

1 **BILL NO. G-22-08-18**

2 **GENERAL ORDINANCE NO. G-~~WITHDRAWN~~**

3 **AN ORDINANCE AMENDING CHAPTER 34:**
4 **POLICE DEPARTMENT - § 34.03 "ELIGIBILITY FOR**
5 **PROMOTION" OF THE CITY OF FORT WAYNE,**
6 **INDIANA, CODE OF ORDINANCES.**

7 **NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF**
8 **THE CITY OF FORT WAYNE, INDIANA;**

9 **SECTION 1.** That § 34.03 ELIGIBILITY FOR PROMOTION of the City of
10 Fort Wayne, Indiana, is hereby amended as follows:

11 AMEND § 34.03 (C)

12 (C) To prescribe the manner of determining a rating for past performance,
13 such rules and regulations shall contain a provision requiring that performance
14 ratings shall be made every six months for each member of the Police
15 Department, not including Captains and higher ranks. These ratings shall be
16 made by the immediate superior officer of the member and shall be given to the
17 member in person by his superior officer so that the member has full knowledge
18 of his rating. Such ratings shall then be submitted to the Chief of Police and kept
19 on file permanently in this office; provided further; that such rules and regulations
20 shall provide that the chief of the Police Department shall allow any member to
21 see his rating upon request. If then any member is dissatisfied with his rating, he
22 may submit a written statement to be attached permanently to such report and
23 may request a hearing with the Commission within 30 days of such rating being
24 disclosed to the officer. The Commission will then hear his case and the report
25 with his immediate superior officer present. The Commission shall have the
26 authority to affirm the rating or to increase same. All promotions to any rank shall
27 be made from the next immediate lower rank, except Captain through Chief of
28 Police, as hereinafter provided. No acting or temporary rank shall exceed three
29 months. The Commission shall not have the authority to appoint or remove from
30 rank any member of the Police Department from Captain through Chief of Police,
but the Mayor, or the Board of Safety shall have the authority to promote or
demote any member of the Police Department from Captain through Chief of
Police. Demotion of any member of the Police Department from Captain through
Chief of Police shall be demotion from rank only and not removal from the
Department. Any person demoted from the rank of Captain or above shall be
assigned to a rank determined by the board of safety, but in no event to a rank
below Sergeant. Provided further that said examination papers shall be made a
part of the permanent file of the individual officer taking the examination, and
they shall be retained in the office of the Chief of Police, and said individual shall
have access to examine the same any time in the presence of the Chief of
Police.

1 ('74 Code, § 20-133) (Ord. S-232-82, passed 12-28-82)

2
3 **SECTION 2.** That this Ordinance shall be in full force and effect from and
4 after its passage and any and all necessary approval by the Mayor and/or notice of
5 publication.
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8 _____
9 Council Member

10 APPROVED AS TO FORM AND LEGALITY

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12 _____
13 Malak Heiny, City Attorney

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CHAPTER 34: POLICE DEPARTMENT

Section

Merit System

34.01 Police Commission; organization

34.02 Establishment of rules and regulations; public hearing; publication of notice

34.03 Eligibility for promotion; basic components in rating

34.04 Evaluation report

34.05 Existing ranks continued; competitive examinations; qualifications for promotion

34.06 Rankings and promotions subject to Commission rules

34.07 Compulsory retirement age

34.08 Upper level policymaking positions

Cross-reference:

Accident reports, charges for, see § 37.02

Criminal history checks, fingerprints and police reports, charges for, see § 37.03

Emergency medical service (EMS), see Ch. 112

Salaries, see Ch. 36, § 36.17

MERIT SYSTEM

§ 34.01 POLICE COMMISSION; ORGANIZATION.

