

Visited on 05/18/2018

Print

Elkhart, IN Code of Ordinances

CHAPTER 31: DEPARTMENTS

Section

General Provisions

- 31.001 Establishment of Executive Branch Departments of city
- 31.002 Uniform fee schedule

Police Department

- 31.015 Police reserve unit
- 31.016 Accident report fees; Firearms Training Fund
- 31.017 Bill of rights adopted; rules and regulations adopted; grievance procedure
- 31.018 Fingerprinting services
- 31.019 Compensatory and vacation time upon retirement, voluntary termination or death
- 31.020 Local Law Enforcement Continuing Education Fund
- 31.021 Collective bargaining
- 31.022 Collective bargaining for certain full- time non-sworn non-exempt Police Department employees
- 31.023 Expenditures for buy money or payments to informants

Department of Community Development

- 31.035 Creation of Department
- 31.036 Function of Department
- 31.037 Director and staff
- 31.038 Salaries
- 31.039 Funds

Department of Economic Development

- 31.055 Creation of Department
- 31.056 Board members
- 31.057 Authority of Mayor

Visited on 05/18/2018

31.058 Use of funds

Department of Redevelopment

31.075 Creation of Department

31.076 Board of Trustees

Department of Parks and Recreation

31.095 Creation of Department

Department of Water Works

31.105 Control and supervision

Public Safety Communications Department

31.115 Establishment of the Public Safety Communications Department

31.116 Staffing of Department

31.117 Appointment of Director

31.118 Control of computer terminal and related records

31.119 Administrative policies

31.120 Procedures for responding to calls

Fire Department

31.135 Collective bargaining

31.136 Compensatory and vacation time upon retirement, voluntary termination or death

Department of Storm Water Management

31.145 Adoption of state regulations

31.146 Creation of Department

31.147 Board of Directors

31.148 Terms

31.149 Special taxing district

31.150 Governing provisions

31.151 Financial administration

GENERAL PROVISIONS

§ 31.001 ESTABLISHMENT OF EXECUTIVE BRANCH DEPARTMENTS OF CITY.

Visited on 05/18/2018

(A) The Executive Branch of the city, operating under the control and supervision of the Mayor, shall consist of the following departments:

- (1) The Finance Department;
- (2) The Law Department;
- (3) The Public Works and Utilities Department;
- (4) The Street Department;
- (5) The Aviation Department;
- (6) The Police Department;
- (7) The Fire Department;
- (8) The Communications Department;
- (9) The Emergency Management Department;
- (10) The Human Resources Department;
- (11) The Human Relations Department;
- (12) The Information Technology Department;
- (13) The Central Garage Department;
- (14) The Grants Department;
- (15) The Office of Development Services;
- (16) The Redevelopment Department;
- (17) The Community Development Department;
- (18) The Planning Department;
- (19) The Economic Development Department;
- (20) The Building Department;
- (21) The Parks and Recreation Department;
- (22) The Lerner Theatre Department;
- (23) The New York Central Railroad Museum;
- (24) The Public Building and Grounds Maintenance Department;
- (25) The Cemetery Department.

(B) Each department shall have a department head managing the duties, functions and obligations of that department who shall report directly to the Mayor. The Mayor shall appoint each department head and make any other appointments required by law to positions within each department, subject only to any board's or commission's ratification as required by law.

Visited on 05/18/2018

(C) The Mayor shall determine the administrative duties, functions and obligations to be performed by each department, unless the management and control over specific administrative duties, functions and obligations has been delegated to a board or commission established by ordinance or state statute. The Mayor shall also determine the organizational divisions comprising each department.

(D) All previously adopted and existing ordinances of the city regulating the operation of certain departments are confirmed and shall remain in effect.

(E) All boards, commissions and bureaus presently existing within the city, whether created by ordinances or pursuant to state statute, shall continue to exist and operate under their present structure, and all ordinances previously adopted pertaining to those boards, commissions, and bureaus are confirmed and ratified and shall remain in effect.

(1979 Code, § 31.01) (Ord. 3476, passed 8-29- 1983; Am. Ord. 4922, passed 9-16-2005; Am. Ord. 5089, passed 2-4-2008; Am. Ord. 5507, passed 8-1-2016)

§ 31.002 UNIFORM FEE SCHEDULE.

(A) *No fee to examine record.* Pursuant to I.C. 5-14-3-8, a city department or office may not charge a fee under this section to inspect a public record, or to search for, examine or review a record to determined whether or not the record may be disclosed.

(B) *Fee schedule.* The following schedule of fees is established to be uniformly applied throughout all city departments:

(1)	Photocopies (single sided letter or legal size) or (for color copies)	10¢ per page 25¢ per page
(2)	Photocopies (double sided letter or legal size)	20¢ per page
(3)	Facsimile transmissions (local or long distance, included cover sheet)	15¢ per page
(4)	Copy of blue print from Engineering Department 18" x 24"	\$1 per page
(5)	Copy of blue print from Engineering Department 24" x 36"	\$1.25 per page
(6)	Copy reproduced on plotter from Engineering Department 24" x 36"	\$1.50 per page
(7)	Copy reproduced on plotter from Engineering Department 34" x 44"	\$1.75 per page
(8)	Full color city zoning map	\$25

