

**ORDINANCE ESTABLISHING MERIT SYSTEM FOR THE
POLICE DEPARTMENT OF THE TOWN OF GEORGETOWN**

Section 1. Definitions

As used in this Ordinance:

"Commission" refers to the Merit Commission of the Town of Georgetown for a merit system established under this Ordinance.

"Department" refers to the Georgetown Police Department.

"Member" refers to active members of the Georgetown Police Department.

Section 2.

After the new merit system takes effect, all members of the department are entitled to the same ranks and pay grades they held under the prior system, subject to changes made in accordance with this Ordinance.

Section 3. Merit commission; establishment; appointment of members; qualifications; oath

(a) The Merit Commission shall consist of five (5) commissioners. The commissioners are:

- (1) Two (2) persons, who must be of different political parties, appointed by the President of the Town Board of the Town of Georgetown.
- (2) One (1) person appointed by the Georgetown Town Board; and
- (3) Two (2) persons, who must be of different political parties, elected by the active members of the department.

Notwithstanding IC 36-1-8-10, political affiliation shall be determined through the voters' registration records of the three (3) most recent primary elections.

(b) Each commissioner must have been a legal resident of the Town of Georgetown for three (3) consecutive years immediately preceding the commissioners' term and must be a person of good moral character. The Georgetown Town Board may, upon the recommendation of the safety board of the Town of Georgetown, determine a per diem to be paid to each commissioner for each day of actual service for the commission. A commissioner must be at least twenty-one (21) years of age. A commissioner may not be an active member of a police department or agency and not more than two (2) of the commissioners may be past members of a police department or agency. In addition, a person may not serve on the commission if the person receives any remuneration as a salary from the Town of Georgetown.

(c) Each commissioner shall take an oath of office to conscientiously discharge the commissioner's duties.

Section 4. **Commissioners; terms; tenure**

(a) The term of a commissioner is four (4) years. However, one (1) of the Town Board President's initial selections and one (1) of the department's initial selections are for terms of two (2) years.

(b) A vacancy on the commission shall be filled within thirty (30) days by the appointing or electing authority. The selection

is for the remainder of the unexpired term.

(c) 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, the safety board of the Town of Georgetown shall call a meeting of the active members of the department under the procedures specified in IC 36-8-3.5-4 if a recall petition signed by a majority of the active members is submitted to the safety board.

Section 5. Elections; meeting; notice

(a) An election to be made by the active members of the department shall be made at a meeting called specifically for that purpose by the safety board. The safety board shall give at least three (3) weeks' notice of the meeting to all active members of the department by posting the notice in prominent locations in stations or areas of the department. The notice shall also be read during shift roll calls. The notice must designate the time, place, and purposes of the meeting.

(b) Only active members of the department may attend the meeting, and at the meeting one (1) of them shall be selected as chairman. All voting must be by secret written ballot. The other procedures for holding the meeting may be determined by the safety board and shall be posted in accordance with subsection (a).

Section 6. Rules governing commission; transaction of business;
selection of officers; records; budget

(a) Within thirty (30) days after the commission is selected, the commission shall adopt rules to govern the commission, including the time and place of regular monthly meetings and special meetings that are necessary to transact the business of the commission. A majority of the commissioners constitutes a quorum, and a majority vote of all the commissions is necessary to transact the business of the commission. Each year the commissioners shall select from among their number a president, vice president, and secretary. The commission shall keep a permanent record of its proceedings.

(b) The commission shall submit a proposed annual budget to the Town of Georgetown as other budgets of the Town are submitted. The Town Board shall include in its budget an amount sufficient for the necessary expenses of the commission.

Section 7. Rules; adoption; notice and hearing

(a) Within ninety (90) days after the commission is selected, the commission shall adopt rules and procedures governing:

- (1) The selection and appointment of persons to be employed as members of the department, subject to I.C. 36-8-3.5-11, I.C. 36-8-3.5-12 and applicable pension statutes;
- (2) Promotions and demotions of members of the department subject to I.C. 36-8-3.5-12, I.C. 36-8-3.5-13, I.C. 36-8-3.5-14, I.C. 36-8-3.5-15, I.C. 36-8-3.5-16, and I.C. 36-8-3.5-17; and
- (3) Disciplinary action or dismissal of members of the department, subject to I.C. 36-8-3.5-17, I.C. 36-8-3.5-18, and I.C. 36-8-3.5-19.