(A) The Police Commission of the Police Department, hereinafter referred to as the Commission, shall consist of five members, none of whom shall be a member of the Police Department. The members of the Commission shall have been legal residents of the city for at least three years, and shall be persons of good moral character. The members of the Commission shall be drawn from a broad cross-section of persons representative of the citizens of the city and who have an interest in, or a knowledge and understanding of, the various phases of law enforcement, as performed by the Police Department of such city. The men and women of the Commission shall be appointed as follows:

(1) The Police Department shall make two appointments to the Commission; and the Mayor shall make two appointments to the Commission. One of the appointments made by the Mayor and Police Department shall be from one of the two major political parties, and the other appointment made by the Mayor and Police Department shall be from the other of the two major political parties. These four persons will elect a fifth

member by unanimous vote. In case of a deadlock or tie vote, the Mayor shall break the tie and appoint the fifth member of the Commission.

(2) In the first instance of two members to be elected and appointed by the active majority of the Police Department, one shall serve for a term of two years, and one shall serve for a term of three years; such determination dependent on the two persons receiving the greatest number of votes in the election by the active Police Department members. In the instance of the appointments made by the Mayor, one member shall serve for a term of one year; the second appointment by the Mayor shall serve for four years. The fifth member selected by unanimous vote of the other four members, or, in case of a deadlock, by the Mayor, shall serve on said Commission for four years. Thereafter, the terms of the Commission shall be for a term of four years.

(B) The appointments by the active membership of the Police Department shall be made at a meeting specifically called for such purpose by the Board of Public Safety, hereinafter referred to as the Board.

(1) The board shall give at least one week's notice of said meeting to all active members of the Police Department, by posting a copy of the notice of the meeting in at least three prominent locations in the central station Police Department, and by sending every active Police Officer postcards indicating the time and place of the meeting. No one shall be entitled to be present at the meeting and exercise the right to vote unless he or she is an active member of the Police Department.

(2) Active members of the Police Department who are unable to attend such meeting may vote by written proxy. This proxy must be notarized and put into a sealed envelope and sent to the Chair of the Election Committee prior to the election, to be opened by the Chair, immediately after the counting of the ballots at said meeting on the day of election.

(3) An active member of the Police Department shall be elected to act as Chair of the meeting, and the Chair shall have charge of the conduct of the election. Voting shall be by secret ballot and the two persons receiving the greatest number of votes, including all votes by proxy, shall be named as members of the Commission representing the active members of the Police Department.

(4) The results of the election shall be tabulated and filed with the Clerk of the city.

(C) Persons shall be ineligible to serve as a member of the Commission if they hold a full-time political appointment, or have held any full-time political appointment in the preceding four years.

(D) Every member appointed on said Commission shall take and subscribe to an oath that he or she will conscientiously and faithfully discharge the duties of his or her office. Said oath shall be filed with the Clerk of the city.

(E) The five members of the Commission shall be paid a per diem allowance for each day of actual service in the amount to be fixed by the Commission, subject to the approval of the City Council, and in addition, the member shall be paid a salary, not to exceed \$500 per year for each member, subject to the approval of the City Council.

(F) The unexpired term for any reason, including death, sickness, or resignation, of any member of this Commission, shall be filled by appointment in the same manner as the appointment of the members of the Commission whose terms have expired.

(G) Any Commission member may be removed for cause in the same manner that Police Officers are removed.

(H) Three members of the Commission shall constitute a quorum for the transaction of official business; all official business may be transacted only formally and after each member of the Commission has been notified of the time and place of the meeting by certified mail.

('74 Code, § 20-131)

(I) The Commission shall be authorized to elect from its members a President, Vice-President, and Secretary for a period of one year.

(J) The secretary of the Commission shall make and keep a permanent record of its proceedings. The Commission shall be authorized and directed to prepare and adopt rules and regulations governing the rating of persons employed as members of the Police Department, and promoting members of the Police Department up to and including Lieutenant from the next lower rank.

('74 Code, § 20-132)

(Ord. S-233-82, passed 12-28-82)

§ 34.02 ESTABLISHMENT OF RULES AND REGULATIONS; PUBLIC HEARING; PUBLICATION OF NOTICE.

