

**COMMON COUNCIL
Agenda Request Form**

(Form B-01-2012)

Organizations and individuals are asked to submit a request form and supporting documents to be placed on the agenda. You will be contacted by the City confirming the date of the meeting in which your request will be heard. Please make sure that your contact information is accurate in case we need to get in touch with you. The Common Council meets on the 1st and 3rd Monday of each month at 6:00 p.m. in City Hall located at 70 E. Monroe Street.

Date Submitted:	11.15.2023	Meeting Date:	11.20.2023
Contact Information:			
Requested by:	Lynnette Gray		
On Behalf of Organization or Individual: City of Franklin			
Telephone:	317-738-3365		
Email address:	lynng@jgmlawfirm.com		
Mailing Address:	63 E. Court St., P.O. Box 160, Franklin, IN 46131		
Describe Request:			
Approval of Ordinance 23-15 Regarding the Minimum Age of Merit Commission Candidates			
List Supporting Documentation Provided:			
Ordinance 23-15			
Franklin Police Merit Commission Resolution			
Who will present the request?			
Name:	Lynnette Gray - City Attorney	Telephone:	(317) 738-3365

In order for an individual and/or agency to be considered for new business on the Common Council agenda, this reservation form and supporting documents must be received in the Mayor's office no later than 4:00 p.m. on the Wednesday before the meeting.

ORDINANCE NO.: 2023-15
OF THE COMMON COUNCIL OF THE CITY OF FRANKLIN, INDIANA

AN ORDINANCE AMENDING ORDINANCE NO. 92-16 TO CHANGE THE MINIMUM AGE OF MERIT COMMISSION CANDIDATES, TO ADDRESS POTENTIAL DISCRIMINATION AGAINST MERIT OFFICERS IN THE UNIFORMED SERVICES, AND TO AMEND THE SCREENING AND REMOVAL PROCEDURES OF THE HIRING PROCESS

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 authorize the Franklin Police Merit Commission to extend conditional offers of employment to 20-year-old candidates so long as the candidate reaches the minimum age of 21 before graduation from the Indiana Law Enforcement Academy; and

WHEREAS, the members of the Franklin Police Merit Commission are of the opinion that the provisions of the Ordinance regarding the minimum age of Commission candidates should be amended to authorize the Franklin Police Merit Commission to extend conditional offers of employment to 20-year-old candidates so long as the candidate reaches the minimum age of 21 before graduation from the Indiana Law Enforcement Academy; 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 authorize the Franklin Police Merit Commission to automatically disqualify from the hiring process those applicants who did not follow the requisite procedures to take the general aptitude test or who three (3) or more times, applied for appointment in the department or similar department in another jurisdiction and were disqualified or deemed unsuitable for employment; and

WHEREAS, the members of the Franklin Police Merit Commission are of the opinion that the provisions of the Ordinance regarding the qualifying of applicants during the application process should be amended to allow the Franklin Police Merit Commission to automatically disqualify from the hiring process those applicants who did not follow the requisite procedures to take the general aptitude test or who three (3) or more times, applied for appointment in the department or similar department in another jurisdiction and were disqualified or deemed unsuitable for employment; 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 authorize the Franklin Police Merit Commission, in consultation with the Chief of Police, to grant or deny deferral requests from applicants who decline a conditional offer of employment and to retain applicants being

granted a first deferral on the applicant eligibility list, subject to the expiration of the list or later acceptance of a conditional offer of employment; and

WHEREAS, the members of the Franklin Police Merit Commission are of the opinion that the provisions of the Ordinance regarding the enrollment of an applicant as a member when a vacancy occurs and the placing of applicants on the applicant eligibility list should be amended to allow the Franklin Police Merit Commission to grant or deny deferral requests from applicants who decline a conditional offer of employment and to retain applicants being granted a first deferral on the applicant eligibility list, subject to the expiration of the list or later acceptance of a conditional offer of employment; and

WHEREAS, it appears to said Common Council that the scope of the Ordinance's previous incorporation of I.C. 36-8-3.5-13 should be amended to clarify that when calculating a member's time served at the lower rank to determine said member's eligibility for promotion, a member who is reemployed by the department upon completion of a period of service in the uniformed services shall be considered as having been continuously employed by the department throughout said period of service in the uniformed services; and

WHEREAS, the members of the Franklin Police Merit Commission are of the opinion that the provisions of the Ordinance regarding the rules governing the promotion of a member should be amended to clarify that when calculating a member's time served at the lower rank to determine said member's eligibility for promotion, a member who is reemployed by the department upon completion of a period of service in the uniformed services shall be considered as having been continuously employed by the department throughout said period of service in the uniformed services; and

WHEREAS, it appears to said Common Council that the scope of the Ordinance's previous incorporation of I.C. 36-8-3.5-21 should be amended to clarify that the termination of a member's reinstatement rights does not apply to those members who cannot accept reinstatement due to the member's service in the uniformed services; and

WHEREAS, the members of the Franklin Police Merit Commission are of the opinion that the provisions of the Ordinance regarding the reinstatement of a member should be amended to clarify that the termination of a member's reinstatement rights does not apply to those members who cannot accept reinstatement due to the member's service in the uniformed services; 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) through (C)(7), of this Section, codified at 2.12.030); IC 36-8-3.5-13 (other than as specifically excepted hereinafter in subsection (C)(8) of this Section, codified at 2.12.030); IC 36-8-3.5-14 through IC 36-8-3.5-16; IC 36-8-3.5-17 (other than as specifically excepted hereinafter in subsections (C)(9) of this Section, codified at 2.12.030); IC 36-8-3.5-18 through IC 36-8-3.5-20; IC 36-8-3.5-21 (other than as specifically excepted hereinafter in subsection (C)(10), of this Section, codified at 2.12.030); IC 36-8-3.5-22 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, 12-13, 15-08, 21-04, 21-23, or in this Ordinance, the minimum age requirement of an applicant to the department under IC 36-8-3.5-12(a)(3) may be conditionally waived for those

applicants who are twenty (20) years of age at the time of certification of the applicant eligibility list but will reach twenty-one (21) years of age on or prior to said applicant's graduation from the Indiana Law Enforcement Academy.

5. Notwithstanding anything to the contrary in IC 36-8-3.5-12, in Ordinances 92-16, 12-13, 15-08, 21-04, 21-23, or in this Ordinance, if a person has not followed the requisite procedures to take the general aptitude test, said person shall not be allowed to take the general aptitude test and shall be automatically disqualified from the hiring process. If a person has, (i) three (3) or more times, applied for appointment to the department or to a similar department in any jurisdiction, and (ii) has been disqualified from the hiring process or otherwise deemed unsuitable for employment, said applicant shall be automatically disqualified from the hiring process. In either such event, the person may not apply to become a member of the department for a period of twelve (12) months after any such disqualification. If a person applies prior to the expiration of the twelve (12) month period, the person's application will be destroyed and not held by the commission for later consideration.
6. 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.
7. Notwithstanding anything to the contrary in IC 36-8-3.5-12, in Ordinances 92-16, 12-13, 15-08, 21-04, 21-23, or in this Ordinance:
 - a. If an applicant on the applicant eligibility list declines to accept a conditional offer of employment, the applicant may request a deferral from the commission. Upon receiving the deferral request, the commission shall consult with the Chief of Police, and in the exercise of its discretion, shall either grant or deny the deferral request. If the deferral request is granted, the applicant will not be removed from the applicant eligibility list, but will instead be moved to the bottom of the applicant eligibility list.
 - b. An applicant whose deferral is granted will remain on the applicant eligibility list until the earlier of (i) the expiration of the applicant eligibility list, or (ii) the date on which the

deferred applicant accepts a second conditional offer of employment from the commission as the next remaining eligible applicant on the applicant eligibility list.

