

TOWN OF ST. JOHN, LAKE COUNTY, INDIANA ORDINANCE NO: 1699

AN ORDINANCE ESTABLISHING A BOARD OF SAFETY FOR THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA, REPEALING ALL ORDINANCES AND TOWN CODE PROVISIONS, OR PORTIONS THEREOF, IN CONFLICT HEREWITH, AND ALL MATTERS RELATED THERETO.

WHEREAS, the Town of St. John, Lake County, Indiana (hereinafter the "Town"), is a unit of local government in Lake County, Indiana, organized as a Town under the applicable provisions of Indiana law; and

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana, (hereinafter the "Town Council"), is the duly elected legislative body of the Town; and

WHEREAS, the Town previously established a Board of Metropolitan Police Commissioners on May 15, 1972 (Ordinance 367) and expanded its Police Commission from three (3) members to five (5) members on December 23, 1991 (Ordinance 0876); and

WHEREAS it is the desire of the Town Council to abolish the Board of Metropolitan Police Commissioners and establish a Board of Safety.

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

SECTION ONE: That subject to the provisions set forth herein, there is hereby established a Board of Safety for the Town of St. John, Lake County, Indiana.

SECTION TWO: That the Board of Metropolitan Police Commissioners as previously enacted in Ordinances 0367 and 0876 is hereby abolished.

SECTION THREE: The Commissioners of the Board of Safety shall have every power and shall comply with every responsibility in the policymaking and management oversight of the operation, management and control of the St. John Departments of Police, Fire, and Emergency Medical Service Departments, as is now or may hereafter be provided under applicable State law, as amended from time to time.

SECTION FOUR: Each Commissioner of the Board of Safety, in appointing, disciplining or dismissing a member of any department under its control shall do so without regard to the political affiliation of the person and without regard to any other cause or reason other than the fitness or unfitness of the person, under the applicable rules, regulations, policies and procedures of each Department.

SECTION FIVE: The Board of Safety shall consist of five (5) Commissioners. Each shall be appointed in accordance with applicable State law, as amended from time to time. The Town Council shall appoint each Commissioner. Provided that state law, as amended from time to time, is not in any way violated, one (1) of the Commissioners may be the Town Manager of the Town

of St. John. In the event that the Town Manager is not appointed to the Board of Safety, said Town Manager shall receive notice of and have the right to attend all meetings, regular, special and executive, and shall be allowed to participate in discussions at all such meetings, and shall be allowed to submit reports and writings to the Commissioners; but in no event shall the Town Manager, in the liaison capacity, have any right to vote or have any other right, power or duty reserved to a Commissioner.

Two (2) Commissioners shall be initially appointed for one (1) year terms. Two (2) Commissioners shall be initially appointed for two (2) year terms. One Commissioner shall be initially appointed for a three (3) year term. Each term thereafter shall be for three (3) years. The term of each Commissioner expires on December 31st of the third year after the appointment of the Commissioner. The appointments of the current members of the Town Board of Metropolitan Police Commissioners are vacated as to said appointments and term of appointment for each.

SECTION SIX: Each Commissioner of the Board of Safety is subject to removal for any cause deemed sufficient by the Town Council.

SECTION SEVEN: A majority of the appointed and acting Board of Safety shall constitute a quorum. The Board of Safety shall adopt rules concerning the time of holding regular and special meetings and of giving notices of them in accordance with applicable State law, as amended from time to time. The Board of Safety shall elect one (1) of its commissioners as Chairperson, one (1) as Vice Chairperson, and one (1) as Secretary, and each member shall hold the position as long as prescribed by the rules of the Board of Safety. The Board shall record its proceedings in accordance with applicable State law, as amended from time to time, and same shall be considered public records to be filed and maintained in the Office of the Town Clerk-Treasurer.

SECTION EIGHT: The Commissioners of the Board of Safety may act only as a Board. No individual member may bind the Board of Safety or the Town except through a resolution entered in the records of the Board of Safety authorizing such Commissioner to act in its behalf as its authorized agent for the purpose set forth therein, and no individual member can otherwise act unilaterally.

SECTION NINE: The Commissioners of the Board of Safety may appoint subject to qualifications for employment determined by the Safety Board, and approved by the Town Council, the following:

1. The members and other employees of the Town Metropolitan Police Department;
and
2. The members and other employees of the Town Metropolitan Fire Department.