(b) Before the rules required by this Ordinance are adopted

by the commission, the commission must hold a public hearing to consider the adoption of the proposed rules. At least ten (10) days before the public hearing, the commission must have a notice of the hearing published in accordance with IC 5-3-1. The notice must state the time and place of the hearing and give briefly the subject matter of the proposed rules.

(c) At least ten (10) days before the hearing, one (1) copy of the proposed rules must be placed on file in the office of the clerk of the Town of Georgetown for inspection by residents of the Town of Georgetown.

(d) At least ten (10) days before the hearing, three (3) copies of the proposed rules must be forwarded to the chief of the department and retained on file in his office for inspection at all times by members of the department.

(e) At the hearing any interested person of the Town of Georgetown and any member of the department must be afforded an opportunity to present both oral and written evidence on any matter relating to the adoption of the proposed rules. The commission shall give due consideration to this evidence in making its final decision concerning the adoption of the proposed rules.

Section 8. **Department members; tenure, chief; appointment and qualifications**

(a) The commission may appoint and remove members of the department, except for a member in an upper level policymaking position. The President of the Town Board for the Town of Georgetown shall appoint and may remove a member in an upper level

policymaking position.

(b) To be appointed chief or deputy chief of the Georgetown Police Department, an applicant must meet the qualifications in IC 36-8-4-6.5.

(c) The removal of a member from an upper level policymaking position is removal from rank only and not from the department. When the member is removed, he shall be appointed by the commission to the rank in the department that he held at the time of his upper level appointment or to any rank to which he had been promoted during his tenure in the upper level position. If 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.

Section 9. Department members; appointment; qualifications; application; general aptitude test; ratings; eligibility list; vacancies; physical agility test; probation

- (a) To be appointed to the department, an applicant must be:
- (1) A citizen of the United States;
 - (2) A high school graduate or equivalent; and
 - (3) At least twenty-one (21) years of age, but under thirty-six (36) years of age.

However, the age requirements do not apply to a person who has been previously employed as a member of the department.

(b) A person may not be appointed, reappointed, or reinstated if he has a felony conviction on his record.

(c) Applications for appointment or reappointment to the

department must be filed with the commission. The applicant must produce satisfactory proof of the date and place of his birth.

(d) Applicants for appointment or reappointment to the department must pass the general aptitude test required under IC 36-8-3.2-3.5. The general aptitude test shall:

- (1) Reflect the essential functions of the job;
- (2) Be conducted according to procedures adopted by the commission; and
- (3) Be administered in a manner that reasonably accommodates the needs of disabled applicants.

The results of the general aptitude test shall be filed with the commission. If the commission finds that the applicant lacks the proper qualifications, it shall reject the applicant.

(e) The applicants shall then be rated on the selection criteria and testing methods adopted by the commission, which may include mental alertness, character, habits, and reputation. The commission shall adopt rules for grading the applicant, including the establishment of a passing score. The commission shall place the names of applicants with passing scores on an eligibility list by the order of their scores and shall certify the list to the safety board.

(f) If an applicant for original appointment reaches his thirty-sixth birthday, his name shall be removed from the eligibility list. Applicants remain on the list for two (2) years from the date of certification. After two (2) years a person may reapply as an applicant.

(g) When a vacancy occurs in the department, the commission,

upon a written request of the chief of the department, shall administer the physical agility test 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 the physical agility test, the applicant shall then be enrolled as a member of the department to fill the vacancy if:

- (1) The applicant is still of good character; and
- (2) The applicant passes the required examinations identified in IC 36-8-3.2-6 and IC 36-8-8-19.