- c. A deferred applicant who declines a second conditional offer of employment shall be removed from the applicant eligibility list.
8. Notwithstanding anything to the contrary in IC 36-8-3.5-13, in Ordinances 92-16, 12-13, 15-08, 21-04, 21-23, or in this Ordinance, when calculating a member's time served at a specific rank to determine eligibility for promotion, any member who is reemployed by the department upon completion of a period of service in the uniformed services shall be considered as having been continuously employed by the department during the period of service in the uniformed services, subject to the terms of 38 U.S.C. § 4312 and 38 U.S.C. § 4316.
9. 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 the 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.
10. Notwithstanding anything to the contrary in IC 36-8-3.5-21, in Ordinances 92-16, 12-13, 15-08, 21-04, 21-23, or in this Ordinance, all reinstatement rights granted to a member under IC 38-8-3.5-21 shall terminate upon the member's failure to accept reinstatement within the period set forth in IC 38-8-3.5-21(c), save for those members who cannot accept reinstatement during that period due to the member's service in the uniformed services.
11. 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.
12. Notwithstanding anything to the contrary in IC 36-8-3.5, in ordinances 92-16, 12-13, 15-08, 21-04, or in this section, in the event

an applicant who is enrolled as a member of the department pursuant to IC 36-8-3.5-12(g) as amended herein, or pursuant to a lateral officer hiring system, (hereinafter “new member”) is a relative (as defined in IC 36-1-20.2-8) of an existing member of the department (hereinafter “member”), the new member may not be employed in a position that results in the new member being in the direct line of supervision (as defined in IC 36-1-20.2-4) of the Member. For the avoidance of doubt, the new member may neither supervise nor be supervised by the member.

a. In the event the new member is a relative of the chief of the department:

(1) The new member's departmental chain of command shall run to and end with the deputy chief of the department, who shall not report to the chief of the department for any matter relating to the new member.

b. In the event the new member is a relative of the deputy chief of the department or other intermediate supervisor in the chain of command, the new member's direct line of supervision shall circumvent the deputy chief or other intermediate supervisor.

2) **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.

3) **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.

4) **Non-Effective Provisions:** The provisions of 92-16 not specifically amended herein shall remain in full force and effect.

5) **Duration and Effective Date:** The provisions set forth in this Ordinance become and will remain in full force and effect until they're 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 ____ day of _____, 2023.

DULY PASSED on this _____ day of _____, 2023 by the Common Council of the City of Franklin, Johnson County, Indiana, having been passed by a vote ____ in Favor and ____ Opposed.

City of Franklin, Indiana, by its Common Council:

Voting Affirmative:

Voting Opposed:

Kenneth W. Austin, President

Kenneth W. Austin, President

Robert D. Heuchan, Member

Robert D. Heuchan, Member

Anne McGuinness, Member

Anne McGuinness, Member

Irene Nalley, Member

Irene Nalley, Member

Jennifer Price, Member

Jennifer Price, Member

Josh Prine, Member

Josh Prine, Member

Shawn Taylor, Member

Shawn Taylor, Member

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 Code § 36-4-6-15, this _____ day of _____, 2023 at _____ o'clock
a.m./p.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 § 36-4-6-1(a)(1) Vetoed pursuant to Indiana code § 36-4-6-16(a)(2), this _____ day of _____, 2023 at _____ o'clock
a.m./p.m.

Stephen Barnett
Mayor

Attest:

Jayne Rhoades
City Clerk-Treasurer

Approved as to Form:

Lynnette Gray
City Attorney

**BEFORE THE
FRANKLIN POLICE MERIT COMMISSION
RESOLUTION NO: 2023-00 81**

**RESOLUTION REGARDING THE MINIMUM AGE OF MERIT COMMISSION
CANDIDATES AND APPLICANTS IN THE UNIFORMED SERVICES**

WHEREAS, Section 2.12.030 of the Franklin, Indiana, Code of Municipal Ordinances (the “Code”) establishes a merit commission for the Franklin Police Department and a merit system for the hiring of new merit police officers and lateral officers, and for the promotion and discipline of merit police officers, and;

WHEREAS, the Franklin Police Merit Commission (the “Commission”) commonly proposes to the Common Council of the City of Franklin, changes to the Commission’s system for hiring for consideration and approval by the Common Council, and implementation by the Commission and the Franklin Police Department (the “Department”), and;

WHEREAS, the Franklin Police Merit Commission seeks to exercise greater discretion in the hiring of merit police officers by allowing conditional offers of employment to be made to 20-year-old Commission candidates so long as the candidate reaches the minimum age of 21 before graduation from the Indiana Law Enforcement Academy, and;

WHEREAS, the Franklin Police Merit Commission seeks to address potential discrimination that might occur in the hiring of applicants or retention of merit officers who might be unavailable due to service in the uniformed services, and;

WHEREAS, the Franklin Police Merit Commission seeks to exercise greater discretion in the screening and removal of repeat-failed applicants from the hiring process, and;

WHEREAS, the Rules and Procedures for Governance, Appointments, Promotions, Demotions, and Disciplinary Actions (the “Rules and Procedures”) and the structure of the Franklin Merit System should be amended to address the above matters, and;

WHEREAS, after deliberation by the Commission and collaboration between the Commission and the Chief and Deputy Chief of the Department, the Commission has developed proposed amendments for the Common Council’s consideration.

NOW, THEREFORE, be it resolved by the Franklin Police Merit Commission that the City of Franklin’s police merit system would be improved and enhanced by incorporation of the above recited revisions, as reflected in **Exhibit A**, a redline of the proposed amendments to the Rules and Procedures, and accordingly respectfully requests the Franklin Common Council adopt amendments covering the substance of the policy changes proposed in **Exhibit B**, a clean copy of the Rules and Procedures, and respectfully requests the Franklin Board of Public Works and Safety to take any and all such action necessary to allow the Franklin Police Merit Commission and the Franklin Police Department to effectuate such amendments through appropriate rule and policy changes.

INTRODUCED & APPROVED by the Franklin Police Merit Commission this 14th day of November, 2023.

Voting in Favor of Ratification:

John Shafer

Joe Allen

Joseph Hollis

Mari Lory

Les Tabeling

Voting Opposed to Ratification:

John Shafer

Joe Allen

Joseph Hollis

Mari Lory

Les Tabeling

Attest: _____
Jacob G. Bowman

Franklin Police Merit Commission

**P.O. Box 405
Greenwood, Indiana 46142**

**John R. Shafer- President
Joseph Hollis- Vice President
Mari Lory- Secretary
Les Tabelaing
Joe Allen**

**Counsel-William W. Barrett
317.888.1121**

Meeting Agenda for November 14, 2023

- I. Call to Order**
- II. Roll Call**
- III. Claims**
- IV. Chief's Report**
- V. Attorney's Report**
- VI. New Business**
- VII. Old Business**
- VIII. Adjournment**

EXHIBIT A

[Redline Amendments]

EXHIBIT A

CITY OF FRANKLIN, INDIANA POLICE MERIT COMMISSION

Rules and Procedures for Governance, Appointments, Promotions, Demotions, and Disciplinary Actions (as amended through ~~November 10, 2021~~ October 3, 2022)

Preamble

These rules and procedures of the City of Franklin, Police Merit Commission, are promulgated pursuant to:

- 1) Franklin Local Ordinance No. 92-16, entitled "An Ordinance Establishing the Police Merit Commission of the City of Franklin, Indiana," dated June 22, 1992 and enacted January 1, 1993, and as amended by Franklin Local Ordinance No. 15-08, entitled "An Ordinance Amending Ordinance No. 92-16 To Change Residency Requirements and Political Affiliation Determination Methods for The Franklin Police Merit Commission Membership Eligibility," enacted September 21, 2015; as further amended by Franklin Local Ordinance 2021-23, entitled "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, & 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," enacted September, 20, 2021 and by Franklin Resolution 22-25, entitled "Resolution Ratifying Franklin Police Merit Commission's Proposed Lateral Officer Hiring System." (Amended October 6, 2015)
- 2) Those provisions of Indiana Code § 36-8-3.5 et seq. specifically adopted and incorporated by Franklin Local Ordinance No. 92-16, as amended by Franklin Local Ordinance No. 15-08. *(Amended October 6, 2015)*

If any of these rules and procedures are found to be illegal, void, or otherwise unenforceable, it is the intent of the Merit Commission that the remaining rules and procedures remain in effect, provided that they accomplish the objectives of the legislative unit.

Definitions

- 1) "Department" means the Franklin City Police Department.
- 2) "Merit Commission" means the Franklin City Police Merit Commission.
- 3) "Chief" means the Franklin City Chief of Police.
- 4) "Member" means an individual employed as a merit police officer as defined under Ind. Code. 36-8-3.5-1 et seq. , unless the context of the term implies a member of the Merit Commission, or otherwise.
- 5) "Unit" means the legislative unit by whose authority the Merit Commission was created.

- 6) "Ex parte" means on or from one side or party only. (*Added by Amendment October 6, 2015*)

Governance of the Merit Commission

- 1) The Rules governing the Merit Commission are adopted in accordance with, and under the authority of, Indiana Code § 36-1-4-14, and the specifically adopted provisions of Indiana Code § 36-8-3-4(n) and Indiana Code 36-8-3.5, pursuant to Franklin Local Ordinance No. 92-16, as amended by Franklin Local Ordinance No. 15-08, ~~and by Franklin Local Ordinance No. 21-23, and by Franklin Resolution 22-25.~~ Further, all conduct of the Merit Commission will be regulated by and performed pursuant to said provisions of the Indiana Code and the Ordinances of the City of Franklin, Indiana. (*Amended October 6, 2015, and November 10, 2021 and November 14, 2023*)
- 2) Qualifications for Commission Members (Political Affiliation)

The Commission shall consist of five (5) commissioners: (1) two (2) persons, who must be of different political parties, appointed by the unit's executive; (2) one (1) person appointed by the unit's legislative body; and (3) two (2) persons, who must be of different political parties, elected by the active members of the department.