Visited on 05/18/2018

(9)	Zoning ordinance (CD version)	\$10
(10)	Audio cassette tape recording duplication	\$5
(11)	Video tape recording duplication	\$5
(12)	Computer diskette duplication (for electronically stored data)	\$1
(13)	CD-ROM duplication (for electronically stored data)	\$2.50
(14)	ZIP disk duplication (for electronically stored data)	\$5
(15)	Accident report (pursuant to I.C. 9-29-11-1)	\$5 per report
(16)	“Police Blotter/Incident Report” data required to be disclosed by I.C. 5-14-3-5	5 ¢ per page
(17)	Processing fee for a request to inspect a limited criminal history (pursuant to I.C. 5-14-3)	\$3 per record
(18)	Processing fee for a request to release a limited criminal history (pursuant to I.C. 5-2-5-7)	\$7 per record
(19)	Copy of transcript or any court record (Pursuant to I.C. 33-37-5-2)	\$1 per page
(20)	Each certificate under seal in authentication of a copy of any public record (pursuant to I.C. 33-37-5-3)	\$1 per page
(21)	Medical health record (pursuant to I.C. 16-39-9-3)	25 ¢ per page

(C) *Fee for items not specifically enumerated in division (B).* In the event that the cost of copying an item is not specified in division (B) above, the cost of any paper copy or certification shall be its “actual cost”, as that term is defined by I.C. 5-14-3-8(d), and the cost of any electronically stored or filmed copy shall be the “direct cost” as permitted and defined by I.C. 5-14-3-8(g) and I.C. 5-14-3-2.

(D) *Fee schedule superceded by state law.* Notwithstanding divisions (A) through (C) above, and pursuant to I.C. 5-14-3-8(f), a city department or office shall collect any fee for certification, copying or facsimile transmission which is required by statute or where ordered by a court. Likewise, a city department or office shall refrain from collecting such a fee where required by statute or where ordered by a court.

(E) *Fees \$1 or less waived.* Except for the limited criminal history fees described in division (B)(15) and (16) above and the Clerk’s document fees described in division (B)(17) and (18) above, if the fee

Visited on 05/18/2018

for a single request totals \$1 or less, the fee may be waived.

(F) *Deposit of collected fees.* Fees collected for copies shall be deposited as follows:

(1) Fees collected by the City Clerk for the facsimile transmission of documents shall be deposited into the Clerk's record perpetuation fund as established by I.C. 33-37-5-2.

(2) Fees collected by the City Clerk for copies of records or certificates under seal in authentication of a record shall be forwarded to the City Controller in accordance with I.C. 33-37-7-12 and 33-37-5-5.

(3) Fees collected by the Police Department for a copy of an accident report shall be deposited into the Local Law Enforcement Continuing Education Fund established pursuant to I.C. 5-2-8-2.

(4) All other fees shall be forwarded to the City Controller for deposit into the general fund of the city unless otherwise specified by statute or order of a court.

(G) *City equipment to be used only for city business.* City equipment should be used for the copying and transmission of public documents only. No non-public documents are permitted to be copied on city equipment.

(Ord. 4823, passed 5-3-2004 ; Am. Ord. 5168, passed 6-1-2009)

POLICE DEPARTMENT

§ 31.015 POLICE RESERVE UNIT.

(A) (1) There is established the Elkhart Police Reserve Unit.

(2) The members of this unit shall be appointed by the Board of Public Works and the Board of Public Safety of the city and shall be under the direct authority and subject to the rules and regulations of the Elkhart Police Department.

(B) The Elkhart Police Reserve Unit shall be headed by a Reserve Police Chief, who shall be appointed by the Chief of Police of the Elkhart Police Department from the members of the Elkhart Police Reserve Unit.

(C) The Elkhart Police Reserve Unit shall perform such functions, duties and tasks as they may be called upon to perform by the Chief of Police of the Elkhart Police Department or any other person whom he or she designates from time to time.

(D) (1) The Elkhart Police Reserve Unit is authorized to establish rules and regulations governing the conduct, duties and activities of the various reserve officers.

(2) These rules and regulations shall be approved by the Board of Public Works and Safety of the city.

(E) (1) The initial number of police reserve officers shall be 30.

(2) This number may be increased or decreased upon request and with the approval of the Mayor of the city.

(1979 Code, § 31.05) (Ord. 3078, passed 12-18-1978)

Visited on 05/18/2018

Statutory reference:

Authority to establish local police reserve units, see I.C. 36-8-3-20

§ 31.016 ACCIDENT REPORT FEES; FIREARMS TRAINING FUND.

(A) (1) A fee of \$3 per copy is hereby established for providing accident reports filed by officers of the Police Department. Accident report fees are to be deposited into the Accident Report Account as authorized by state law.

(2) These fees are to be expended from the Accident Report Account at the discretion of the chief administrative officer of the Police Department for any department purpose reasonably related to the keeping of, accident reports and records of the prevention of street and highway accidents as provided by I.C. 9-3-1-3.

(Ord. 3338, passed 9-29-1981)

(B) (1) There is hereby established a Firearms Training Fund for the Police Department of the city.

(2) The Police Department of the city is empowered to collect an application fee of \$5 per application with all handgun license applications in accordance with state law. All application fees collected from handgun license applications shall be deposited in the Firearms Training Fund.

(3) Monies from the Firearms Training Fund shall be appropriated in accordance with procedures outlined by the state's Board of Accounts and shall be appropriated exclusively for the purpose of training law enforcement officers in the proper use of firearms or other law enforcement duties.

(Ord. 3339, passed 9-29-1981)

(1979 Code, § 31.06)

§ 31.017 BILL OF RIGHTS ADOPTED; RULES AND REGULATIONS ADOPTED; GRIEVANCE PROCEDURE.

(A) There is adopted a police officer's bill of rights as set forth in Appendix "A" attached to Ord. 3385 and made a part hereof by reference.