(A) Such Commission shall establish rules and regulations to implement the provisions of this subchapter affecting rating and promotion of all Police Officers below the rank of Captain, but which shall not in any way limit or circumscribe the power and duties delegated to the Board of Public Safety relating to any matters other than the rating and promotion of such police officers pursuant to Indiana Code 36-8-3-4. Indiana Code 36-8-3-3 and I.C. 36-8-3-4 are specifically incorporated herein.

(B) Before any rules and regulations, as provided in this section, shall be adopted by the Commission, the Commission shall provide for a public hearing to consider the adoption of the proposed rules and regulations.

(C) The Commission, at least 10 days prior to the fixed date for such public hearing, shall cause a notice of the hearing to be published in two newspapers of general circulation in said city. The notice shall contain an announcement of the time and place of the hearing, and a resume of the subject matter of the proposed rules and regulations. At least 10 days prior to the hearing, one copy of the proposed rules and regulations shall be placed on file in the office of the City Clerk and shall be open to inspection to any citizen of such city, and three copies of the proposed rules and regulations shall be forwarded to the Chief of Police and retained by him on file in the Police Department.

(D) At the hearing, any legal resident of said city, including any member of the Police Department, shall be afforded the opportunity to be heard on any matter relative to the adoption of proposed rules and regulations, and shall be allowed to present either written or oral testimony. All testimony so presented shall be given due consideration by the Commission in making its final decision on adopting the proposed rules and regulations. Other review procedures shall be modeled after those outlined in IC 4-21.5.

('74 Code, § 20-132) (Ord. S- 233-82, § 2, 12-28-82; Am. Ord. G-3-19, passed 1-22-19)

§ 34.03 ELIGIBILITY FOR PROMOTION.

(A) Such rules and regulations shall prescribe that the following four factors shall be the basic components in rating a member of the Police Department, and that such rating shall determine the eligibility of all police personnel for promotion to new positions or to fill vacancies in all ranks below Captain. All police personnel interested in promotion under the provision of this chapter are eligible to take a written competitive examination for a rating, as hereinafter provided:

(1) The grade received by a member on a written competitive examination pertaining to police work in said city.

(2) The past performance record of a member of the Police Department.

(3) The seniority rights of a member of the Police Department.

(4) A personal interview by the Commission.

(B) The grade received on the written competitive test shall count as 40% of the rating. Past performance shall count as 40% of the rating. Seniority rights will be based on the number of years of service as a member of the Police Department, at the rate of .5% for each year's service up to and including 20 years, and the personal interview by the Commissioners shall be considered 10% of the rating.

(C) To prescribe the manner of determining a rating for past performance, such rules and regulations shall contain a provision requiring that performance ratings shall be made every six ~~three~~ months for each member of the Police Department, not including Captains and higher ranks. These ratings shall be made by the immediate superior officer of the member and shall be given to the member in person by his superior officer so that the member has full knowledge of his rating. Such ratings shall then be submitted to the Chief of Police and kept on file permanently in this office; provided further; that such rules and regulations shall provide that the chief of the Police Department shall allow any member to see his rating upon request. If then any member is dissatisfied with his rating, he may submit a written statement to be attached permanently to such report and may request a hearing with the Commission within 30 days of such rating being disclosed to the officer. The Commission will then hear his case and the report with his immediate superior officer present. The Commission shall have the authority to affirm the rating or to increase same. All promotions to any rank shall be made from the next immediate lower rank, except Captain through Chief of Police, as hereinafter provided. No acting or temporary rank shall exceed three months. The Commission shall not have the authority to appoint or remove from rank any

member of the Police Department from Captain through Chief of Police, but the Mayor, or the Board of Safety shall have the authority to promote or demote any member of the Police Department from Captain through Chief of Police. Demotion of any member of the Police Department from Captain through Chief of Police shall be demotion from rank only and not removal from the Department. Any person demoted from the rank of Captain or above shall be assigned to a rank determined by the board of safety, but in no event to a rank below Sergeant. Provided further that said examination papers shall be made a part of the permanent file of the individual officer taking the examination, and they shall be retained in the office of the Chief of Police, and said individual shall have access to examine the same any time in the presence of the Chief of Police.

