.

POLICE DEPARTMENT  
TOWN OF MCCORDSVILLE

POLICE DEPARTMENT  
TOWN OF MCCORDSVILLE  
EXAMINATION RESULT AND COMMENT

***REMITTANCES TO CLERK-TREASURER***

Receipts were not remitted timely to the Clerk-Treasurer for deposit in 90 percent of the Police Department receipts tested. The time between collection by the Police Department and remittance to the Clerk-Treasurer ranged from 6 to 26 days.

The receipts and fees collected should be remitted to the clerk-treasurer or city controller as least once each week. (Cities and Towns Bulletin and Uniform Compliance Guidelines, September 2013)

POLICE DEPARTMENT  
TOWN OF MCCORDSVILLE  
EXIT CONFERENCE

The contents of this report were discussed on July 26, 2016, with Harold Rodgers, Jr., Chief of Police; Lucy Messer, Chief's Assistant; and Paul Casey, Major.