(B) (1) There are adopted rules and regulations for the Police Department which are in words and figures set forth in Appendix "B" which is attached to Ord. 3385 and made a part hereof and incorporated herein by reference.

(2) The form which shall be used when submitting all written requests for Board of Public Safety review pursuant to § 1.6 is in the words and figures set forth in Appendix "C" which is attached to Ord. 3385 and made a part hereof by reference.

(1979 Code, § 31.07) (Ord. 3385, passed 3-9-1982; Am. Ord. 4108, passed 5-17-1993)

§ 31.018 FINGERPRINTING SERVICES.

Visited on 05/18/2018

(A) The city's Police Department is authorized and required to charge \$5 for providing fingerprinting services.

(B) However, no fee shall be charged when the fingerprinting is performed as a public relations service for schools or for groups of persons, as approved by the Chief of Police.

(1979 Code, § 31.08) (Ord. 3449, passed 4-4-1983)

§ 31.019 COMPENSATORY AND VACATION TIME UPON RETIREMENT, VOLUNTARY TERMINATION OR DEATH.

(A) Upon the retirement, voluntary termination or death while on active duty of any sworn police officer employed by the city, that officer or his or her estate, shall be paid his or her accumulated sick leave not to exceed 176 hours, and earned vacation time both at his or her current rate of pay, and compensation for accrued compensatory time not to exceed 176 hours at the current rate for a first-class patrol officer.

(B) The officer shall have the option of payment of the benefit through time off with pay, or by lump sum payment on the pay date next following his or her last day of work.

(C) Each officer employed by the Police Department prior to the effective date of this policy who has already accrued in excess of 176 hours compensatory time, shall use such time, subject to the approval of his or her supervisor, prior to the termination date of his or her active duty or lose it, except to the extent provided in this policy.

(D) Except as provided in division (C), officers may not carry over more than 176 hours of accrued compensatory time into the next succeeding calendar year. All excess compensatory time will be forfeited if not taken in the calendar year accrued.

(1979 Code, § 31.09) (Ord. 3480, passed 9-19-1983)

§ 31.020 LOCAL LAW ENFORCEMENT CONTINUING EDUCATION FUND.

(A) There is hereby established a Local Law Enforcement Continuing Education Fund.

(B) Pursuant to the authority set forth in I.C. 5-2-8-2, a fee of \$3 will be charged and collected from all defendants found to have committed a violation of a statute or city ordinance after January 1, 1987.

(C) All moneys for this Fund shall be collected by the City Clerk.

(D) All moneys collected by the Clerk of the City Court shall be deposited with the City Controller, who shall deposit each fee collected into the Fund.

(E) The Local Law Enforcement Continuing Education Fund is hereby established to account for such fees. The funds received in this Fund by the local law enforcement agency shall be used for the continuing education and training of law enforcement officers employed by the local agency. Expenditures from this Fund must have a prior appropriation and can be made only after a claim has been processed in the usual manner. Expenditures may be made for any purpose authorized by state law and the head of the law enforcement agency.

Visited on 05/18/2018

(1979 Code, § 31.10) (Ord. 3801, passed 5-18-1987)

§ 31.021 COLLECTIVE BARGAINING.

(A) This section shall be cited and referred to as the collective bargaining section for the city's Police Department.

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BARGAINING AGENT. The organization, if any, elected by the bargaining unit in the manner prescribed in this section to represent the bargaining unit in collective bargaining with the city.

BARGAINING UNIT. The full-time police officers employed by the city in the city's Police Department, excluding all police officers who hold the rank of Lieutenant or above.

CITY ADMINISTRATION. The Mayor of the city and Board of Public Works and Safety.

CITY BARGAINING COMMITTEE. Those persons appointed by the Mayor to represent the city in collective bargaining and the city's bargaining counsel, if the city chooses to utilize legal counsel as part of its bargaining committee. The committee may consist of as many as 5 persons appointed by the Mayor, plus any legal counsel. No member of the **CITY BARGAINING COMMITTEE** will be a member of the City Council. Bargaining unit members may not serve on the **CITY BARGAINING COMMITTEE**.

CITY BARGAINING POLICY COMMITTEE. A committee consisting of the Mayor or his or her designee, 1 member of the Board of Public Works and Safety and 2 members of the Council, 1 from each political party, appointed by the President of the Council.

FULL-TIME POLICE OFFICERS. Police officers who are scheduled on duty an average of 40 hours or more per week.

POLICE OFFICERS BARGAINING COMMITTEE. The committee which meets with the City Bargaining Committee for the purpose of collective bargaining. The **POLICE OFFICERS BARGAINING COMMITTEE** shall consist of no more than 4 members of the bargaining unit. The bargaining unit members have the option of including their legal counsel and a representative of the bargaining agent, if any, who is not a member of the bargaining unit as members of the Police Officers Bargaining Committee.

(C) (1) It is hereby declared to be the public policy of the city that, to protect the public health, safety and welfare of the citizens of the city, police officers do not have, and will not be accorded, the right to strike or engage in any type of work stoppage, slowdown, picketing or any other type of job action that does or might interfere with or depart from the proper performance of their duties and responsibilities or those of any other police officers as prescribed by the city.

(2) In the event any of the actions prohibited in division (C)(1) above occur:

(a) Any court of competent jurisdiction immediately shall restrain and enjoin such actions and award to the city any and all other appropriate relief;

(b) The City Administration shall no longer have the duty to recognize or bargain with any

Visited on 05/18/2018

bargaining agent then representing the bargaining unit; and

(c) All police officers who have engaged in the action shall be subject to immediate termination by the Board of Public Works and Safety in conformance with relevant state law and any applicable grievance procedures.

