

ORDINANCE NO. 2024-19

AN ORDINANCE ABOLISHING THE OFFICE OF TOWN MARSHAL AND ESTABLISHING A BOARD OF METROPOLITAN POLICE COMMISSION

WHEREAS, the Edinburgh Town Council (“Town Council”) has previously appointed a Town Marshal as its chief police officer pursuant to the provisions set forth in Indiana Code 36-5-7, and the Town of Edinburgh employs deputy marshals pursuant to the provisions of Indiana Code 36-5-7.

WHEREAS, the Town Marshal and deputy marshals are currently enrolled in and members of the Public Employees’ Retirement Fund (“PERF”).

WHEREAS, the Town Council has considered the benefits that the 1977 Police Officers’ and Firefighters’ Pension and Disability Fund (“1977 Fund”) would provide to the Town of Edinburgh’s police officers if the Town of Edinburgh were to participate in the 1977 Fund.

WHEREAS, the Town Council must abolish the office of Town Marshal in order to enroll its police officers in and participate in the 1977 Fund.

WHEREAS, Indiana Code §36-8-8-3(a) requires towns that establish a board of metropolitan police commissioners to participate in the 1977 Fund and to enroll all full-time police officers in the 1977 Fund.

WHEREAS, Indiana Code §36-8-8-3(a) allows a police officer or former marshal who is a member of PERF to continue as a member of that fund instead of the 1977 Fund.

WHEREAS, pursuant to Indiana Code § 36-8-9-2, the Town Council as the legislative body of the Town of Edinburgh, may, by ordinance, abolish the office of town marshal and establish a board of metropolitan police commissioners.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF EDINBURGH, INDIANA, ORDAINS AND ENACTS THE FOLLOWING:

1. **Town Marshal Abolished.** The office of Town Marshal established pursuant to Indiana Code § 36-5-7-2, et seq. is hereby abolished effective as of January 1, 2025.
2. **Establishment of Metropolitan Police Commissioners.** Pursuant to Indiana Code § 36-8-9-2, the Board of Metropolitan Police Commissioners (“Board”) is hereby established for the Town of Edinburgh.
3. **Board Membership.**
 - A. The Board shall consist of three (3) members. Not more than two (2) members may be members of the same political party, if individuals who satisfy this requirement can be found to serve on the board.
 - B. Each Board member must be a resident of the Town of Edinburgh.
 - C. The Town Council shall appoint each Board member.
 - D. Except as provided in subdivision (E), the term of each Board member expires January 1 of the third year after the member’s appointment.
 - E. The terms of the Board members shall be staggered. The term of one (1) board member must expire each year. The terms of the initial board members shall be as follows:
 - i. The initial appointment of one member shall be for a term of one (1) year.
 - ii. The initial appointment of one member shall be for a term of two (2) years.
 - iii. The initial appointment of the third member shall be for a term of three (3) years.

After these initial appointments, the term of each board member expires January 1 of the third year after the member's appointment. The term of one (1) board member must expire each year.

- F. The Town Council may remove a Board member for any cause that the Town Council considers sufficient.
- G. The Town Council may not appoint a police officer employed by the Town of Edinburgh to serve on the Board.
- H. A member of the Town Council may serve as an ex officio member of the Board. The maximum number of Board members that may also be members of the Town Council is one (1). The Board member vacates the member's position on the Board when the member is no longer a member of the Town Council.
- I. The Town Council may amend this Ordinance at any time to increase the number of board members to five (5). The amended ordinance and the appointment of board members must satisfy the requirements of Indiana Code § 36-8-9-3.1(a).

4. **Oath of Office.** Before performing any function of a Board member, an individual, except for Board members who are also members of the Town Council, shall take and subscribe an oath or affirmation of office before the circuit court clerk of Bartholomew, Johnson, or Shelby County.

The oaths or affirmations of the Board members shall be filed with the circuit court clerk's records, pursuant to Indiana Code § 36-8-9-3.1(e).

5. **Oath.** Before performing any function of a board member, an individual shall take and subscribe an oath or affirmation before the circuit court clerk of Bartholomew, Johnson, or Shelby County that, in each appointment or removal made by the Board to or from the Edinburgh Police Department under Indiana Code 36-8-9, the Board member will not appoint or remove a member of the Edinburgh Police Department because of the political affiliation of the person or for another cause or reason other than that of the fitness of the person.

The oaths or affirmations of the Board members shall be filed with the circuit court clerk's records, pursuant to Indiana Code § 36-8-9-3.1(e).

6. **Bond.** Board members, except those who are also members of the Town Council, shall give bond in the penal sum of five thousand dollars (\$5,000.00), payable to the state and conditioned upon the faithful and honest discharge of the member's duties. The bond must be approved by the Town Council.
7. **Salary.** The salary of Board members who are not members of the Town Council shall be fixed by the Town Council. The Board member's salary is payable monthly out of the Town of Edinburgh's treasury. A Board member who is also a member of the Town Council may not receive compensation as a Board member.
8. **Powers and Duties.** Pursuant to Indiana Code § 36-8-9-4, the Board shall have the following powers and duties:
- A. The Board may appoint, subject to the qualifications for employment determined by the Board and approved by the Town Council, as many persons as necessary to serve in the Edinburgh Police Department.
 - B. The Board shall appoint one (1) person to serve as the Police Chief.
 - C. The Board may appoint other employees that are necessary to carry on the work of the Edinburgh Police Department.
 - D. The Board may recommend, and the Town Council shall determine, the compensation to be paid to members of the Edinburgh Police Department in amounts that are just and reasonable.
 - E. All persons appointed to serve in the Edinburgh Police Department and appointed as employees must be of good moral character and serve only during good behavior.
 - F. The Board constitutes the safety board of the Town of Edinburgh for purposes of the suspension, demotion, or dismissal of any member of the Edinburgh Police Department.