(h) All appointments are probationary for a period not to exceed one (1) year. If the commission finds, upon the recommendation of the department during the probationary period, that the conduct or capacity of the probationary member is not satisfactory, the commission shall notify him in writing that he is being reprimanded, that he is being suspended, or that he will not receive permanent appointment. If a member is notified that he will not receive a permanent appointment, his employment immediately ceases. Otherwise, at the expiration of the probationary period the member is considered regularly employed.

Section 10. Promotions; rules; requisites; eligibility list

(a) Rules governing promotions must provide that the following factors be considered in rating a member of the department for a promotion:

- (1) The score received by the member on a written competitive examination.
- (2) The score received by the member on an oral competitive interview.

(3) The performance record of the member in the department.

(4) The member's length of service.

The commission shall determine the weight to be given to each of the factors. However, neither a member's length of service nor the score received on the oral interview may comprise more than twenty percent (20%) each of the rating.

(b) Promotions to a rank must be from the next lower rank. In addition, the member being promoted must have served at the lower rank for a period determined by the commission.

(c) Only members who are qualified in rank and length of service may be given the competitive examinations and placed on an eligibility list. The eligibility list for a position consists of members who have been placed on the list in order of their cumulative score on all rating factors. The eligibility list shall be maintained for two (2) years from the date of certification, after which time the list shall be retired and a new list established. The retired list shall be kept for five (5) years and then destroyed.

Section 11. Promotions; competitive examinations; procedures

(a) Before a written competitive examination may be held to fill a current or expected vacancy in the ranks, the members eligible to take the examination must be notified of the written materials from which the questions will be taken. The commission may employ instructors, purchase materials, and make other expenditures to provide information for applicants for promotion

examinations.

(b) The identity of a member taking the written examination shall be withheld from the person or persons grading the examination, and all written examinations are confidential. The commission shall notify each member in writing of the score that the member received on the examination. The score received by a member on the written examination becomes a part of the permanent file of the member, and the member is entitled to access to this file for examination at any time.

(c) The examination papers shall be kept under the commission's supervision. A member who is aggrieved with the score received on the written examination may appeal to the commission for review of the score. The appeal must be filed within ten (10) days after notice of the score has been sent to him. He may review the questions incorrectly answered by him and challenge the answer considered correct by the examiner. The commission shall either affirm the score or correct the score according to the findings of a review. The examination papers shall be retired after the two (2) year period during which the eligibility list is valid. The retired papers shall be kept for five (5) years and then destroyed.

Section 12. Performance ratings; rules appeal

(a) The commission shall adopt rules for determining a performance rating. The rules must require that a performance rating be made at least once every six (6) months for each member of the department, including probationary members. The rating

shall be made by one (1) or more of the member's superiors, as defined in the commission's rules. Probationary members shall be rated in the same manner as other members of the department. The ratings shall be submitted to the chief of the department and kept on file in his office under his supervision. The chief shall notify each member in writing of the rating that the member received.

(b) A member who is aggrieved with the performance rating given to him by his superior may appeal to the commission for a review of the rating. The appeal must be filed within ten (10) days after notice of the rating has been sent to him. The commission shall either affirm or correct the rating.

Section 13. Promotions of eligible members; probation; procedures

(a) When a vacancy in rank occurs, the commission shall certify to the chief of the department the three (3) members with the highest scores on the eligibility list for that particular rank. Within six (6) months the commission, upon the recommendation of the chief, shall promote one (1) of those members to fill the vacant position.

(b) All promotions are probationary for a period not to exceed one (1) year. At the end of the period, a probationary member's superior shall review the member's performance and recommend to the commission that:

- (1) The promotion be made permanent; or
- (2) The promotion be revoked.

(c) The commission shall prepare a rating chart for the superior's use in making the report. The commission shall review the report and decide what action should be taken. The probationary member is entitled to appear before the commission and be heard on any matter detrimental to him in his superior's report. He is also entitled to be represented by counsel or another representative of his choice. If the promotion is finally revoked the member may not be returned to a rank lower than that he held before the probationary promotion.

(d) Actions by the commission other than making the promotion permanent may be appealed within thirty (30) days to the circuit or superior court of the county, with the Town of Georgetown being named as the sole defendant.