(D) (1) Any organization which currently represents the bargaining unit will continue to be recognized by the city unless the recognition is withdrawn pursuant to this section by city or bargaining unit members.

(2) Any organization seeking to become the bargaining agent for the bargaining unit may be recognized as such by the city so long as a majority of the employees in the bargaining unit vote in favor of the organization in a fair and impartial secret ballot election conducted by a disinterested third party to be appointed by the city's Human Relations Director.

(3) Such an election for the purpose of establishing recognition of a bargaining agent shall be conducted only when police officers in the bargaining unit present to the city administration objective evidence showing that 30% or more of the employees in the bargaining unit are in favor of holding such an election. Not more than 1 such election to recognize a bargaining agent shall be conducted in any 12-month period.

(4) The bargaining unit may by majority vote elect a bargaining committee without electing a bargaining agent.

(5) Such a bargaining agent shall have the privilege of bargaining collectively on behalf of the police officers only so long as it abides by all the provisions of this section and only so long as the city has reason to believe the bargaining agent's efforts are supported by a majority of the bargaining unit. At any time after 12 months from the date of an election if the city forms a reasonable belief that a majority of the bargaining unit no longer supports the bargaining agent, it may decline to bargain with the agent, and the police officers in the bargaining unit may bargain independently or may seek another election.

(E) (1) Either the Police Officers Bargaining Committee or the city's Bargaining Committee may request collective bargaining by giving written notice to the other on or before April 1 of any year in which a collective bargaining agreement expires or in which there is no collective bargaining agreement in effect.

(2) If timely written notice is given, the city's Bargaining Committee and the Police Officers Bargaining Committee shall meet at reasonable times and bargain in good faith with respect to wages, hours and other terms and conditions of employment.

(3) Nothing in this section requires either party to make any concessions or agree to the other party's proposals.

(F) The city's Bargaining Committee shall meet with the city's Bargaining Policy Committee as needed on a confidential basis to receive guidance concerning negotiations and to report on the progress of any collective bargaining negotiations.

(G) The city's Bargaining Committee and the Police Officers Bargaining Committee each have the right to request in writing and receive from the other information that is necessary, and demonstrably relevant, to the bargaining process.

Visited on 05/18/2018

(H) (1) In the event that the city's Bargaining Committee and the Police Officers Bargaining Committee are unable to reach an agreement by July 1 of any year in which bargaining occurs, either party may submit a written request to the Federal Mediation and Conciliation Service ("FMCS") for advisory mediation. The FMCS shall provide a mediator mutually agreeable to both committees.

(2) The counsel of the mediator shall be advisory only and shall not be binding on either party.

(3) All FMCS mediation charges shall be divided equally between the bargaining agent and the city. In the event there is no bargaining agent, the city shall bear the charges.

(I) If the committees reach agreement, they shall reduce the agreement to writing, execute it signifying their approval of it, and present it to the Council for approval. No agreement shall be effective or enforceable until it receives such approval by the Council.

(J) This section shall not be deemed in any way to limit or diminish the authority of the city to manage and direct the operations and activities of the city, including, but not limited to the Police Department and police officers activities, to the full extent authorized and permitted by law.

(1979 Code, § 31.11) (Ord. 3857, passed 5-6-1988; Am. Ord. 3915, passed 5-16-1989; Am. Ord. 4359, passed 4-20-1998; Am. Ord. 4421, passed 5-24-1999)

§ 31.022 COLLECTIVE BARGAINING FOR CERTAIN FULL-TIME NON-SWORN NON-EXEMPT POLICE DEPARTMENT EMPLOYEES.

(A) This section shall be cited and referred to as the "Collective Bargaining Section for Certain Full-time Non-Sworn Non-Exempt City Police Department Employees."

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BARGAINING AGENT. The organization elected by the bargaining unit to represent the bargaining unit in collective bargaining with the city.

BARGAINING UNIT. All full-time non-sworn non-exempt employees in the City Police Department, except employees in the following classifications: Director of Administration, Data Systems Analyst and Administrative Assistant and other management, professional or otherwise exempt position classifications as may be created from time to time in the future.

CITY. Elkhart, Indiana.

FULL-TIME EMPLOYEES. Those employees who are scheduled on duty 40 or more hours per week.

(C) (1) It is hereby declared to be the public policy of the city that to protect the public health, safety and welfare of the citizens of the city, public employees do not have, and will not be accorded, the right to strike or engage in any type of work stoppage, slowdown, picketing or any other type of job action that interferes with or might interfere with or detract from the proper performance of their duties and responsibilities or those of any other public employees as prescribed by the city.

(2) In the event any of the actions prohibited in division (C)(1) occur:

(a) Any court of competent jurisdiction immediately shall restrain and enjoin such actions and

Visited on 05/18/2018

award to the city any and all other appropriate relief;

(b) The city shall no longer have the duty to recognize or bargain with any bargaining agent then representing the bargaining unit; and

(c) All employees who have engaged in the action shall be subject to immediate termination by the city in conformance with relevant state law and any applicable grievance procedures.

(D) (1) The city shall recognize AFSCME as the bargaining agent unless such recognition is withdrawn pursuant to this section by city or bargaining unit members.

(2) Any organization seeking to become the new bargaining agent for the bargaining unit may be recognized as such by the city so long as a majority of the employees in the bargaining unit vote in favor of that organization in a fair and impartial secret ballot election conducted by a disinterested third party to be appointed by the city's Human Resources Director.