Pursuant to Franklin City Ordinance 15-08, a prospective Commissioner's political affiliation shall be determined by the criteria established by IC 36-1-8-10. *Amended, October 6, 2015*
- 3) Qualifications for Commission Members (Residency)

Pursuant to Franklin City Ordinance 15-08, each Commissioner must have been a legal resident of Franklin, Indiana, for not less than one (1) continuous year immediately preceding the commissioner's appointment, and must be at least twenty-one (21) years of age. *Amended, October 6, 2015*
- 4) A commissioner may not be an active member of a police or fire department or agency and no more than two (2) of the commissioners may be past members of a police or fire department or agency. In addition, a person may not serve on the Merit Commission if he receives any remuneration as salary from the City of Franklin.
- 5) Each commissioner will take an oath of office to conscientiously discharge his duties. A signed copy of the oath will be filed with the safety board.
- 6) The term of a commissioner is four (4) years. However, one (1) of the executive's initial selections and one (1) of the department's initial selections are for terms of two (2) years.
- 7) A vacancy on the Merit Commission will be filled within thirty (30) days by the appointing or electing authority and the selection is for the remainder of the un-expired term.
- 8) A commissioner serves at the pleasure of the appointing or electing authority and may be removed at any time. In the case of a commissioner elected by the department, if a recall petition by a majority of the active members is submitted to the safety board, the safety

Selection and Appointment of Members

- 1) General Rules Regarding Selection and Appointment:
 - a) Applications for appointment to the department will be made on a form created, periodically amended as necessary, and provided by the Chief and approved by the Merit Commission. The Merit Commission may revise the application as it deems necessary prior to each hiring process.
 - b) Applications for appointment must be filed with the Merit Commission.
 - c) Applicants must produce satisfactory proof of their birth date and place.
 - d) Information provided by the applicant must be true and accurate to the best of the applicant's knowledge and belief.
 - e) To be considered by the Merit Commission, each application must be answered in detail, be complete as to content and form, and be signed by the applicant under the penalties of perjury.
- 2) Minimal Requirements for All Applicants:
 - a) To be appointed to the department, an applicant must:
 - i) be a citizen of the United States;
 - ii) be a high school graduate or equivalent;
 - iii) be at least twenty-one (21) years of age but under forty (40) years of age;
 - iv) have a valid driver's license.
 - v) have the legal ability to possess a firearm;
 - vi) satisfy any and all other requirements imposed by either state or federal law; and
 - vii) pass an initial physical agility test required under IC 36-8-3.2-3.5 administered by the Merit Commission to all applicants.
(Added by Amendment, November 10, 2021, Amended, November 14, 2023.)
 - b) Age requirements do not apply for applicants previously employed as members of the department.
 - c) The minimum age requirement may be conditionally waived for those applicants who are twenty (20) years of age at the time of certification of the Applicant Eligibility List but will reach twenty-one (21) years of age on or prior to said applicant's graduation from the Indiana Law Enforcement Academy.
(Added by Amendment, November 14, 2023)
 - ed) No person with a felony conviction may be appointed, re-appointed, or reinstated to the department.
 - de) False or misleading information provided by an applicant will render the applicant ineligible for appointment, reappointment, and/or reinstatement.
- 3) Background Investigation:
 - a) Each applicant not already disqualified from the hiring process will consent to being fingerprinted by the department for use by the Merit Commission as part of a background investigation.
 - b) The Merit Commission may conduct background investigations as it deems necessary in order to evaluate an applicant's suitability as a member of the department.
 - c) The Merit Commission will review the results of its background investigations for each applicant and may disqualify at any point during the hiring process any applicant determined, on the basis of the background investigation, to be unsuited for employment in the department.

- d) If a person has not followed the requisite procedures to take the General Aptitude Test, said person shall not be allowed to take the General Aptitude Test and shall be automatically disqualified from the hiring process. If a person has, (i) three (3) or more times, applied for appointment to the department or to a similar department in any jurisdiction, and (ii) has been disqualified from the hiring process or otherwise deemed unsuitable for employment, said applicant shall be automatically disqualified from the hiring process. In either such event, the person may not apply to become a Merit Officer for a period of twelve (12) months after any such disqualification. If a person applies prior to the expiration of the twelve (12) month period, the person's application will be destroyed and not held by the Merit Commission for later consideration.
(Added by Amendment, November 14, 2023)
 - de) For each applicant not already disqualified from the hiring process, the Merit Commission will assign a grade based upon the results of the background investigation. This grade may be revised by the Merit Commission at any time during the hiring process, prior to the certification of the Applicant Eligibility List, as additional information about an applicant's background, experience, and suitability as a police officer becomes known.
(Amended, November 10, 2021)
 - ef) In grading an applicant for purposes of this background investigation, the Merit Commission may consider the applicant's experience (such as past law enforcement training and/or work experience), education, prior placement on an applicant eligibility list, prior efforts to be employed as a police officer, and any other relevant information available to the Merit Commission.
- 4) General Aptitude Test:
- a) Each applicant not already disqualified from the hiring process will be given a General Aptitude Test.
 - b) Each applicant not already disqualified will be given a grade based upon his or her performance on the General Aptitude Test.
 - c) The Merit Commission may utilize the services of a professional testing service to aid in the administration and/or grading of the General Aptitude Test.
- 5) Interview:
- a) The top twenty-five (25) scorers on the General Aptitude Test, if not already disqualified from the hiring process, will undergo a personal interview with the Merit Commission.
(Amended November 10, 2021)
 - b) The Merit Commission will use this interview to investigate the applicant's demeanor, mental alertness, personal habits, character, reputation, and other important personal traits and characteristics.
 - c) This personal interview will be conducted in a fair and equitable manner, will be conducted by the Merit Commission with the guidance of a professional testing service, and will be graded.
 - d) The Merit Commission may also use information learned during this personal interview to supplement and/or revise an applicant's background investigation score.

- h) Any applicant who directly or indirectly seeks to influence a Merit Commission member's position with respect to appointment or reappointment will be forever barred from consideration as a member of the department.
- i) In order to determine whether an applicant is still of good character (for purposes of this rule), the Merit Commission may conduct additional background investigations as it deems necessary, including but not limited to an additional personal interview with the applicant and/or a review of the applicant's psychological examination conducted for purposes of PERF enrollment.
- j) 1) If an applicant on the Applicant Eligibility List declines to accept a conditional offer of employment under subpart (c) of this Paragraph 8, the applicant may request a deferral from the Merit Commission. Upon receiving a deferral request, the Merit Commission shall consult with the Chief of Police, and in the exercise of its discretion, shall either grant or deny the deferral request. If the deferral request is granted, the applicant will not be removed from the Applicant Eligibility List but will instead be moved to the bottom of the Applicant Eligibility List.
 2) An applicant whose deferral request is granted applicants will remain on the Applicant Eligibility List until the earlier of:
 i.) The expiration of the Applicant Eligibility List under Paragraph 7(c) above, or;
 ii.) The date on which the deferred applicant accepts a second conditional offer of employment from the Merit Commission as the next remaining eligible applicant on the Applicant Eligibility List.
 3) A deferred applicant who declines a second conditional offer of employment under this Paragraph 8 shall be removed from the Applicant Eligibility List.

(Added by Amendment, November 14, 2023)

~~In the event an applicant with the highest weighted score on the eligibility test on the Applicant Eligibility List is unable or unwilling to accept a conditional offer of employment when a vacancy occurs or an additional officer may be hired, the applicant may request a deferral from the Merit Commission. The Merit Commission, after consultation with the Chief of Police, shall determine whether to grant the applicant's deferral request. In the event the deferral is granted, the applicant will not be removed from the Applicant Eligibility List, but will instead be moved to the bottom of the Applicant Eligibility List as established on the date of applicant's refusal and shall remain on the Applicant Eligibility List for the remainder of the applicant's two (2) year post-certification eligibility period unless the applicant's removal is otherwise required.~~

~~----- (Added by Amendment, -----, 2023)~~

(9) Supervision of Relatives

- a) In the event an applicant who is enrolled as a member of the department or becomes a member pursuant to any section of these Rules ("New Member") is a relative (as defined in Ind. Code 36-1-20.2-8) of an existing member of the department ("Existing Member"), the New Member may not be employed in a

- i) Starting salary and pay incentives for qualified candidates are based on years of experience, not including partial/seasonal years of service. Upon hiring a Lateral Applicant shall be paid the same salary as a current merit officer of the same rank.
- j) Any hiring incentive shall be only as authorized by the Common Council.
- k) Accepted applicants will be eligible for other benefits, such as health insurance and vacation time.
- l) Under no circumstance will the Merit Commission provide for the lateral transfer of rank or rights to any seniority status.
- m) Lateral Officer transfer training requirements:
 - i) Lateral Applicants who have completed a Department-recognized Field Training Program will undergo the successful completion of an accelerated field training program lasting approximately three (3) months. Any Lateral Applicants who have not completed a Department recognized Field Training Program will undergo the Department's Full-term Field Training Program for New Hire Merit Officers.
 - ii) For purposes of discipline, all applicants accepting employment through the lateral transfer program will be considered probationary members for their first year of service, and therefore subject to the provisions of IND. CODE § 36-8-3.5-12(h) and Section 2.12.030(C) of the Franklin Code of Ordinances.