- G. Proceedings for the suspension, demotion, or dismissal of any member of the Edinburgh Police Department shall be conducted in the manner prescribed by Indiana Code § 36-8-3-4. The disciplinary provisions of Indiana Code § 36-8-3-4.1 also apply to the Board and the Police Chief.
- H. The Board may make general and special rules for the government and discipline of the Edinburgh Police Department and may make special and general orders to the Edinburgh Police Department through the Police Chief, who is the executive head of the Edinburgh Police Department.
- I. The Board shall have the powers and duties set forth in Indiana Code § 36-8-9-4, as amended from time to time.

The Board shall have additional powers and duties as set forth in Indiana statutes.

9. **Statutes Governing Police Departments.** The operation, management, and control of the Edinburgh Police Department is governed by the statutes applicable to the management and control of other municipal police departments if those statutes are consistent with Indiana Code § 36-8-9.

The members of the Edinburgh Police Department may exercise all powers granted to members of police departments by Indiana statutes.

The members of the Edinburgh Police Department are entitled to all the rights, powers, and privileges granted by Indiana statutes to members of police departments.

10. **Probationary Appointments.** Pursuant to Indiana Code § 36-8-9-7, the Board may provide that all appointments to the Edinburgh Police Department are probationary for a period not to exceed one (1) year.

If the Board finds, upon the recommendation of the Police Chief during the probationary period, that the conduct or capacity of a member is not satisfactory, the Board shall notify the member, in writing, that the member is being suspended or that the member will not receive a permanent appointment.

If a member is notified that he/she will not receive a permanent appointment, the member's employment immediately ceases. Otherwise, at the expiration of the probationary period, the member is considered regularly employed.

11. **Expenditures for Illness or Injury.** The Town of Edinburgh shall pay the expenditures for the care of a full-time paid police officer who suffers an injury or contracts an illness during the performance of the officer's duty as set forth in Indiana Code § 36-8-9-8, as amended from time to time.

As of 2024, Indiana Code § 36-8-9-8(a), requires the Town to pay for the care of a full-time paid police officer who:

- A. Suffers an injury or
- B. Contracts an illness

during the performance of the officer's duty.

Indiana Code § 36-8-9-8(b) and (c) requires the Town to pay from the general fund of the Town the following expenses incurred by a police officer who suffers an injury or contracts an illness during the performance of the officer's duty:

- A. Medical and surgical care;
- B. Medicines and laboratory, curative, and palliative agents and means;
- C. X-ray, diagnostic, and therapeutic service, including during the recovery period;
- D. Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

Pursuant to Indiana Code § 36-8-9-8(d), the Town has a cause of action for reimbursement of the amount paid under this section against any third party against whom the police officer has a cause of action for an injury sustained because of, or an illness caused by, the third party. The Town's cause of action under this section is in

addition to, and not in lieu of, the cause of action of the police officer against the third party.

12. **Body Armor.** Pursuant to Indiana Code § 36-8-9-9, the Town shall provide an active member of the Edinburgh Police Department with body armor for the torso. The Town shall replace the body armor for the torso according to the replacement period recommended by the manufacturer.

An active member of the Edinburgh Police Department shall not be required to pay for maintenance of the body armor furnished by the Town.

The body armor provided by the Town remains property of the Town and may be sold when it becomes unfit for use. All money received from the sale of the body armor shall be paid into the Town's general fund, pursuant to Indiana Code § 36-8-9-9(d).

13. **Construction of Clause Headings.** The clause headings appearing in this ordinance have been provided for convenience and reference, and do not purport and will not be deemed to define, limit, or extend the scope or intent of the clauses to which the headings pertain.

14. **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 upon the remaining provisions of this ordinance.

15. **Severability of Provisions.** If any part of this ordinance is held to be invalid, such part will be deemed severable and its validity will have no effect upon the remaining provisions of this ordinance.

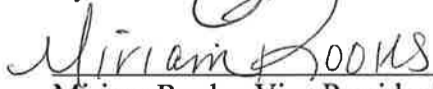
16. **Duration and Effective Date.** The provisions set forth in this ordinance become and will remain in full force and effect (until their repeal by ordinance) on the day of passage and adoption of this ordinance by signature of the executive in the manner prescribed by Indiana Code § 36-5-2-10.

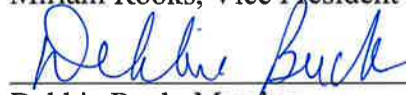
INTRODUCED on the 14th day of **October, 2024.**

DULY PASSED on this 28 day of October, 2024, by the Town Council of the Town of Edinburgh, Indiana, having been passed by a vote of 5 in Favor and 0 Opposed.

EDINBURGH TOWN COUNCIL


Ryan Piercefield, Council President


Miriam Rooks, Vice President


Debbie Buck, Member


Sherri Sweet, Member


Michael Bryanti, Member

ATTEST:


Rhonda Barrett, Clerk-Treasurer