(3) Such an election for the purpose of establishing recognition of a new bargaining agent shall be conducted only when employees in the bargaining unit present to the city objective evidence showing that 30% or more of the employees in the bargaining unit are in favor of holding such an election. Not more than 1 such election to recognize a bargaining agent shall be conducted in any 12-month period.

(4) The bargaining agent shall have the privilege of bargaining collectively on behalf of the aforementioned employees only so long as it abides by all the provisions of this section and only so long as the city has reason to believe the bargaining agent's efforts are supported by a majority of the bargaining unit. At any time after 12 months from the date of an election, if the city forms a reasonable belief that a majority of the bargaining unit no longer supports the bargaining agent, the city may decline to bargain with the bargaining agent, and the employees in the bargaining unit may bargain independently with their department head or may seek another election.

(E) (1) Either the bargaining agent or the city may request collective bargaining by giving written notice to the other on or before April 1 of any year in which a collective bargaining agreement expires or in which there is no collective bargaining agreement in effect.

(2) If timely written notice is given, the designees of the city and the bargaining agent shall meet at reasonable times and bargain in good faith with respect to wages, benefits and working conditions.

(3) Nothing in this section requires either party to make any concessions or agree to the other party's proposals.

(F) The city and the bargaining agent each have the right to request in writing and receive from the other information that is necessary and demonstrably relevant to the bargaining process.

(G) (1) In the event that the city and the bargaining agent are unable to reach an agreement by July 1 of any year in which bargaining occurs, either party may submit a written request to the Federal Mediation and Conciliation Service ("FMCS") for advisory mediation. The FMCS shall provide a mediator mutually agreeable to both parties.

(2) The counsel of the mediator shall be advisory only and shall not be binding on either party.

(3) All FMCS mediation charges shall be divided equally between the bargaining agent and the city. In the event there is no bargaining agent, all such charges shall be equally divided between the employees and the city.

Visited on 05/18/2018

(H) If the bargaining agent and the city reach agreement, they shall reduce the agreement to writing, execute it signifying their approval of it and present it to the Council for approval. No agreement shall be effective or enforceable until it receives such approval by the Council.

(I) This section shall not be deemed in any way to limit or diminish the authority of the city to manage and direct the operations and activities of the city, including, but not limited to the department and employees mentioned hereinabove, to the fullest extent authorized and permitted by law.

(1979 Code, § 31.12) (Ord. 4323, passed 11-26-1997)

§ 31.023 EXPENDITURES FOR BUY MONEY OR PAYMENTS TO INFORMANTS.

(A) The Chief of Police is hereby authorized to institute a policy to establish procedures governing the use of confidential funds to make expenditures for buy money and/or payments to informants. The Police Chief is further authorized and empowered to appropriate funds, in the manner authorized by state law, and to make expenditures for buy money and/or payments to informants, in support of its criminal investigations.

(B) A petty cash fund is hereby established and authorized for use by the Police Department to pay informants or for buy money. The petty cash fund procedures must be followed as authorized by I.C. 36-1-8-3. The Chief of Police is hereby designated as the custodian of the petty cash fund.

(C) A minimum documentation procedure, to record all expenditures made and appropriations received, must be followed, similar to either:

(1) *Guidelines for the Expenditure of Confidential Funds*, published by the U.S. Department of Criminal Justice; or

(2) *Guidelines for Obtaining and Accounting for Confidential Funds Used in Support of Criminal Investigations*, (Revised S.O.P. PR - INV-009), by the Indiana State Police Department.

(Ord. 4967, passed 5-1-2006)

Cross-reference:

Cash change funds and petty cash funds, see §§ 33.495 and 33.496

DEPARTMENT OF COMMUNITY DEVELOPMENT

§ 31.035 CREATION OF DEPARTMENT.

There is established as an executive department of the city, a Department of Community Development.

(1979 Code, § 31.15) (Ord. 2768, passed 11-18-1974)

§ 31.036 FUNCTION OF DEPARTMENT.

The function per day and responsibility of the Department of Community Development shall be the

Visited on 05/18/2018

creation of a comprehensive community development plan within the guidelines of the Housing and Community Development Act of 1974, as amended, being 42 USC 5301 *et seq.*; the securing of any and all available funds for the furtherance of the plan; and the administration of the plan, in cooperation with the other departments of the city.

(1979 Code, § 31.16) (Ord. 2768, passed 11-18-1974)

§ 31.037 DIRECTOR AND STAFF.

The Department of Community Development shall be controlled by a Director, who shall be appointed by and responsible to the Mayor, and shall have such other staff, appointed by the Director, as may, from time to time, be necessary.

(1979 Code, § 31.17) (Ord. 2768, passed 11-18-1974)

§ 31.038 SALARIES.

(A) The salaries of the Director and other employees of the Department of Community Development for the calendar year 1976 and all years thereafter shall be established by the Mayor subject to approval by the Council of the city in each annual salary ordinance.

(B) Prior to the start of calendar year 1976, salaries shall be established and approved by the Mayor, and funding for those salaries shall derive exclusively from moneys received through the Housing and Community Development Act of 1974, being 42 USC 5301 *et seq.*

(C) New positions and salaries may be established at any time and approved as set out in this section as the positions are created.

(1979 Code, § 31.18) (Ord. 2768, passed 11-18-1974)

§ 31.039 FUNDS.

(A) Funds expended for the operation of the Department of Community Development shall derive exclusively from moneys received through the Housing and Community Development Act of 1974, being 42 USC 5301 *et seq.*

(B) All applications for funds made under the Housing and Community Development Act of 1974, being 42 USC 5301 *et seq.* shall be submitted to and approved by the Council of the city.