Reserve Officers

- 1) Reserve Applications:
 - a) The application form for reserve applicants will be the same as those used by full-time applicants.
 - b) Reserve applications must be filed with the Chief of Police.
 - c) Reserve applications must provide proof of birth date and education.
 - d) Reserve applications must be completed as required by the application form, and will be retained by the Chief for a one-year period from the date of receipt.
- 2) Requirements for Reserve Appointments: To be appointed as a reserve officer, a reserve applicant must:
 - a) be a citizen of the United States;
 - b) be at least a high school graduate;
 - c) be no less than twenty-one (21) years of age nor more than forty (40) years of age, hold a valid Indiana driver's license, and have no prior license suspension or Driving While Intoxicated arrest;
 - d) pass prior to appointment the department's physical agility test;
 - e) pass prior to appointment the psychological screening used for full-time applicants;
 - f) have no felony or misdemeanor conviction;
 - g) accept "At Will" appointment status under the authority of the Chief of Police, when made by the Chief.
 - h) satisfy any and all other requirements imposed by federal and state law, and department rules and regulations; and
 - i) prior to appointment, reside within Johnson County, Indiana or obtain a written waiver from the Chief of Police.
- 3) Background Investigation:

- a) The Merit Commission retains the right to require from the Chief, as the Commission deems necessary, additional information concerning the reserve applicant.
 - b) The Chief of Police will conduct, or cause to be conducted, background investigations of reserve applicants, and forward to the Merit Commission the results of the background investigation.
- 4) Vacancies:
 - a) As the Chief deems necessary and proper, the Chief will tender a written request to the Merit Commission to make reserve officer appointment(s).
 - b) The Chief of Police will forward all supporting documents regarding the reserve applicant(s), including the application and background investigation, with a letter of recommendation from the Chief of Police and Deputy Chief of Police no later than two (2) weeks prior to the next stated meeting of the Merit Commission. The Chief of Police will cause the reserve applicant to appear at said meeting to answer any questions propounded by the Merit Commission.
- 5) Dismissal:
 - a) Reserve officers are retained in an "At Will" basis and serve at the pleasure and discretion of the Chief of Police.
 - b) Reserve officers dismissed by the Chief of Police have no right of review from the Merit Commission.
- 6) Effect of these Rules and Regulations:
 - a) Nothing in the foregoing rules and regulations regarding the appointment of reserve officers is intended to be inconsistent with applicable state and federal law.
 - b) To the extent practicable, any provisions deemed by a court of competent jurisdiction to be unenforceable or in contravention of applicable law, the remaining provisions are intended to remain applicable and full force and effect.

Promotions

- 1) General Rules Regarding Promotions:
 - a) Promotions to a rank will be from the next lower rank, but the member being promoted must have served at the lower rank for at least two (2) years from the official appointment to the lower rank. Time served in an acting capacity in the next lower rank does not count towards the two year period.
 - b) Only those members who have officially served at least two (2) years in the next lower rank may:
 - i) be given the competitive examinations; and
 - ii) be placed on the Promotion Eligibility List.
 - c) Written examinations will be administered on the third Thursday in August of each odd numbered year with oral examinations to follow as soon as reasonably practicable.
- (Amended, November 10, 2021)
- d) Notwithstanding the foregoing, when calculating a member's time served at a specific rank to determine eligibility for promotion, any member who is reemployed by the department upon completion of a period of service in the uniformed services shall be considered as having been continuously employed by

the department during the period of service in the uniformed services, subject to the terms of 38 U.S.C. § 4312 and 38 U.S.C. § 4316.

(Added by Amendment, November 14, 2023)

- 2) The following factors will be considered in rating a department member for a promotion:
 - a) the score received on the written examination administered by the Merit Commission or its agent. However, a failure to correctly answer at least seventy-five percent (75%) of the written examination questions will render the member ineligible for placement on the promotion eligibility list;
 - b) the score received on the oral examination administered by the Merit Commission or its agent;
 - c) the performance record of the department member; and
 - d) the department member's length of service.
- 3) The scores assigned to each of the four factors for each member eligible for a specific promotion will be weighted as follows:
 - a) The score received on the written examination = 50%;
 - b) The score received on the oral examination = 20%;
 - c) The score received for the performance record = 20%;
 - d) The score received for the length of service = 10%.
- 4) Written and Oral Examinations:
 - a) The Merit Commission may employ instructors, purchase materials, and make other expenditures to provide eligible members with the information that may be tested.
 - b) The Merit Commission will notify each member eligible to take the examination of the written materials from which the questions will be taken.
 - c) The identity of the member taking the examinations will be withheld from the person grading the examinations and all written examinations are confidential.
 - d) The Merit Commission will notify the member of the score received on the examinations.
 - e) The score will be included in the members' confidential permanent files.
 - f) Members are entitled to access their files at any time.
 - g) The Merit Commission will keep the examination under its supervision.
 - h) Appeal of the examination scores:
 - i) A member aggrieved with his or her examination scores may appeal to the Merit Commission for a review of the scores.
 - ii) The appeal must be filed within ten (10) days after notification of the score was sent to the member.
 - iii) The aggrieved member may review the questions incorrectly answered and challenge the answers considered correct.
 - iv) The Merit Commission will either affirm or correct the score after reviewing the matter.
 - v) The Merit Commission will retire the examination papers after the Promotion Eligibility List expires, but keep the retired records on file for five (5) years before they are destroyed.
- 5) Performance Rating:
 - a) General Rules:
 - i) A method of rating each members' performance, to be used by the Merit Commission in evaluating members eligible for promotion, will be

whether by a member of the Department or by any other person. *(Added by Amendment, October 6, 2015)*

Nothing in this Rule or in any of these Rules shall be construed to prevent the Chief or the Chief's delegate from communicating with the Merit Commission under IND. CODE § 5-14-1.5-6.1 or to diminish the Merit Commission's authority under any portion of IND. CODE 5-14-1.5 or of Franklin Local Ordinance No. 92-16, as amended by Franklin Local Ordinance No. 15-08. *(Added by Amendment, October 6, 2015)*

- 9) Notwithstanding anything to the contrary in these rules and procedures, if a member of the department is subject to criminal charges, the Merit Commission may place the member on administrative leave until the disposition of the criminal charges in the trial court. Any other action by the Merit 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 Merit Commission. If the member is placed on administrative leave without pay, the Merit Commission, in its discretion, may award back pay if the member is exonerated in the criminal matter.
(Added by Amendment, November 10, 2021)

Temporary Leaves of Absence

- 1) If the Board of Public Works and Safety reduces the number of members on the department, the reduction will be made by granting temporary leaves of absence, without pay or financial obligation to the unit, to the appropriate number of members.
- 2) The last member appointed will be put on leave first, with other members also put on leave in reverse hiring order, until the desired level is achieved.
- 3) If the department's size is increased again, the members granted leave of absence under this provision will be reinstated before an applicant on the Applicant Eligibility List will be appointed.
- 4) The order of reinstatement will be the reverse of the order in which leaves of absence were issued.
- 5) All members on leaves of absence will keep the Merit Commission advised as to their current address.
- 6) Members will be informed of their reinstatement by written notice.
- 7) Within ten (10) days of the notice of reinstatement is received, the member must advise the Merit Commission whether he or she accepts reinstatement and will be able to commence employment on the date specified in the notice.
- 8) All reinstatement rights granted to a member terminate upon his or her failure to accept reinstatement within that period, save those members who cannot accept reinstatement during that period due to the member's service in the uniformed services.
(Added by Amendment, November 14, 2023)

EXHIBIT B

[Amendments]

EXHIBIT B

CITY OF FRANKLIN, INDIANA POLICE MERIT COMMISSION

Rules and Procedures for Governance, Appointments, Promotions, Demotions, and Disciplinary Actions (as amended through October 3, 2022)

Preamble

These rules and procedures of the City of Franklin, Police Merit Commission, are promulgated pursuant to:

- 1) Franklin Local Ordinance No. 92-16, entitled "An Ordinance Establishing the Police Merit Commission of the City of Franklin, Indiana," dated June 22, 1992 and enacted January 1, 1993, and as amended by Franklin Local Ordinance No. 15-08, entitled "An Ordinance Amending Ordinance No. 92-16 To Change Residency Requirements and Political Affiliation Determination Methods for The Franklin Police Merit Commission Membership Eligibility," enacted September 21, 2015; as further amended by Franklin Local Ordinance 2021-23, entitled "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, & 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," enacted September, 20, 2021 and by Franklin Resolution 22-25, entitled "Resolution Ratifying Franklin Police Merit Commission's Proposed Lateral Officer Hiring System." (*Amended October 6, 2015*)
- 2) Those provisions of Indiana Code § 36-8-3.5 et seq. specifically adopted and incorporated by Franklin Local Ordinance No. 92-16, as amended by Franklin Local Ordinance No. 15-08. (*Amended October 6, 2015*)

If any of these rules and procedures are found to be illegal, void, or otherwise unenforceable, it is the intent of the Merit Commission that the remaining rules and procedures remain in effect, provided that they accomplish the objectives of the legislative unit.