SECTION TEN: The annual compensation of all members and employees of the police and fire departments and other appointees shall be fixed by the Town's Annual Salary Ordinance

SECTION ELEVEN: The Board of Safety shall have control over all matters and property relating to the following:

1. Police Department; and
2. Fire Department, including emergency medical services.

Subject to the budget and appropriation of the Town Council, the Board of Safety may recommend salaries and wages to the Town Council and may purchase the equipment and supplies and make the repairs needed for each of the departments therein.

SECTION TWELVE: The Board of Safety shall adopt rules for the governance and discipline of the Police Department, the Fire Department, and any Emergency Medical Service Department, subject to conformance with applicable State law.

SECTION THIRTEEN: The Board of Safety may adopt general and special Orders to the Police Department and the Fire Department which orders shall be carried out through the Chief or head of said Departments.

SECTION FOURTEEN: The Police Chief shall have exclusive control of the Police Department, and the Fire Chief shall have exclusive control of the Fire Department, subject to the rules and orders of the Board of Safety, as amended from time to time. In time of the operation of a disaster plan of the Town of St. John, the Police Chief and the Fire Chief, for the time of said disaster, are subordinate to the President of the Town Council, or the person or persons designated by the Town Council, and said Chiefs shall obey the Orders and directions given by the President of the Town Council, or said person or persons, consistent with said current Disaster Plan of the Town.

SECTION FIFTEEN: A. Except as provided in Subsection L below, a member of the Metropolitan Police Department holds office or grade until he or she is dismissed by the Board of Safety. Except as provided in Subsection M, a member may be disciplined by demotion, dismissal, reprimand, forfeiture, or suspension upon either:

1. Conviction in any court of any crime; or
2. A finding and decision of the Board of Safety that the member has been or is guilty of:
 - (a) Neglect of duty;
 - (b) A violation of rules;
 - (c) Neglect or disobedience of an order;
 - (d) Incapacity;
 - (e) Absence without leave;
 - (f) Immoral conduct;
 - (g) Conduct injurious to the public peace or welfare;
 - (h) Conduct unbecoming an officer; or
 - (i) Another breach of discipline.

The Board of Safety may not consider the political affiliation of the member in making a decision under this Section. If a member is suspended or placed on administrative leave under this Subsection, the member is entitled to the member's allowances for insurance benefits to which the member was entitled before being suspended or placed on administrative leave. In addition, the Town may provide the member's allowances for any other fringe benefits to which the member was entitled before being suspended or placed on administrative leave.

B. Before a member of the Metropolitan Police Department may be suspended in excess of five (5) days without pay, demoted, or dismissed, the Board of Safety shall offer the member an opportunity for a hearing. If a member seeks a hearing, the member must request the hearing not more than five (5) days after receiving the notice of the suspension, demotion, or dismissal. Written notice shall be given either by service upon the member in person or by a copy left at the member's last and usual place of residence at least fourteen (14) days before the date set for the hearing. The hearing conducted under this Subsection shall be held not more than thirty (30) days after the hearing is requested by the member, unless a later date is mutually agreed upon by the parties. The notice must state:

1. The date, time and place of the hearing;
2. The charges against the member;
3. The specific conduct that comprises the charges;
4. That the member is entitled to be represented by counsel;
5. That the member is entitled to call and cross-examine witnesses;
6. That the member is entitled to require the production of evidence; and
7. That the member is entitled to have subpoenas issued, served, and executed in Lake County, Indiana.

A disciplinary hearing concerning a member of the Metropolitan Police Department shall be conducted in the manner prescribed by the rules adopted by the Board of Safety, which rules shall provide for an appropriate appeal procedure.

C. Upon an investigation into the conduct of a member of the Metropolitan Police Department, or upon the trial of a charge preferred against a member of the Metropolitan Police Department, the Board of Safety may compel the attendance of witnesses, examine them under oath, and require the production of books, papers, and other evidence at a meeting of the Board. For this purpose, the Board of Safety may issue subpoenas and have them served and executed in any part of Lake County, Indiana. If a witness refuses to testify or to produce books or papers in his possession or under his control, the provisions of I.C. 36-4-6-21, as amended from time to time, control to the extent applicable. The proper court may compel compliance with the order by attachment, commitment, or other punishment.

D. The reasons for the suspension, demotion, or dismissal of a member of the Metropolitan Police Department shall be entered as specific findings of fact upon the records of the Board of Safety. A member who is suspended for a period exceeding five (5) days, demoted, or dismissed may appeal the decision to the Circuit or Superior Courts of Lake County, Indiana. However, a member may not appeal any other decision.