(C) Before funds received under the Housing and Community Development Act of 1974, being 42 USC 5301 *et seq.* are disbursed, a detailed plan for expenditures shall be submitted to and approved by the Council of the city.

(1979 Code, § 31.19) (Ord. 2768, passed 11-18-1974)

DEPARTMENT OF ECONOMIC DEVELOPMENT

Visited on 05/18/2018

§ 31.055 CREATION OF DEPARTMENT.

A new executive department to be known and designated as the city department of Economic Development is created with full power and authority to act as provided by law.

(1979 Code, § 31.20) (Ord. 2209, passed 2-6-1967)

§ 31.056 BOARD MEMBERS.

The Department of Economic Development shall be under the control of a Board of 3 members to be known as the “Elkhart Economic Development Commission,” and the Board shall be constituted and appointed and have such powers and duties as provided by law.

(1979 Code, § 31.21) (Ord. 2209, passed 2-6-1967)

§ 31.057 AUTHORITY OF MAYOR.

The Mayor of the city is authorized to create, by appointment, in the manner provided by law, the Elkhart Economic Development Commission, and, in general, to do any and all things necessary for the promotion of the business of the Department of Economic Development.

(1979 Code, § 31.22) (Ord. 2209, passed 2-6-1967)

§ 31.058 USE OF FUNDS.

(A) The Council of the city hereby finds and determines that the Economic Development Commission’s funds may be used to pay preliminary expenses in connection with negotiations concerning the terms and conditions for financing of economic development or pollution-control facilities.

(B) (1) Expenditures may be made from time to time in accordance with policies and procedures established by the Commission, and shall be approved by the President of the Economic Development Commission.

(2) These expenditures shall be in amounts not to exceed the amounts set forth in the budget previously approved for the Commission.

(3) All claims for payment of these funds shall be submitted on standardized forms through the office of the City Controller.

(1979 Code, § 31.23) (Ord. 3352, passed 11-4-1981)

DEPARTMENT OF REDEVELOPMENT

§ 31.075 CREATION OF DEPARTMENT.

Visited on 05/18/2018

A new department to be known and designated as the Department of Redevelopment is created with full power and authority to act as provided by law.

(1979 Code, § 31.30) (Ord. 1853, passed 9-8-1960)

§ 31.076 BOARD OF TRUSTEES.

The Mayor is authorized to create by appointment a Board of Redevelopment Trustees and in general to do any and all things necessary for the promotion of the business of the Department of Redevelopment.

(1979 Code, § 31.31) (Ord. 1853, passed 9-8-1960)

Statutory reference:

Redevelopment of Cities and Towns Act, see I.C. 36-7-7-1

DEPARTMENT OF PARKS AND RECREATION

§ 31.095 CREATION OF DEPARTMENT.

A Department of Parks and Recreation is created as a part of the governmental organization of the city, pursuant to the Park and Recreation Law, being I.C. 36-10-3.

(1979 Code, § 31.35) (Ord. 1868, passed 11-9-1960)

Statutory reference:

Parks and Recreation Law of 1955, see I.C. 36-10-3

DEPARTMENT OF WATER WORKS

§ 31.105 CONTROL AND SUPERVISION.

(A) Pursuant to I.C. 8-1.5-3-3, the Board of Public Works shall have control and supervision over the Water Works Utility. Accordingly, the Board of Public Works shall be given the right to exercise the powers over the Water Works Utility as such powers are described at I.C. 8-1.5-3-1 *et seq.*

(B) On or before March 1 of each budget year, the Board of Public Works shall report to the Council its activities and accomplishments of the prior year and shall indicate its goals, purposes and objectives of the future year. The Board at such time shall report the input and results of its annual budgetary process in regard to the Water Works Department.

(1979 Code, § 31.40) (Ord. 4105, passed 4-5-1993)

Visited on 05/18/2018
PUBLIC SAFETY COMMUNICATIONS DEPARTMENT

§ 31.115 ESTABLISHMENT OF THE PUBLIC SAFETY COMMUNICATIONS DEPARTMENT.

There is hereby established a Public Safety Communications Department which shall serve as the Communications Center for the Police and Fire Emergency Center. Appropriations for expenses for the Communications Department shall be established through the budgeting process for the year 1985 and following years. Personnel services shall be budgeted in the General Fund and expenses for operations shall be budgeted in the Communications Center Fund established under § 33.155.

(1979 Code, § 31.55) (Ord. 3547, passed 7-2-1984)

§ 31.116 STAFFING OF DEPARTMENT.

All present civilian employees that are assigned to the present Communications Division of the Fire Department shall become employees of the Communications Department. There shall be staffing adequate to have 2 civilians scheduled on duty at all times. Qualified police and firefighters may be assigned during emergency circumstances, or upon agreement between the Communications Center Director and the respective Police or Fire Chief.

(1979 Code, § 31.56) (Ord. 3547, passed 7-2-1984)

§ 31.117 APPOINTMENT OF DIRECTOR.

The Public Safety Communications Department shall be administered by a Communications Center Director, appointed by the Board of Public Works and Safety, and shall only be responsible to the Board of Public Works and Safety. The Director shall have at least 5 years' experience in communications operation or engineering and maintenance. The Director must be cleared and approved by the Indiana Data and Communications System (IDACS) authorities. The Director shall assign himself or herself to the work schedule as needed to have complete staffing of the Communications Department. The Director shall not be a member of any bargaining unit.

