

ORDINANCE NO.: 2021-04
OF THE COMMON COUNCIL OF THE CITY OF FRANKLIN, INDIANA

**AN ORDINANCE AMENDING ORDINANCE NO. 92-16 TO CHANGE THE
ADMINISTRATION OF THE PHYSICAL AGILITY TEST REQUIRED FOR
ENROLLMENT OF AN APPLICANT AS A MEMBER OF THE FRANKLIN POLICE
DEPARTMENT, AND ALLOW THE MERIT COMMISSION TO PLACE A MEMBER OF
THE FRANKLIN POLICE DEPARTMENT, SUBJECT TO CRIMINAL CHARGES, ON A
PAID OR UNPAID ADMINISTRATIVE LEAVE OF ABSENCE**

WHEREAS, Ordinance No. 92-16 was adopted by the City of Franklin entitled an Ordinance Establishing the Police Merit Commission of the City of Franklin, Indiana, dated June 22nd, 1992 and enacted January 1st, 1993; and

WHEREAS, the Common Council of the City of Franklin, Indiana established the Police Merit Commission for the City of Franklin pursuant to I.C. 36-1-4-14; and

WHEREAS, it appears to said Common Council that the scope of the Ordinance's previous incorporation of I.C. 36-8-3.5-12 should be amended to allow for a physical agility test to be administered to applicants for appointment as a member of the Franklin Police Department at the beginning of the application process, in conjunction with the general aptitude test, and again to the applicant with the highest score on the Police Merit Commission's New Hire Applicant Eligibility List upon a vacancy in the department; and

WHEREAS, the members of the Franklin Police Merit Commission are of the opinion that the provisions of the Ordinance regarding the administration of the physical agility test should be amended to allow for the administration of the physical agility test at the beginning of the application process, in conjunction with the general aptitude test, and again to the applicant with the highest score at the time of a vacancy; and

WHEREAS, it appears to said Common Council that the scope of the Ordinance's previous incorporation of I.C. 36-8-3.5-17 should be amended to authorize the Franklin Police Merit Commission to place a member of the Franklin Police Department on administrative leave with or without pay, prior to any disciplinary hearing if the member is subject to criminal charges pending the disposition of the criminal charges, as allowed by I.C. 36-8-3-4(n); and

WHEREAS, the members of the Franklin Police Merit Commission are of the opinion that the provisions of the Ordinance regarding disciplinary actions should be amended to allow the Franklin Police Merit Commission to place a member of the Franklin Police Department on administrative leave with or without pay prior to any disciplinary hearing if the member is subject to criminal charges pending the disposition of the criminal charges, as allowed by I.C. 36-8-3-4(n); and

WHEREAS, pursuant to I.C. 36-1-4-14 and I.C. 36-8-3.5-1(f) the Common Council has the authority to establish and amend a system of employment for any class of employees based on merit and qualification.

**NOW, THEREFORE, THE COMMON COUNCIL OF THE CITY OF FRANKLIN, INDIANA,
ORDAINS AND ENACTS THE FOLLOWING:**

- 1) That Ordinance No. 92-16 is amended as follows:
 - A. Pursuant to IC 36-1-4-14, there is established a police merit commission for the City.
 - B. The police merit commission is established under the authority of IC 36-1-4-14, not under the authority of IC 36-8-3.5-1.
 - C. The following sections of IC 36-8-3.5 are specifically adopted as a part of this section and incorporated herein by reference as though fully set forth herein: IC 36-8-3.5-2; IC 36-8-3.5-6 (other than as specifically excepted hereinafter in subsections (C)(1) and (C)(2) of this Section, codified at 2.12.030); IC 36-8-3.5-7 through IC 36-8-3.5-11; IC 36-8-3.5-12 (other than as specifically excepted hereinafter in subsections (C)(3) and (C)(4) of this Section, codified at 2.12.030); IC 36-8-3.5-13 through IC 36-8-3.5-16; IC 36-8-3.5-17 (other than as specifically excepted hereinafter in subsections (C)(5) of this Section, codified at 2.12.030); IC 36-8-3.5-18 through IC 36-8-3.5-23. These sections of IC 36-8-3.5 shall be fully applicable to the police merit commission in their current form and as they may hereafter be amended, including any recodifications thereof.
 1. Notwithstanding anything to the contrary in IC 36-8-3.5-6, in Ordinances 92-16, 15-08, or in this Ordinance, the political affiliation of the commissioners of the police merit commission shall be determined by the criteria established by IC 36-1-8-10.
 2. Notwithstanding anything to the contrary in IC 36-8-3.5-6, in Ordinances 92-16, 15-08, or in this Ordinance, a commissioner of the police merit commission must have been a legal resident of the City for not less than one (1) continuous year immediately preceding the commissioner's appointment.
 3. Notwithstanding anything to the contrary in IC 36-8-3.5-12, in Ordinances 92-16, 15-08, or in this Ordinance, applicants for appointment or reappointment to the department must pass the physical agility test and the general aptitude test required under IC 36-8-3.2-3.5 to be placed on the eligibility list certified to the safety board.
 4. Notwithstanding anything to the contrary in IC 36-8-3.5-12, in Ordinances 92-16, 15-08, or in this Ordinance, when a vacancy occurs in the department, the commission, upon a written request of the chief of the department, shall again administer a physical agility test required under IC 36-8-3.2-3.5, to the applicant having the highest score on the eligibility list. If the appointed applicant successfully completes that physical agility test, the applicant shall then be enrolled as a member of the department to fill the vacancy if:

- a. the applicant is still of good character; and
 - b. the applicant passes the required examinations identified in IC 36-8-3.2-6 and IC 36-8-8-19.
5. Pursuant to IC 36-8-3-4(n) and notwithstanding anything to the contrary in IC 36-8-3.5-17 in Ordinances 92-16, 15-08, or in this Ordinance, if a member of the department is subject to criminal charges, the commission may place the member on administrative leave until the disposition of the criminal charges in the trial court. Any other action by the commission is stayed until the disposition of the criminal charges in the trial court. An administrative leave under this section may be with or without pay, as determined by the commission. If the member is placed on administrative leave without pay, the commission, in its discretion, may award back pay if the member is exonerated in the criminal matter.
6. Notwithstanding anything to the contrary in IC 36-8-3.5, in ordinances 92-16, 15-08, or in this Ordinance, and subject to ratification by the Common Council prior to implementation, the Merit Commission may adopt under IC 36-1-4-14 rules for a merit system for hiring experienced law enforcement officers, such system to be known as the "Lateral Officer Hiring System." No person may simultaneously seek employment as a full-time member of the Franklin Police Department under the Lateral Hiring System and under the new officer hiring system of Ordinances 92-16, 15-08, and this Ordinance.

3) Repeal of Conflicting Ordinances: The provisions of all other Ordinances in conflict with the provisions of this Ordinance are of no further force or effect and are now repealed.

4) Severability of Provisions: If any part of this Ordinance is held to be invalid, such part will be deemed severable and its invalidity will have no effect upon the remaining provisions of this Ordinance;

5) Non-Effective Provisions: The provisions of Ordinance 92-16 and Ordinance 15-08 not specifically amended herein shall remain in full force and effect.

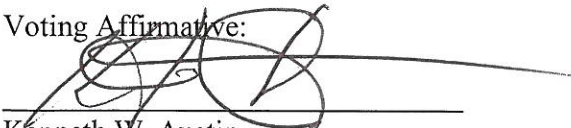
6) Duration and Effective Date: The provisions set forth in this Ordinance become and will remain in full force and effect until repealed or amended by Ordinance; on the day of the passage and adoption of this Ordinance by signature as set forth below.

Introduced and Filed on the 17 day of February, 2021.

DULY PASSED on this 15th day of March, 2021 by the Common Council of the City of Franklin, Johnson County, Indiana, having been passed by a vote 6 in Favor and 0 Opposed.

City of Franklin, Indiana, by its Common Council:

Voting Affirmative:

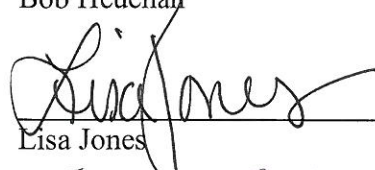

Kenneth W. Austin

Voting Opposed:

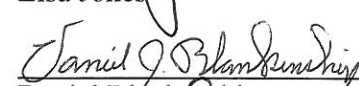
Kenneth W. Austin

Absent
Bob Heuchan

Bob Heuchan


Lisa Jones

Lisa Jones


Daniel Blankenship

Daniel Blankenship


Anne McGuinness

Anne McGuinness



Chris Rynerson

Chris Rynerson

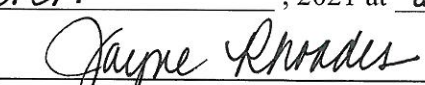

Shawn Taylor

Bob Heuchan

Attest:


Jayne Rhoades,
City Clerk Treasurer


Presented by me to the Mayor of the City of Franklin for his approval or veto pursuant to Indiana § 36-4-6-15, 16 this 1st day of March, 2021 at 6:59 o'clock
.M.


Jayne Rhoades,
City Clerk Treasurer

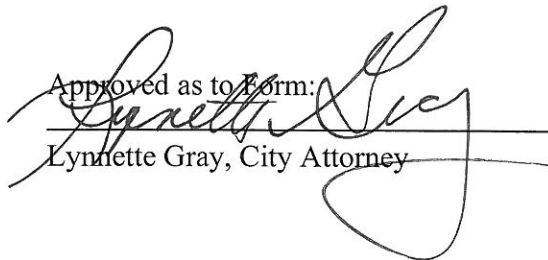
This Ordinance having been passed by the legislative body and presented to me was Approved by me and duly adopted, pursuant to Indiana Code § 36-4-6-16a)(1) Vetoed pursuant to Indiana code § 36-4-6-16(a)(2), this 1st day of March, 2021 at 6:59 o'clock P.M.



Stephen Barnett, Mayor

Attest: 

Jayne Rhoades,
City Clerk Treasurer

Approved as to Form: 

Lynnette Gray, City Attorney