Section 14. **Disciplinary actions; grounds; hearing; notice; requisites; procedures; appeal**

(a) The commission may take the following disciplinary actions against a regular member of the department:

- (1) Suspension with or without pay.
- (2) Demotion.
- (3) Dismissal.

If a member is suspended under this subsection, the member is entitled to the member's remuneration and allowances for insurance benefits to which the member was entitled before the suspension. In addition, the Town of Georgetown may provide the member's allowances for any other fringe benefits to which the member was entitled before the suspension. The commission shall determine if

a member of the department who is suspended in excess of five (5) days shall continue to receive the member's salary during suspension.

(b) A member may be disciplined by the commission if:

- (1) The member is convicted of a crime; or
- (2) The commission finds the member guilty of a breach of discipline, including:
 - (A) Neglect of duty;
 - (B) Violation of commission rules;
 - (C) Neglect or disobedience of orders;
 - (D) Continuing incapacity;
 - (E) Absence without leave;
 - (F) Immoral conduct;
 - (G) Conduct injurious to the public peace or welfare;
 - (H) Conduct unbecoming a member; or
 - (I) furnishing information to an applicant for appointment or promotion that gives that person an advantage over another applicant.

(c) If the chief of the department, after an investigation within the department, prefers charges against a member of the department for an alleged breach of discipline under subsection (b), including any civilian complaint of an alleged breach of discipline under subsection (b)(2)(F), (b)(2)(G), or (b)(2)(H), a hearing shall be conducted upon the request of the member. If a hearing is requested within five (5) days of the chief preferring the charges, the parties may by agreement designate a hearing officer who is qualified by education, training, or experience. If

the parties do not agree within this five (5) day period, the commission may hold the hearing or designate a person or board to conduct the hearing, as provided in the commission's rules. The designated person or board must be qualified by education, training, or experience to conduct such a hearing and may not hold an upper level policy making position. The hearing conducted under this subsection shall be held within thirty (30) days after it is requested by the member.

(d) Written notice of the hearing shall be served upon the accused member in person or by a copy left at the member's last and usual place of residence. The notice must state:

- (1) The time and place of the hearing;
- (2) The charges against the member;
- (3) The specific conduct that comprises the charges;
- (4) That the member is entitled to call and cross-examine witnesses;
- (5) That the member is entitled to be represented by counsel or another representative of the member's choice;
- (6) That the member is entitled to require the production of evidence; and
- (7) That the member is entitled to have subpoenas issued, served, and executed.

(e) The commission may:

- (1) Compel the attendance of witnesses by issuing subpoenas;
- (2) Examine witnesses under oath; and
- (3) Order the production of books, papers, and other evidence by issuing subpoenas.

(f) If a witness refuses to appear at a hearing of the

commission after having received written notice requiring the witness's attendance, or refuses to produce evidence that the commission requests by written notice, the commission may file an affidavit in the Circuit Court of Floyd County setting forth the facts of the refusal. Upon the filing of the affidavit, a summons shall be issued from the Floyd Circuit Court and served by the sheriff of Floyd county requiring the appearance of the witness or the production of information or evidence to the commission.

(g) Disobedience of a summons constitutes contempt of the circuit court from which the summons has been issued. Expenses related to the filing of an affidavit and the issuance and service of a summons shall be charged to the witness against whom the summons has been issued, unless the circuit court finds that the action of the witness was taken in good faith and with reasonable cause. In that case, and in any case in which an affidavit has been filed without the issuance of a summons, the expenses shall be charged to the commission.

(h) A decision to discipline a member may be made only if the preponderance of the evidence presented at the hearing indicates such a course of action.

(i) A member who is aggrieved by the decision of a person or board designated to conduct a disciplinary hearing under subsection (c) may appeal to the commission within ten (10) days of the decision. The commission shall on appeal 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 commission

determines, including additional or newly discovered evidence.

Section 15. Appeal to court; suspension or dismissal; precedence

(a) A member who is aggrieved by a decision of the commission to suspend him for a period greater than ten (10) calendar days, demote him, or dismiss him may appeal to the Circuit or Superior Court of Floyd County.