Definitions

- 1) "Department" means the Franklin City Police Department.
- 2) "Merit Commission" means the Franklin City Police Merit Commission.
- 3) "Chief" means the Franklin City Chief of Police.
- 4) "Member" means an individual employed as a merit police officer as defined under Ind. Code. 36-8-3.5-1 et seq. , unless the context of the term implies a member of the Merit Commission, or otherwise.
- 5) "Unit" means the legislative unit by whose authority the Merit Commission was created.

- 6) “Ex parte” means on or from one side or party only. *(Added by Amendment October 6, 2015)*

Governance of the Merit Commission

- 1) The Rules governing the Merit Commission are adopted in accordance with, and under the authority of, Indiana Code § 36-1-4-14, and the specifically adopted provisions of Indiana Code § 36-8-3-4(n) and Indiana Code 36-8-3.5, pursuant to Franklin Local Ordinance No. 92-16, as amended by Franklin Local Ordinance No. 15-08, by Franklin Local Ordinance No. 21-23, and by Franklin Resolution 22-25. Further, all conduct of the Merit Commission will be regulated by and performed pursuant to said provisions of the Indiana Code and the Ordinances of the City of Franklin, Indiana. *(Amended October 6, 2015, November 10, 2021 and November 14, 2023)*

- 2) Qualifications for Commission Members (Political Affiliation)

The Commission shall consist of five (5) commissioners: (1) two (2) persons, who must be of different political parties, appointed by the unit's executive; (2) one (1) person appointed by the unit's legislative body; and (3) two (2) persons, who must be of different political parties, elected by the active members of the department.

Pursuant to Franklin City Ordinance 15-08, a prospective Commissioner's political affiliation shall be determined by the criteria established by IC 36-1-8-10. *Amended, October 6, 2015*

- 3) Qualifications for Commission Members (Residency)

Pursuant to Franklin City Ordinance 15-08, each Commissioner must have been a legal resident of Franklin, Indiana, for not less than one (1) continuous year immediately preceding the commissioner's appointment, and must be at least twenty-one (21) years of age. *Amended, October 6, 2015*

- 4) A commissioner may not be an active member of a police or fire department or agency and no more than two (2) of the commissioners may be past members of a police or fire department or agency. In addition, a person may not serve on the Merit Commission if he receives any remuneration as salary from the City of Franklin.
- 5) Each commissioner will take an oath of office to conscientiously discharge his duties. A signed copy of the oath will be filed with the safety board.
- 6) The term of a commissioner is four (4) years. However, one (1) of the executive's initial selections and one (1) of the department's initial selections are for terms of two (2) years.
- 7) A vacancy on the Merit Commission will be filled within thirty (30) days by the appointing or electing authority and the selection is for the remainder of the un-expired term.
- 8) A commissioner serves at the pleasure of the appointing or electing authority and may be removed at any time. In the case of a commissioner elected by the department, if a recall petition by a majority of the active members is submitted to the safety board, the safety

board will call a meeting of the active members of the department under the procedures specified in Indiana Code § 36-8-3.5-8.

9) Time and Location of Meetings

The regular monthly meeting of the Commission shall be held in the City Council Chamber of Franklin City Hall, 70 East Monroe Street, Franklin, IN 46131 at 7:00 p.m. on the first Tuesday of January, February, March, April, June, August, September, and October. In May and November, the meeting shall occur at the same hour and place on the second Tuesday of the month, and in July and December, there shall be no regular meeting. *Amended, October 6, 2015, and November 10, 2021)*

10) Special meetings of the Merit Commission will be held if called by the Merit Commission's president or any two (2) members, and will be held at a time and place to be designated in the call for such meeting.

11) A majority of the total membership of the Merit Commission constitutes a quorum. A majority vote of the total membership of the Merit Commission is necessary to transact the Merit Commission's business.

12) Officers

The Merit Commission's officers shall be as follows: President, Vice-President, and Secretary. The election of Officers shall occur, and the terms of elected Officers shall commence, annually at the regular meeting of the Merit Commission in February. *Amended, October 6, 2015*

13) The Merit Commission will maintain a permanent record of its proceedings.

14) The Merit Commission will post a notice of all meetings in accordance with Indiana Code 5-14-1.5 et seq. (Indiana's Open Door Law.) Executive sessions may be held only as provided by provisions of the Indiana Code.

15) The Merit Commission will submit a proposed annual budget to the unit as other budgets of the City of Franklin are submitted. The legislative body will include in its budget an amount sufficient for the necessary expenses of the Merit Commission.

Removal of Upper-Level Policymaking Members

- 1) When an upper-level policymaking member of the department is removed by the executive of the unit, the removal is from rank only and not from the department.
- 2) Upon the upper-level policymaking member's removal, the Merit Commission will appoint the member to the rank in the department which he or she held at the time of the upper-level appointment or to any rank to which he or she had been promoted during his or her tenure in the upper-level position.
- 3) In the event that such a rank is not open in either case, the member is entitled to the pay of that rank and shall be promoted to the rank as soon as an opening is available.

Selection and Appointment of Members

- 1) General Rules Regarding Selection and Appointment:
 - a) Applications for appointment to the department will be made on a form created, periodically amended as necessary, and provided by the Chief and approved by the Merit Commission. The Merit Commission may revise the application as it deems necessary prior to each hiring process.
 - b) Applications for appointment must be filed with the Merit Commission.
 - c) Applicants must produce satisfactory proof of their birth date and place.
 - d) Information provided by the applicant must be true and accurate to the best of the applicant's knowledge and belief.
 - e) To be considered by the Merit Commission, each application must be answered in detail, be complete as to content and form, and be signed by the applicant under the penalties of perjury.
- 2) Minimal Requirements for All Applicants:
 - a) To be appointed to the department, an applicant must:
 - i) be a citizen of the United States;
 - ii) be a high school graduate or equivalent;
 - iii) be at least twenty-one (21) years of age but under forty (40) years of age;
 - iv) have a valid driver's license.
 - v) have the legal ability to possess a firearm;
 - vi) satisfy any and all other requirements imposed by either state or federal law; and
 - vii) pass an initial physical agility test required under IC 36-8-3.2-3.5 administered by the Merit Commission to all applicants.
(Added by Amendment, November 10, 2021. Amended, November 14, 2023.)
 - b) Age requirements do not apply for applicants previously employed as members of the department.
 - c) The minimum age requirement may be conditionally waived for those applicants who are twenty (20) years of age at the time of certification of the Applicant Eligibility List but will reach twenty-one (21) years of age on or prior to said applicant's graduation from the Indiana Law Enforcement Academy.
(Added by Amendment, November 14, 2023)
 - d) No person with a felony conviction may be appointed, re-appointed, or reinstated to the department.
 - e) False or misleading information provided by an applicant will render the applicant ineligible for appointment, reappointment, and/or reinstatement.
- 3) Background Investigation:
 - a) Each applicant not already disqualified from the hiring process will consent to being fingerprinted by the department for use by the Merit Commission as part of a background investigation.
 - b) The Merit Commission may conduct background investigations as it deems necessary in order to evaluate an applicant's suitability as a member of the department.
 - c) The Merit Commission will review the results of its background investigations for each applicant and may disqualify at any point during the hiring process any applicant determined, on the basis of the background investigation, to be unsuited for employment in the department.