(1979 Code, § 31.57) (Ord. 3547, passed 7-2-1984)

§ 31.118 CONTROL OF COMPUTER TERMINAL AND RELATED RECORDS.

The Chief of Police shall retain control over all the NCIC computer terminal and all regulations thereto. All NCIC-related records shall be administered by the Communications Director. All civilian employees of the Communications Department must be cleared and approved for access to the NCIC terminal by IDACS as a condition of employment. All other personnel who may from time to time be assigned to duty at the Communications Center shall also be cleared and approved for access to the NCIC terminal by IDACS prior to any such assignment and must be approved by the Director of the Communications Department.

(1979 Code, § 31.58) (Ord. 3547, passed 7-2-1984)

Visited on 05/18/2018

§ 31.119 ADMINISTRATIVE POLICIES.

All administrative policies for the Public Safety Communications Department, such as work schedules, time-off and the like, shall be determined by the Communications Center Director and contract agreements. Any major policy changes shall be mutually agreed to by the Board of Public Works and Safety and employees. Policies set by the Director shall also conform to the conditions of the contract with employees' bargaining unit. The Director shall review the performance of Department employees and shall recommend any disciplinary action to the Board of Public Works and Safety. Personnel records will be maintained and kept on file. The Director shall develop standards for hiring and training of personnel, subject to the approval of the Board of Public Works and Safety.

(1979 Code, § 31.59) (Ord. 3547, passed 7-2-1984)

§ 31.120 PROCEEDINGS FOR RESPONDING TO CALLS.

The Police Chief and Fire Chief shall establish regulations and procedures for responding to calls within their respective Departments, and shall set forth in writing to the Communications Center Director such regulations and procedures. Cooperative efforts shall be maintained in the best efficient manner for the safety measures of the Department. Any conflicts shall be resolved by the Board of Public Works and Safety.

(1979 Code, § 31.60) (Ord. 3547, passed 7-2-1984)

FIRE DEPARTMENT**§ 31.135 COLLECTIVE BARGAINING.**

(A) *Short title.* This section shall be cited and referred to as the collective bargaining ordinance for the city's Fire Department.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BARGAINING AGENT. The organization, if any, elected by the bargaining unit in the manner prescribed herein to represent the bargaining unit in collective bargaining with the city.

BARGAINING UNIT. The full-time firefighters employed by the city in the city's Fire Department, excluding all firefighters who hold the rank of Second Assistant Chief or above.

CITY. The City of Elkhart, Indiana.

CITY ADMINISTRATION. The City Mayor and Board of Public Safety.

CITY BARGAINING COMMITTEE. Those persons appointed by the Mayor to represent the city in collective bargaining and the city's bargaining counsel, if the city chooses to utilize legal counsel as part of its bargaining committee. Such committee may consist of as many as 5 persons appointed by the Mayor plus any legal counsel. No member of the city bargaining committee will be a member of the City Council. Bargaining unit members may not serve on the city bargaining committee.

Visited on 05/18/2018

CITY BARGAINING POLICY COMMITTEE. A committee consisting of the Mayor or his/her designee, 1 member of the Board of Public Safety, and 2 members of the Common Council, 1 from each political party, appointed by the President of the Common Council.

FIREFIGHTERS BARGAINING COMMITTEE. The committee which meets with the city bargaining committee for the purpose of collective bargaining. The firefighters bargaining committee shall consist of no more than 4 members of the bargaining unit. The bargaining unit members have the option of including their legal counsel and/or a representative of the bargaining agent, if any, who is not a member of the bargaining unit as members of the firefighters bargaining committee.

FULL-TIME FIREFIGHTERS. Firefighters who are scheduled on duty an average of 53 hours or more per week.

(C) *Strikes and other job actions.*

(1) It is hereby declared to be the public policy of the city that, to protect the public health, safety and welfare of the citizens of the city, firefighters do not have, and will not be accorded, the right to strike or engage in any type of work stoppage, slowdown, picketing or other type of job action that does or might interfere with or depart from the proper performance of their duties and responsibilities or those of any other firefighters as prescribed by the city.

(2) In the event any of the actions prohibited in division (C)(1) above occur:

(a) Any court of competent jurisdiction immediately shall restrain and enjoin such actions and award to the city any and all other appropriate relief;

(b) The city administration shall no longer have the duty to recognize or bargain with any bargaining agent then representing the bargaining unit; and

(c) All firefighters who have engaged in the action shall be subject to immediate termination by the Board of Public Safety in conformance with relevant state law and any applicable grievance procedures.

(D) *Bargaining agent.*

(1) Any organization which currently represents the bargaining unit will continue to be recognized by the city unless such recognition is withdrawn pursuant to this section by city or bargaining unit members.

(2) Any organization seeking to become the bargaining agent for the bargaining unit may be recognized as such by the city so long as a majority of the employees in the bargaining unit vote in favor of the organization in a fair and impartial secret ballot election conducted by a disinterested third party to be appointed by the city's Human Relations Director.

(3) Such an election for the purpose of establishing recognition of a bargaining agent shall be conducted only when firefighters in the bargaining unit present to the city administration objective evidence showing that 30% or more of the employees in the bargaining unit are in favor of holding such an election. Not more than 1 such election to recognize a bargaining agent shall be conducted in any 12-month period.

(4) The bargaining unit may by majority vote elect a bargaining committee without electing a bargaining agent.