E. An appeal under this Section must be taken by filing in court, within thirty (30) days after the date the decision is rendered, a verified complaint stating in concise manner the general nature of the charges against the member, the decision of the Board of Safety, and a demand for the relief asserted by the member. A bond must also be filed that guarantees the appeal will be prosecuted to a final determination and that the plaintiff will pay all costs adjudged against the plaintiff. The bond must be approved as bonds for costs are approved in other cases. The Town must be named as the sole defendant, and the plaintiff shall have a summons issued as in other cases against the Town. Neither the Board of Safety, nor the Commissioners of it, may be made

parties defendant to the complaint, but all are obligated by service upon the Town and any judgment rendered by the court.

F. In an appeal under Subsection E, no pleading is required by the Town to the complaint, but the allegations are considered denied. The Town may file a motion to dismiss the appeal for failure to perfect it within the time and in the manner required by this Section. If more than one (1) person was included in the same charges and in the same decision of dismissal by the Board of Safety, then one (1) or more of the persons may join as plaintiffs in the same complaint, but only the persons that appeal from the decision are affected by it. The decision of the Board of Safety is final and conclusive upon all persons not appealing. The decision appealed from is not stayed or affected pending the final determination of the appeal but remains in effect unless modified or reversed by the final judgment of the Court.

G. A decision of the Board of Safety is considered prima facie correct, and the burden of proof is on the party appealing. All appeals shall be tried by the court. The appeal shall be heard de novo only upon any new issues related to the charges upon which the decision of the Board of Safety was made. The charges are considered to be denied by the accused person. Within ten (10) days after service of summons, the Board of Safety shall file in court a complete transcript of all papers, entries, and other parts of the record relating to the particular case. Inspection of these documents by the person affected, or by the person's agent, must be permitted by the Board of Safety before the appeal is filed, if requested. Each party may produce evidence relevant to the issues that it desires, and the court shall review the record and decision of the Board of Safety upon appeal.

H. The court shall make specific findings and state the conclusions of law upon which its decision is made. If the court finds that the decision of the Board of Safety appealed from should in all things be affirmed, its judgment should state that, and judgment for costs shall be rendered against the party appealing. If the court finds that the decision of the Board of Safety appealed from should not be affirmed in all things, then the court shall make a general finding, setting out sufficient facts to show the nature of the proceeding and the court's decision on it. The court shall either:

1. Reverse the decision of the Board of Safety; or
2. Order the decision of the Board of Safety to be modified.

I. The final judgment of the court may be appealed by either party. Upon the final disposition of the appeal by the courts, the clerk shall certify and file a copy of the final judgment of the court to the Board of Safety, which shall conform its decisions and records to the order and judgment of the court. If the decision is reversed or modified, then the Board of Safety shall pay to the party entitled to it any salary or wages withheld from the party pending the appeal and to which the party is entitled under the judgment of the court.

J. Either party shall be allowed a change of venue from the court or a change of judge in the same manner as such changes are allowed in civil cases. The Indiana Rules of Trial Procedure govern in all matters of procedure upon the appeal that are not otherwise provided for by this Section.

K. An appeal takes precedence over other pending litigation and shall be tried and

determined by the court as soon as practical.

L. Except as provided in I.C. 36-5-2-13, the Town executive may reduce in grade any member of the Metropolitan Police Department who holds an upper level policy making position. The reduction in grade may be made without adhering to the requirements of Subsections (a) through (k) above. However, a member may not be reduced in grade to a rank below that which the member held before the member's appointment to the upper level policymaking position.

M. If the member is subject to criminal charges, the Safety Board may place the member on administrative leave until the disposition of the criminal charges in the trial court. Any other action by the Safety Board is stayed until the disposition of the criminal charges in the trial court. An administrative leave under this Subsection may be with or without pay, as determined by the Safety Board. If the member is placed on leave without pay, the Safety Board, in its discretion, may award back pay if the member is exonerated in the criminal matter.

SECTION SIXTEEN: A. Except as provided in Subsection L of SECTION FIFTEEN herein, a member of the Metropolitan Fire Department holds office or grade until he is dismissed or demoted by the Board of Safety. A member may be disciplined by demotion, dismissal, reprimand, forfeiture, or suspension for causes set forth in rules adopted by the Board of Safety, which rules are served upon the members of the Metropolitan Fire Department. Until such rules are made and served, the causes and procedures shall be the same as those provided for members of the Metropolitan Police Department.