- d) If a person has not followed the requisite procedures to take the General Aptitude Test, said person shall not be allowed to take the General Aptitude Test and shall be automatically disqualified from the hiring process. If a person has, (i) three (3) or more times, applied for appointment to the department or to a similar department in any jurisdiction, and (ii) has been disqualified from the hiring process or otherwise deemed unsuitable for employment, said applicant shall be automatically disqualified from the hiring process. In either such event, the person may not apply to become a Merit Officer for a period of twelve (12) months after any such disqualification. If a person applies prior to the expiration of the twelve (12) month period, the person's application will be destroyed and not held by the Merit Commission for later consideration.
(Added by Amendment, November 14, 2023)
 - e) For each applicant not already disqualified from the hiring process, the Merit Commission will assign a grade based upon the results of the background investigation. This grade may be revised by the Merit Commission at any time during the hiring process, prior to the certification of the Applicant Eligibility List, as additional information about an applicant's background, experience, and suitability as a police officer becomes known.
(Amended, November 10, 2021)
 - f) In grading an applicant for purposes of this background investigation, the Merit Commission may consider the applicant's experience (such as past law enforcement training and/or work experience), education, prior placement on an applicant eligibility list, prior efforts to be employed as a police officer, and any other relevant information available to the Merit Commission.
- 4) General Aptitude Test:
- a) Each applicant not already disqualified from the hiring process will be given a General Aptitude Test.
 - b) Each applicant not already disqualified will be given a grade based upon his or her performance on the General Aptitude Test.
 - c) The Merit Commission may utilize the services of a professional testing service to aid in the administration and/or grading of the General Aptitude Test.
- 5) Interview:
- a) The top twenty-five (25) scorers on the General Aptitude Test, if not already disqualified from the hiring process, will undergo a personal interview with the Merit Commission.
(Amended November 10, 2021)
 - b) The Merit Commission will use this interview to investigate the applicant's demeanor, mental alertness, personal habits, character, reputation, and other important personal traits and characteristics.
 - c) This personal interview will be conducted in a fair and equitable manner, will be conducted by the Merit Commission with the guidance of a professional testing service, and will be graded.
 - d) The Merit Commission may also use information learned during this personal interview to supplement and/or revise an applicant's background investigation score.

- 6) **Rating of Applicants:**
- a) For each applicant not already disqualified from the hiring process, the Merit Commission, or its agent, will compile the reports, scores, and any notes relating to the applicant's:
 - i) personal interview;
 - ii) general aptitude test; and
 - iii) background investigation.
 - b) The Merit Commission, or its agent, will grade each of these components relative to every other applicant's results and weight the various scores as follows:
 - i) Personal Interview = 30%;
 - ii) General Aptitude Test = 30%; and
 - iii) Background Investigation, including prior law enforcement experience = 40%.
- (Amended, November 10, 2021)
- 7) **Applicant Eligibility List:**
- a) The applicants will be placed on an Applicant Eligibility List in descending order according to their weighted score on the criteria referenced above.
 - b) The Applicant Eligibility List will be certified by the Merit Commission to the Board of Public Works as soon as practicable after its compilation.
 - c) Applicant's name will remain on the Applicant Eligibility List for two (2) years after the date of certification, unless state or federal law requires their removal before two (2) years, after which time the applicants' names will be removed. Applicants removed from the Eligibility List must reapply in order to be considered for appointment to the department.
- 8) **Vacancies in the Department:**
- a) When a vacancy occurs in the department or an additional officer may be hired, the Chief of Police will submit a written request to the Merit Commission for an eligible applicant.
 - b) The Merit Commission will again administer the physical agility test to the applicant having the highest weighted score on the Applicant Eligibility List.
(Amended, November 10, 2021)
 - c) If the applicant successfully completes the physical agility test, the Merit Commission will extend to the applicant a conditional offer of employment, which, if accepted by the applicant, will result in him or her being enrolled as member of the department to fill the vacancy, provided that the applicant:
 - i) is still of good character; and
 - ii) passes any other examinations required by state or federal law.
 - d) All appointments are probationary for a period not to exceed one (1) year.
 - e) If the department administration recommends to the Merit Commission during the probationary period that an appointee's conduct or capacity is unsatisfactory, the Merit Commission will notify the appointee, in writing, that he or she will be reprimanded, suspended, or that no permanent appointment will be made.
 - f) An appointee's employment with the department immediately ceases and terminates upon his or her receipt of written notification from the Merit Commission that no permanent appointment will be made.
 - g) Upon the expiration of the probationary period, the appointee is regularly employed.

- h) Any applicant who directly or indirectly seeks to influence a Merit Commission member's position with respect to appointment or reappointment will be forever barred from consideration as a member of the department.
- i) In order to determine whether an applicant is still of good character (for purposes of this rule), the Merit Commission may conduct additional background investigations as it deems necessary, including but not limited to an additional personal interview with the applicant and/or a review of the applicant's psychological examination conducted for purposes of PERF enrollment.
- j)
 - 1) If an applicant on the Applicant Eligibility List declines to accept a conditional offer of employment under subpart (c) of this Paragraph 8, the applicant may request a deferral from the Merit Commission. Upon receiving a deferral request, the Merit Commission shall consult with the Chief of Police, and in the exercise of its discretion, shall either grant or deny the deferral request. If the deferral request is granted, the applicant will not be removed from the Applicant Eligibility List but will instead be moved to the bottom of the Applicant Eligibility List.
 - 2) An applicant whose deferral request is granted applicants will remain on the Applicant Eligibility List until the earlier of:
 - i.) The expiration of the Applicant Eligibility List under Paragraph 7(c) above, or;
 - ii.) The date on which the deferred applicant accepts a second conditional offer of employment from the Merit Commission as the next remaining eligible applicant on the Applicant Eligibility List.
 - 3) A deferred applicant who declines a second conditional offer of employment under this Paragraph 8 shall be removed from the Applicant Eligibility List.

(Added by Amendment, November 14, 2023)

(9) Supervision of Relatives

- a) In the event an applicant who is enrolled as a member of the department or becomes a member pursuant to any section of these Rules ("New Member") is a relative (as defined in Ind. Code 36-1-20.2-8) of an existing member of the department ("Existing Member"), the New Member may not be employed in a position that results in the New Member being in the direct line of supervision (as defined in Ind. Code 36-1-20.2-4) of the Existing Member.
- b) For avoidance of any doubt, the New Member may neither supervise nor be supervised by the Existing Member.
- c) In the event the New Member is a relative of the Chief, the New Member's departmental chain shall run to and end with the deputy chief of the department, who shall not report to the Chief for any matter relating to the New Member.
- d) In the event the New Member is a relative of the deputy chief of the department or other intermediate supervisor in the chain of command, the New Member's direct line of supervision shall circumvent the deputy chief or other intermediate supervisor.

Lateral Officer Hiring System

- (1) The Lateral Officer Hiring System is implemented pursuant to Franklin Local Ordinance No. 2.12.030 (C)(6).
- (2) Lateral Officer Consideration for Employment
 - a) Notwithstanding any provision to the contrary, the Lateral Officer Applicant ("Lateral Applicant") must meet all pre-employment minimum requirements identified in the Selection and Appointment of Members, Section two (2) of these Rules, in addition to successfully completing all screening, and background screening components as required, including the physical agility test administered to New Hire applicants. Lateral Applicants will be required to undergo an interview process with the Merit Commission. They will not be required to take a written examination.
 - b) Only Lateral Applicants from federal, local, and state law enforcement agencies will be considered under the Lateral Officer Hiring System.
 - c) The Lateral Applicant must have a one (1) year minimum time-in-grade in federal, local, or state law enforcement prior to being considered for lateral hire.
 - d) Lateral Applicants must possess a valid Indiana Law Enforcement Academy ("ILEA") Certification or a statutorily authorized waiver of such Certification from ILEA.
 - e) Lateral Applicants must not have reached age forty (40) at the time of employment or already be a member of the 1997 Indiana Police and Fire Pension Fund ("PERF"), or otherwise be eligible to join PERF.
 - f) A Lateral Applicant's application for hire will be maintained for two years from the date of application.
 - g) For all Merit Officer vacancies within the Department, the Chief of the Department shall notify the Merit Commission whether the Chief requests the vacancy to be filled by a Lateral Applicant or a New Hire Applicant. The decision whether to fill any such vacancy by a Lateral Applicant or a New Hire Applicant is a matter of discretion with the Merit Commission.
 - h) If the Merit Commission determines to fill a Merit Officer vacancy with a Lateral Applicant, the Chief of the Department shall provide the Merit Commission with the applications of all Lateral Applicants who meet requirements (2)(a-f). The Merit Commission shall then interview all such Lateral Applicants prior to filling the vacancy with one of the Lateral Applicants. The Chief of the Department may make recommendations to the Merit Commission regarding the Lateral Applicants, but the hiring decision is a matter of discretion with the Merit Commission.
 - i) Starting salary and pay incentives for qualified candidates are based on years of experience, not including partial/seasonal years of service. Upon hiring a Lateral Applicant shall be paid the same salary as a current merit officer of the same rank.
 - j) Any hiring incentive shall be only as authorized by the Common Council.
 - k) Accepted applicants will be eligible for other benefits, such as health insurance and vacation time.
 - l) Under no circumstance will the Merit Commission provide for the lateral transfer of rank or rights to any seniority status.
 - m) Lateral Officer transfer training requirements:
 - i) Lateral Applicants who have completed a Department-recognized Field Training Program will undergo the successful completion of an

accelerated field training program lasting approximately three (3) months. Any Lateral Applicants who have not completed a Department recognized Field Training Program will undergo the Department's Full-term Field Training Program for New Hire Merit Officers.