Visited on 05/18/2018

(5) Such a bargaining agent shall have the privilege of bargaining collectively on behalf of the firefighters only so long as it abides by all the provisions of this section and only so long as the city has reason to believe the bargaining agent's efforts are supported by a majority of the bargaining unit. At any time after 12 months from the date of an election if the city forms a reasonable belief that a majority of the bargaining unit no longer supports the bargaining agent, it may decline to bargain with the agent, and the firefighters in the bargaining unit may bargain independently or may seek another election.

(E) *Collective bargaining.*

(1) Either the firefighters bargaining committee or the city bargaining committee may request collective bargaining by giving written notice to the other on or before April 1 of any year in which a collective bargaining agreement expires or in which there is no collective bargaining agreement in effect.

(2) If timely written notice is given, the city bargaining committee and the firefighters bargaining committee shall meet at reasonable times and bargain in good faith with respect to wages, hours, and other terms and conditions of employment.

(3) Nothing in this section requires either party to make any concessions or agree to the other party's proposals.

(F) *The city bargaining policy committee.* The city bargaining committee shall meet with the city bargaining policy committee as needed on a confidential basis to receive guidance concerning negotiations and to report on the progress of any collective bargaining negotiations.

(G) *Requests for information.* The city bargaining committee and the firefighters bargaining committee each have the right to request in writing and receive from the other information that is necessary, and demonstrably relevant, to the bargaining process.

(H) *Advisory mediation.*

(1) In the event that the city bargaining committee and the firefighters bargaining committee are unable to reach an agreement by July 1 of any year in which bargaining occurs, either party may submit a written request to the Federal Mediation and Conciliation Service ("FMCS") for advisory mediation. The FMCS shall provide a mediator mutually agreeable to both committees.

(2) The counsel of the mediator shall be advisory only and shall not be binding on either party.

(3) All FMCS mediation charges shall be divided equally between the bargaining agent and the city. In the event there is no bargaining agent, the city shall bear the charges.

(I) *Agreement, impasse and implementation of last offer.* If the committees reach agreement, they shall reduce the agreement to writing, execute it signifying their approval of it, and present it to the Common Council for approval. No agreement shall be effective or enforceable until it receives such approval by the Common Council.

(J) *City's authority.* This section shall not be deemed in any way to limit or diminish the authority of the city to manage and direct the operations and activities of the city, including, but not limited to the Fire Department and firefighting activities, to the full extent authorized and permitted by law.

(Ord. 4408, passed 3-15-1999)

Visited on 05/18/2018

§ 31.136 COMPENSATORY AND VACATION TIME UPON RETIREMENT, VOLUNTARY TERMINATION OR DEATH.

(A) Upon the retirement, voluntary termination or death while on active duty of any sworn firefighter employed by the city, that firefighter, or his or her estate, shall be paid all his or her accrued vacation time at his or her current rate of pay, and compensation for accrued compensatory time not to exceed 480 hours at the current rate for a first-class firefighter.

(B) The firefighters shall have the option of payment of the benefit through time off with pay, or by lump sum payment on the pay date next following his or her last day of work.

(C) Each firefighter employed by the Fire Department prior to the effective date of this policy who has already accrued in excess of 480 hours compensatory time, shall use such time, subject to the approval of his or her supervisor, prior to the termination date of his or her active duty or lose it, except to the extent provided in this policy.

(D) Except as provided in division (C) above, firefighters may not carry over more than 480 hours of accrued compensatory time into the next succeeding calendar year. All excess compensatory time will be forfeited if not taken in the calendar year accrued.

(1979 Code, § 31.71) (Ord. 3479, passed 9-19-1983)

DEPARTMENT OF STORM WATER MANAGEMENT

§ 31.145 ADOPTION OF STATE REGULATIONS.

Pursuant to I.C. 8-1.5-5-1, the city hereby adopts the provisions of I.C. 8-1.5-5 *et seq.* in its entirety.

(Ord. 4980, passed 8-21-2006)

§ 31.146 CREATION OF DEPARTMENT.

Pursuant to I.C. 8-1.5-5-4, the Department of Storm Water Management is hereby established.

(Ord. 4980, passed 8-21-2006)

§ 31.147 BOARD OF DIRECTORS.

The Department of Storm Water Management shall be controlled by a Board of Directors. The Board of Directors shall consist of 3 members. The Mayor shall appoint the members, but not more than 2 of the members shall be of the same political party.

(Ord. 4980, passed 8-21-2006)

§ 31.148 TERMS.

Visited on 05/18/2018

(A) The members of the Board of Directors of the Department of Storm Water Management shall initially be appointed for the following terms of office:

- (1) One for a term ending December 31, 2006;
- (2) One for a term ending December 31, 2007; and
- (3) One for a term ending December 31, 2008.

(B) When a member's initial term of office expires, each new appointment of a member shall be for a 4 year term starting from the expiration of the previous term. A member serves until his or her successor is appointed and qualified. A member is eligible for reappointment.

(Ord. 4980, passed 8-21-2006)

§ 31.149 SPECIAL TAXING DISTRICT.

Pursuant to I.C. 8-1.5-5-5, this subchapter creates a special taxing district which includes all territory within the corporate boundaries of the city.

(Ord. 4980, passed 8-21-2006)

§ 31.150 GOVERNING PROVISIONS.

The terms and provisions of I.C. 8-1.5-5 *et seq.*, as amended from time to time, shall govern the Department of Storm Water Management.

(Ord. 4980, passed 8-21-2006)

§ 31.151 FINANCIAL ADMINISTRATION.

The City Controller is hereby appointed as the fiscal officer for and authorized to administer the funds of the Department of Storm Water Management.

(Ord. 4980, passed 8-21-2006)