B. Before a member of the Metropolitan Fire Department is suspended in excess of five (5) days without pay, demoted or dismissed, the Board of Safety shall offer the member an opportunity for a hearing. For purposes of this SECTION SIXTEEN and these disciplinary provisions, the Board of Safety is the Town Council, as Town Legislative Body, which is the appropriate appointing authority of the Town. If a member desires a hearing, the member must request the hearing not more than five (5) days after the notice of the suspension, demotion, or dismissal. Written notice shall be given either by service upon the member in person or by a copy left at the member's last and usual place of residence at least fourteen (14) days before the date set for the hearing. The hearing conducted under this Section shall be held not more than thirty (30) days after the hearing is requested by the member, unless a later date is mutually agreed upon by the parties. The notice must state:

1. The date, time and place of the hearing;
2. The charges against the member;
3. The specific conduct that comprises the charges;
4. That the member is entitled to be represented by counsel;
5. That the member is entitled to call and cross-examine witnesses;
6. That the member is entitled to require the production of evidence; and
7. That the member is entitled to have subpoenas issued, served, and executed in Lake County, Indiana.

In a disciplinary hearing concerning a member of the Metropolitan Fire Department, such hearing shall be conducted in the manner prescribed by the rules adopted by the Board of Safety, which rules shall provide for an appropriate appeal procedure.

SECTION SEVENTEEN: In addition to the disciplinary powers of the Board of Safety, the Chief of the Metropolitan Police Department or Metropolitan Fire Department may, without a hearing, reprimand or suspend without pay a member, for a maximum of five (5) working days. For the purposes of this Section, eight (8) hours of paid time constitutes one (1) working day. If a Chief reprimands a member in writing or suspends a member, the Chief shall, within forty-eight (48) hours, notify the board in writing of the action and the reasons for the action. A member who is reprimanded in writing or suspended under this Section may, within forty-eight (48) hours after receiving notice of the reprimand or suspension, request in writing that the board review the reprimand or suspension and either uphold or reverse the chief's decision. At its discretion, the board may hold a hearing during this review. If the board holds a hearing, written notice must be given either by service upon the member in person or by a copy left at the member's last and usual place of residence at least fourteen (14) days before the date set for the hearing. The notice must contain the information listed under SECTION SIXTEEN of this Ordinance. If the decision is reversed, the member who was suspended is entitled to any wages withheld as a result of the suspension.

SECTION EIGHTEEN: Sections of this Ordinance shall not apply to the extent that they are different from or inconsistent with the provisions established by state law, as amended from time to time, for the appointment, promotion, demotion and dismissal of members of a Metropolitan Police Department. Sections of this Ordinance shall apply to the extent that they are not different from or inconsistent with the provisions established by State law, as amended from time to time, for the appointment, promotion, demotion and dismissal of members of the Metropolitan Fire Department, or members of a volunteer fire company.

SECTION NINETEEN: The Board of Safety may detail members from the Police Department or Fire Department for the use of any other department of Town government of the Town of St. John.

SECTION TWENTY: The Board of Safety may employ civilian, technical or clerical personnel to work with the Police Department or with the Fire Department as civilian radio operators, radio technicians, chemical technicians, and laboratory technicians and other civilian technical personnel and clerical personnel that are required. The salaries to be paid to the civilian, technical and clerical personnel shall be fixed by the annual Town Salary Ordinance, and subject to the budget and appropriation approved by the Town Council. The civilian, technical and clerical personnel are not eligible to be members of any police or fire pension fund.

SECTION TWENTY-ONE: The salary of the Commissioners shall be fixed from time to time by the Town Council and payable out of the General Fund of the Town under the provisions of the annual Town Salary Ordinance, provided, however that in the event that a Commissioner holds another appointed or elected position in the government of the Town of St. John during their tenure as a Commissioner, said commissioner shall have no right to any salary or any other compensation for services performed as such Commissioner.

SECTION TWENTY-TWO: The Board of Safety, Police Chief and Fire Chief may administer oaths to a person summoned in a proceeding authorized by this Ordinance or by State law, as amended from time to time, and may take depositions under the rules and orders of the Board of Safety.

SECTION TWENTY-THREE: This Ordinance shall serve to repeal and replace Ordinance 367 and Ordinance 0876, and this Ordinance shall abolish the Board of Metropolitan Police Commissioners.


SECTION TWENTY-FOUR: That all existing Town Code Sections and Ordinances, or parts thereof, in conflict with the provisions of this Ordinance, are hereby deemed null, void, and of no legal effect, and are specifically repealed.


SECTION TWENTY-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 decision shall not affect any other section, clause, provision or portion of this Ordinance.

SECTION TWENTY-SIX: That this Ordinance shall take effect, and be in full force and affect, 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 1 DAY OF JANUARY, 2020.

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

By: 
President

By: 
Vice-President

By: 
Member

By: 
Member

By: 
Member

ATTEST:


Beth Hernandez, Clerk-Treasurer