- ii) For purposes of discipline, all applicants accepting employment through the lateral transfer program will be considered probationary members for their first year of service, and therefore subject to the provisions of IND. CODE § 36-8-3.5-12(h) and Section 2.12.030(C) of the Franklin Code of Ordinances.

Reserve Officers

- 1) Reserve Applications:
 - a) The application form for reserve applicants will be the same as those used by full-time applicants.
 - b) Reserve applications must be filed with the Chief of Police.
 - c) Reserve applications must provide proof of birth date and education.
 - d) Reserve applications must be completed as required by the application form, and will be retained by the Chief for a one-year period from the date of receipt.
- 2) Requirements for Reserve Appointments: To be appointed as a reserve officer, a reserve applicant must:
 - a) be a citizen of the United States;
 - b) be at least a high school graduate;
 - c) be no less than twenty-one (21) years of age nor more than forty (40) years of age, hold a valid Indiana driver's license, and have no prior license suspension or Driving While Intoxicated arrest;
 - d) pass prior to appointment the department's physical agility test;
 - e) pass prior to appointment the psychological screening used for full-time applicants;
 - f) have no felony or misdemeanor conviction;
 - g) accept "At Will" appointment status under the authority of the Chief of Police, when made by the Chief.
 - h) satisfy any and all other requirements imposed by federal and state law, and department rules and regulations; and
 - i) prior to appointment, reside within Johnson County, Indiana or obtain a written waiver from the Chief of Police.
- 3) Background Investigation:
 - a) The Merit Commission retains the right to require from the Chief, as the Commission deems necessary, additional information concerning the reserve applicant.
 - b) The Chief of Police will conduct, or cause to be conducted, background investigations of reserve applicants, and forward to the Merit Commission the results of the background investigation.
- 4) Vacancies:
 - a) As the Chief deems necessary and proper, the Chief will tender a written request to the Merit Commission to make reserve officer appointment(s).
 - b) The Chief of Police will forward all supporting documents regarding the reserve applicant(s), including the application and background investigation, with a letter

of recommendation from the Chief of Police and Deputy Chief of Police no later than two (2) weeks prior to the next stated meeting of the Merit Commission. The Chief of Police will cause the reserve applicant to appear at said meeting to answer any questions propounded by the Merit Commission.

- 5) Dismissal:
 - a) Reserve officers are retained in an "At Will" basis and serve at the pleasure and discretion of the Chief of Police.
 - b) Reserve officers dismissed by the Chief of Police have no right of review from the Merit Commission.
- 6) Effect of these Rules and Regulations:
 - a) Nothing in the foregoing rules and regulations regarding the appointment of reserve officers is intended to be inconsistent with applicable state and federal law.
 - b) To the extent practicable, any provisions deemed by a court of competent jurisdiction to be unenforceable or in contravention of applicable law, the remaining provisions are intended to remain applicable and full force and effect.

Promotions

- 1) General Rules Regarding Promotions:
 - a) Promotions to a rank will be from the next lower rank, but the member being promoted must have served at the lower rank for at least two (2) years from the official appointment to the lower rank. Time served in an acting capacity in the next lower rank does not count towards the two year period.
 - b) Only those members who have officially served at least two (2) years in the next lower rank may:
 - i) be given the competitive examinations; and
 - ii) be placed on the Promotion Eligibility List.
 - c) Written examinations will be administered on the third Thursday in August of each odd numbered year with oral examinations to follow as soon as reasonably practicable.
(Amended, November 10, 2021)
 - d) Notwithstanding the foregoing, when calculating a member's time served at a specific rank to determine eligibility for promotion, any member who is reemployed by the department upon completion of a period of service in the uniformed services shall be considered as having been continuously employed by the department during the period of service in the uniformed services, subject to the terms of 38 U.S.C. § 4312 and 38 U.S.C. § 4316.
(Added by Amendment, November 14, 2023)
- 2) The following factors will be considered in rating a department member for a promotion:
 - a) the score received on the written examination administered by the Merit Commission or its agent. However, a failure to correctly answer at least seventy-five percent (75%) of the written examination questions will render the member ineligible for placement on the promotion eligibility list;
 - b) the score received on the oral examination administered by the Merit Commission or its agent;
 - c) the performance record of the department member; and
 - d) the department member's length of service.

- 3) The scores assigned to each of the four factors for each member eligible for a specific promotion will be weighted as follows:
 - a) The score received on the written examination = 50%;
 - b) The score received on the oral examination = 20%;
 - c) The score received for the performance record = 20%;
 - d) The score received for the length of service = 10%.
- 4) Written and Oral Examinations:
 - a) The Merit Commission may employ instructors, purchase materials, and make other expenditures to provide eligible members with the information that may be tested.
 - b) The Merit Commission will notify each member eligible to take the examination of the written materials from which the questions will be taken.
 - c) The identity of the member taking the examinations will be withheld from the person grading the examinations and all written examinations are confidential.
 - d) The Merit Commission will notify the member of the score received on the examinations.
 - e) The score will be included in the members' confidential permanent files.
 - f) Members are entitled to access their files at any time.
 - g) The Merit Commission will keep the examination under its supervision.
 - h) Appeal of the examination scores:
 - i) A member aggrieved with his or her examination scores may appeal to the Merit Commission for a review of the scores.
 - ii) The appeal must be filed within ten (10) days after notification of the score was sent to the member.
 - iii) The aggrieved member may review the questions incorrectly answered and challenge the answers considered correct.
 - iv) The Merit Commission will either affirm or correct the score after reviewing the matter.
 - v) The Merit Commission will retire the examination papers after the Promotion Eligibility List expires, but keep the retired records on file for five (5) years before they are destroyed.
- 5) Performance Rating:
 - a) General Rules:
 - i) A method of rating each members' performance, to be used by the Merit Commission in evaluating members eligible for promotion, will be developed, and periodically revised, by the Chief and approved by the Merit Commission.
 - ii) Performance ratings must be made at least every six (6) months for each member of the department, including probationary members.
 - iii) The rating will be made by each of the member's immediate superiors.
 - iv) Probationary members will be rated in the same manner as other department members.
 - v) Each performance rating will be submitted by the rating superior to the Chief and will be kept under the Chief's supervision in his or her office file.
 - vi) Within two (2) weeks after the rating, the Chief will notify the member in writing of the most recent rating received by the member.
 - b) Appeal of a Performance Rating:

- i) An aggrieved member may appeal to the Merit Commission for a review of the rating, but his appeal must be made within ten (10) days after the notice of rating was sent to the member.
 - ii) The Merit Commission will either affirm or correct the rating.
- 6) The Promotion Eligibility List:
 - a) Those members eligible for a promotion will be placed on the Promotion Eligibility List in descending order relative to their weighted scores on the four rating factors.
 - b) The Promotion Eligibility List will be maintained by the Merit Commission for two (2) years from the date of certification, after which time the list will be retired and a new list established.
 - c) The retired list will be kept for five (5) years and then destroyed by the Merit Commission.
- 7) Vacancies in Rank:
 - a) When a vacancy in rank occurs, the Merit Commission will certify to the Chief the three (3) members with the highest scores on the Promotion Eligibility List for that particular rank.
 - b) Within six (6) months, the Merit Commission, upon the recommendation of the Chief, will promote one (1) of those members to fill the vacant position. All promotions are probationary for one (1) year.
 - c) At the end of the probationary period, the probationary member's superior will review the member's performance and recommend to the Merit Commission that:
 - i) the promotion be made permanent; or
 - ii) the promotion be revoked.
 - d) The superior will use the rating chart created and periodically revised by the Chief, and approved by the Merit Commission, in making the recommendation.
 - e) The Merit Commission will review the superior's recommendation and decide what action will be taken.
 - f) The probationary member is entitled:
 - i) to appear before the Commission and be heard with respect to any detrimental aspect of the superior's report; and
 - ii) to be represented by counsel or other representative of his or her choice.
 - g) If the Merit Commission ultimately revokes the promotion, the member may not be returned to a rank lower than that which he or she held before the probationary promotion.
 - h) Actions taken by the Merit Commission, other than making the promotion permanent, may be appealed within thirty (30) days to the Circuit or Superior Court of Johnson County.