('74 Code, § 20-133) (Ord. S-232-82, passed 12-28-82)

§ 34.04 EVALUATION REPORT.

There shall be an evaluation report that shall be maintained on all police personnel which shall be considered in determining their past performance record. The report shall be made up of at least five descriptive areas, including their initiative, loyalty, appearance, conduct and efficiency and each descriptive area shall contain five grading levels based on proficiency. The evaluation report shall also contain a comment section. This comment section shall be used by the immediate superior for further evaluation. This evaluation shall be limited to overall description.

('74 Code, § 20-134) (Ord. S-233-82, passed 12-28-82)

§ 34.05 COMPETITIVE EXAMINATIONS; QUALIFICATIONS FOR PROMOTION.

When appointing the Police Chief, the Mayor must make that appointment from a member of the Police Department with a rank of not less than a Sergeant. Promotions in the Police Department shall be approved and made by the Commission from active personnel of the Department; provided that any member, in order to be eligible for appointment to the rank of Captain through Chief of the Department, shall be required to have served continuously as an active member of the department for at least five years immediately preceding his appointment to Captain or above, and also provided that he has attained the rank of Sergeant through the process herein provided. The Mayor of said city shall have the authority to appoint Captains through Chief of Police under the conditions herein set out.

('74 Code, § 20-135) (Ord. S-233-82, passed 12-28-82)

§ 34.06 RANKINGS AND PROMOTIONS SUBJECT TO COMMISSION RULES.

All rankings and promotions made by the Commission shall be subject to the rules and regulations of the Commission, subject to the statutes of the state.

('74 Code, § 20-136) (Ord. S-233-82, passed 12-28-82)

§ 34.07 COMPULSORY RETIREMENT AGE.

A member of the Department shall retire from the Department no later than the end of the calendar year in which the member reaches the member's 70th birthday.

('74 Code, § 20-137) (Ord. S-233- 82, passed 12-28-82; Am. Ord. G- 8-15, passed 4-14-15)

§ 34.08 UPPER LEVEL POLICYMAKING POSITIONS.

(A) *Upper level policymaking positions* shall mean the Police Chief and the two ranks below Police Chief.

(B) The Mayor may reduce in rank any member of the Police Department who holds an upper level policymaking position, as provided in IC 36-8-3-49(m), provided that the member is not reduced to a rank below that which he held before his appointment to the upper level policymaking position.

(Ord. G-06-93, passed 2-23-93)

WITHDRAWN

**REPORT OF COMMITTEE ON REGULATIONS
September 27, 2022**

***Paul Ensley Chair
Tom Freistroffer Co-Chair
All Council Members***

An Ordinance amending Chapter 34: Police Department - § 34.03 "Eligibility for Promotion" of the City of Fort Wayne, Indiana, Code of Ordinances

COMMITTEE ON REGULATIONS HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance

<u>COUNCIL MEMBER</u>	<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>
<u>ARP</u>	<u> </u>	<u> </u>	<u> </u>
<u>CHAMBERS</u>	<u> </u>	<u> </u>	<u> </u>
<u>DIDIER</u>	<u> </u>	<u> </u>	<u> </u>
<u>ENSLEY</u>	<u> </u>	<u> </u>	<u> </u>
<u>FREISTROFFER</u>	<u> </u>	<u> </u>	<u> </u>
<u>HINES</u>	<u> </u>	<u> </u>	<u> </u>
<u>JEHL</u>	<u> </u>	<u> </u>	<u> </u>
<u>PADDOCK</u>	<u> </u>	<u> </u>	<u> </u>
<u>TUCKER</u>	<u> </u>	<u> </u>	<u> </u>

**LANA R. KEESLING
CITY CLERK**