(b) The appeal shall be made according to the Indiana Rules of Trial Procedure with the following exceptions:

- (1) The verified appeal must be filed within thirty (30) days after the date of the commissioned decision.
- (2) The Town of Georgetown shall be named as the sole defendant.
- (3) The Town of Georgetown is assumed to have denied the allegations without filing a responsive pleading.
- (4) The plaintiff must file a bond at the time of filing the complaint conditioned on the plaintiff prosecuting the appeal to a final determination and paying the court costs incurred in the appeal.
- (5) Within thirty (30) days after the service of summons the commission shall file in court a complete transcript of all papers, entries, and other parts of the record relating to the case.

(c) The appeal takes precedence over the litigation pending before the court.

Section 16. Summary disciplinary actions; reprimand or suspension

(a) In addition to the disciplinary powers of the commission, the chief of the department, may, without a hearing, reprimand or suspend without pay a member, including a police radio or signal

alarm operator, for a maximum of five (5) working days. For the purposes of this subsection, eight (8) hours of paid time constitutes one (1) working day.

(b) If a chief reprimands a member in writing or suspends a member, he shall, within forty-eight (48) hours, notify the commission in writing of the action and the reasons for the action. A member who is reprimanded in writing or suspended under this section may, within forty-eight (48) hours after receiving notice of the reprimand or suspension, request in writing that the commission review the reprimand or suspension and either uphold or reverse the chief's decision. At its discretion, the commission may hold a hearing during this review. If the decision is reversed, the individual who was suspended is entitled to any wages withheld as a result of the suspension.

Section 17. Retirement age

A member of the department shall retire from the department when he reaches his seventieth birthday. However, a member of the department who is seventy (70) years of age at the time the ordinance establishing the merit system takes effect may serve until the end of the calendar year.

Section 18. Temporary leave of absence; seniority; reinstatement

(a) If it is necessary for the safety board to reduce the number of members of the department, the reduction shall be made by granting a temporary leave of absence, without pay or financial

obligation to the Town of Georgetown, to the appropriate number of members. The last member appointed shall be put on leave first, with the other members also put on leave in reverse hiring order, until the desired level is achieved.

(b) If the department is increased in number again, the members of the department who have been granted leaves of absence under this section shall be reinstated before an applicant on the eligibility list is appointed to the department. The reinstatements begin with the last member granted a leave.

(c) A member on leave of absence shall keep the commission advised of his current address. A member shall be informed of his reinstatement by written notice. Within ten (10) calendar days after a member receives notice of reinstatement, he must advise the commission that he accepts reinstatement and will be able to commence employment on the date specified in the notice. All reinstatement rights granted to a member terminate upon his failure to accept reinstatement within that period.

Section 19. Rules; printing; copies to department members effective date

The department shall print all rules of the commission and furnish a copy to each member of the department. Amendments to the rules take effect thirty (30) days after their adoption if copies have been furnished to all members of the department within that period. Otherwise, they do not take effect until copies are furnished to all members of the department.

Section 20. **Offense; furnishing information to applicants**

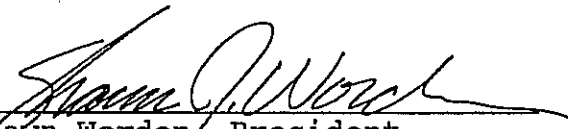
A commissioner who knowingly furnishes information to an applicant for original appointment or to a member eligible for motion that gives that person an advantage over another person commits a Class D felony, according to I.C. 36-8-3.5-23.

Section 21. **Amendments**

This Ordinance shall be deemed to comply with I.C. 36-8-3.5 et. seq. and/or any other Indiana Code Sections cited herein relating to the establishment of a merit system. Any amendments or changes in the Indiana Code relative to the establishment of a merit system and any amendments to the Indiana Code Sections cited herein shall be incorporated herein by reference.

ADOPTED, this 15 day of November, 1993.

"TOWN BOARD FOR THE TOWN OF GEORGETOWN"


Shawn Worden, President


Gary Smith, Vice-President

Janet Timberlake, Member