Disciplinary Action and/or Dismissal

- 1) The Merit Commission may take the following disciplinary actions against a regular member of the department:
 - a) suspension with or without pay;
 - b) demotion; or
 - c) dismissal.
- 2) The Merit Commission may discipline a member only if the preponderance of the evidence presented at the hearing (discussed below) indicates such a course of action.

- 3) A member suspended under this provision is entitled to the remuneration and allowances for insurance benefits to which he or she was entitled before the suspension.
- 4) The Merit Commission will determine if a member suspended in excess of five (5) days will continue to receive his or her salary during the suspension.
- 5) A member may be disciplined by the Merit Commission if:
 - a) the member is convicted of a crime; or
 - b) the Merit Commission finds the member guilty of a breach of discipline, including:
 - i) neglect of duty;
 - ii) violation of the Merit Commission rules;
 - iii) neglect or disobedience of orders;
 - iv) continuing incapacity;
 - v) absence without leave.
 - vi) immoral conduct;
 - vii) conduct injurious to the public health or welfare;
 - viii) conduct unbecoming a member; or
 - ix) furnishing information to an applicant for appointment or promotion that gives that person an advantage over another applicant.
- 6) Hearing:
 - a) If the Chief of the department, after a departmental investigation, prefers charges against a member for an alleged breach of discipline under the above section, including a civilian complaint of an alleged breach of discipline under subsection 5(b)(vi) (immoral conduct), 5(b)(vii) (conduct injurious to the public health or welfare, or 5(b)(viii) (conduct unbecoming a member), a hearing will be conducted upon the member's request.
 - b) If a hearing is requested within five (5) days of the Chief preferring charges, the parties may, by agreement, designate a hearing officer who is qualified by education, training or experience.
 - c) If the parties do not agree within this five (5) day period, the Merit Commission may hold the hearing or designate a person or board qualified by experience, training, or education, but cannot hold an upper-level policy-making position, to conduct the hearing, as provided in the Merit Commission's rules.
 - d) The hearing will be held within thirty (30) days after it is requested by the member.
 - e) Written notice of the hearing will be served upon the accused member in person by copy left at his or her last and usual place of residence.
 - f) The notice must state:
 - i) the time and place of the hearing;
 - ii) the charges against the member;
 - iii) the specific conduct that comprises the charges;
 - iv) that the member is entitled to be represented by counsel or other representative of the member's choice;
 - v) that the member is entitled to call and cross-examine witnesses;
 - vi) that the member is entitled to require the production of evidence; and
 - vii) that the member is entitled to have subpoenas issued, served, and executed.
 - g) The Merit Commission may:

- i) compel the attendance of witnesses by issuing subpoenas;
 - ii) examine witnesses under oath; and
 - iii) order the production of books, papers, and other evidence by issuing subpoenas.
 - h) If a witness refuses to appear at the hearing after receiving a written demand by the Merit Commission to appear, or refuses to produce evidence that the Merit Commission requests via written notice, the Merit Commission may file an affidavit in the Johnson County Circuit Court setting forth the facts of the refusal, so as to obtain a summons for the production of the refused evidence or person.
 - i) A member aggrieved by a decision by a person or board, authorized by the Merit Commission to conduct the hearing, may appeal to the Merit Commission within ten (10) days of the decision.
 - j) On appeal, the Merit Commission will review the record and either affirm, modify, or reverse the decision on the basis of the record and such oral or written testimony that the Merit Commission determines, including additional or newly discovered evidence, to be relevant.
 - k) The Merit Commission, or the designated person or board, will keep the record of the proceeding in cases of suspension, demotion, or dismissal.
 - l) The Merit Commission will give a free copy of the transcript to the member upon request if an appeal is filed.
- 7) Upon the reprimand or suspension of a member by the Chief without the necessity of a hearing (as authorized by Indiana Code § 36-8-3.5-19), a member may, within forty-eight (48) hours after receiving notice of the reprimand or suspension, request in writing that the Merit Commission review the reprimand or suspension and either uphold or reverse the Chief's decision.
- a) At its discretion, the Merit Commission may hold a hearing during this review.
 - b) If the Chief's decision is reversed, the individual who was suspended is entitled to any wages withheld as a result of the suspension.
- 8) **Ex Parte Communications**
- A Commissioner shall not initiate, permit, participate in, or consider ex parte communications concerning any pending or impending disciplinary proceeding of the Commission. A Commissioner shall disclose to the Commission and Commission Counsel any prohibited ex parte communication or attempted ex parte communication, whether by a member of the Department or by any other person. *(Added by Amendment, October 6, 2015)*
- Nothing in this Rule or in any of these Rules shall be construed to prevent the Chief or the Chief's delegate from communicating with the Merit Commission under IND. CODE § 5-14-1.5-6.1 or to diminish the Merit Commission's authority under any portion of IND. CODE 5-14-1.5 or of Franklin Local Ordinance No. 92-16, as amended by Franklin Local Ordinance No. 15-08. *(Added by Amendment, October 6, 2015)*
- 9) Notwithstanding anything to the contrary in these rules and procedures, if a member of the department is subject to criminal charges, the Merit Commission may place the member on administrative leave until the disposition of the criminal charges in the trial court. Any other action by the Merit 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 Merit Commission. If the member is placed on

administrative leave without pay, the Merit Commission, in its discretion, may award back pay if the member is exonerated in the criminal matter.

(Added by Amendment, November 10, 2021)

Temporary Leaves of Absence

- 1) If the Board of Public Works and Safety reduces the number of members on the department, the reduction will be made by granting temporary leaves of absence, without pay or financial obligation to the unit, to the appropriate number of members.
 - 2) The last member appointed will be put on leave first, with other members also put on leave in reverse hiring order, until the desired level is achieved.
 - 3) If the department's size is increased again, the members granted leave of absence under this provision will be reinstated before an applicant on the Applicant Eligibility List will be appointed.
 - 4) The order of reinstatement will be the reverse of the order in which leaves of absence were issued.
 - 5) All members on leaves of absence will keep the Merit Commission advised as to their current address.
 - 6) Members will be informed of their reinstatement by written notice.
 - 7) Within ten (10) days of the notice of reinstatement is received, the member must advise the Merit Commission whether he or she accepts reinstatement and will be able to commence employment on the date specified in the notice.
 - 8) All reinstatement rights granted to a member terminate upon his or her failure to accept reinstatement within that period, save those members who cannot accept reinstatement during that period due to the member's service in the uniformed services.
- (Added by Amendment, November 14, 2023)*

Dissemination and Amendment of these Rules

- 1) The department will print all rules of the Merit Commission and furnish a copy to each member of the department.
- 2) Amendments to these rules take effect thirty (30) days after they are adopted if copies have been furnished to all department members within that period; otherwise, amended rules take effect when all members have been furnished with copies.

Execution

The foregoing Rules and Procedures of the City of Franklin, Indiana Police Merit Commission, as amended, are ratified, approved, and adopted as set forth herein this 15th day of May, 2000.

Voting in favor of ratification:

Voting opposed to ratification:

Jim Denk

Jim Denk

Fred Browne

Fred Browne

Annette Sivels

Annette Sivels

Joan Pfifer

Joan Pfifer

Dale Templin
Prepared by:

Dale Templin

Robert H. Schafstall
Cutsinger and Schafstall
98 North Jackson Street
P.O. Box 159
Franklin, IN 46131
Ph: (317) 736-7146
Fax: (317) 736-8005
Internet: robhschafstall@earthlink.net

Execution of Amendments

The foregoing amendments regarding the hiring of merit police officers by allowing conditional offers of employment to be made to 20-year-old Commission candidates, the hiring or retention of merit officers who might be unavailable due to service in the uniformed services, and the screening and removal of repeat-failed applicants from the hiring process, all part of the City of Franklin, Indiana Police Merit Commission are ratified, approved, and adopted as set forth herein this ____ day of _____, 2023.

Voting in Favor of Ratification:

John Shafer

Joe Allen

Joseph Hollis

Mari Lory

Les Tabelaing

Voting Opposed to Ratification:

John Shafer

Joe Allen

Joseph Hollis

Mari Lory

Les Tabelaing

Foregoing Amendments Prepared By:
William W. Barrett, Esq.
WILLIAMS BARRETT & WILKOWSKI, LLP
P.O. Box 405
600 North Emerson Avenue
Greenwood, IN 46142
(317) 888-1121
(317) 887-4069 (Facsimile)