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CHAPTER 2
CITY ADMINISTRATION

**ARTICLE 1. ARTICLE 1. ESTABLISHMENT OF THE EXECUTIVE,
LEGISLATIVE AND ADMINISTRATIVE ORGANIZATION OF
THE CITY OF TERRE HAUTE.**

Sec. (2-1) Sec. 2-1 Organization.

The government of the City of Terre Haute shall consist of four (4) branches, those being:

- a. Executive Branch (*I.C.* § 36-4-5);
- b. Legislative Branch (*I.C.* § 36-4-6);
- c. Fiscal Branch (*I.C.* § 36-4-10); and
- d. Judicial Branch (*I.C.* § 33-10.1-1).

Sec. 2-2 through Sec. 2-5 Reserved for Future Use.

Sec. 2-6 The Mayor as Executive.¹³

The Mayor is the City Executive and head of the Executive Branch. He shall faithfully perform the duties and responsibilities contained in *I.C.* § 36-4-5 and other statutes of the State of Indiana.¹⁴

Sec. 2-7 Election of Mayor.

The Mayor shall be elected pursuant to *I.C.* § 3-2-7-1, as it may be amended from time to time.

Sec. 2-8 Term of Office.

¹³*I.C.*, §§ 36-4-5-1 through 36-4-5-9, set forth the general powers of the Mayor.

¹⁴*I.C.*, § 36-4-9-6, sets forth the Mayor's authority to appoint officers, employees, boards and commissions in second-class cities.

The Mayor shall take office at twelve noon (12:00 o'clock) on the first day of January following his election and shall serve for four (4) years and until a successor is elected and qualified pursuant to *I.C. § 3-2-7-5*.

Sec. 2-9 Deputy Mayor.

A position of Deputy Mayor may be established by prior ordinance of the Common Council pursuant to *I.C. § 36-4-9-7*. He or she shall have all the powers of the Mayor in the absence of the Mayor.

Sec. 2-10 Executive Duties of the Mayor.¹⁵

The Mayor shall be the chief executive officer and as such shall make all appointments to all offices and positions of employment authorized by the laws of the State or by ordinances of Council and, except as may otherwise be provided by Council or the General Assembly. Pursuant to *I.C. § 36-4-7-3*, the Mayor shall fix the compensation of all officers and employees of the City subject to the approval of the Common Council. All officers and employees of the City, unless otherwise provided by the laws of the State, shall serve at the pleasure of the Mayor. (*1989 Terre Haute Municipal Code*, § 110.01)

Sec. 2-11 Supervision.¹⁶

The Mayor shall supervise the conduct of all officers of the City, shall investigate all reasonable complaints made against any officer of the City and shall take appropriate action.

Sec. 2-12 Ordinance Enforcement.

The Mayor shall have the authority to act or to designate the officer who shall act, in the enforcement of any section of this *Terre Haute City Code* in all cases where it fails to specify or designate the officer who shall be charged with the duty of enforcement. (*1989 Terre Haute Municipal Code*, § 111.03)

Sec. 2-13 Secretary to the Mayor.

The Mayor may appoint a secretary or secretaries whose duty it shall be to perform such secretarial duties and such other duties as may be required by the Mayor. (*1989 Terre Haute Municipal Code*, § 111.04)

Sec. 2-14 Miscellaneous Duties.

The Mayor shall have the authority to cause the display of flags or decorations on, in or about the City Hall or other public buildings of the City on such occasions as he may deem

¹⁵ *I.C.*, § 36-4-11-2, addresses the appointment of officers and employees; and *I.C.*, § 36-4-7-2 addresses the Mayor's salary.

¹⁶ *I.C.*, § 36-4-5-3 sets forth the Mayor's powers and duties.

proper, to determine the manner of observance of national holidays by offices and departments of the City, and, as chief executive of the City, to issue such proclamations from time to time as he may deem proper. (1989 *Terre Haute Municipal Code*, § 110.05)

Sec. 2-15 through Sec. 2-19 Reserved for Future Use.

ARTICLE 3. THE CLERK.

Sec. 2-20 Position of City Clerk Established.

Under provisions of Chapter 233, Acts of 1993, As Amended *I.C.* § 36-4-10-2, the position of City Clerk is established. The City Clerk shall have such powers and duties as are provided in State law, City ordinance or by the Mayor. (1989 *Terre Haute Municipal Code*, § 113.01)

Sec. 2-21 Election and Term of Office of the City Clerk.¹⁷

- a. The City Clerk shall be elected in the same manner as the Mayor.
- b. The City Clerk shall take office at twelve noon (12:00 o'clock) on the first day of January following his or her election, and shall serve for four (4) years and until a successor is elected and qualified pursuant to *I.C.* § 3-2-7-5.
- c. The City Clerk shall be elected by the voters of the whole City.

Sec. 2-22 Powers and Duties of the City Clerk.¹⁸

- a. The City Clerk may administer oaths, take depositions, and take acknowledgments of instruments as required by law.
- b. The City Clerk may perform all duties prescribed by law, which include but are not limited to the following:
 - (1) Serve as Clerk of the Common Council pursuant to *I.C.* § 36-4-6-9;
 - (2) Maintain records which are open for inspection by the Common Council;
 - (3) Keep the City Seal;
 - (4) Appoint deputies and employees pursuant to *I.C.* § 36-4-11-4;

¹⁷ *I.C.*, § 36-4-10-2, addresses the election of the City Clerk; and *I.C.*, § 36-4-10-3, addresses residency requirements of the City Clerk.

¹⁸ *I.C.*, § 36-4-10-4, addresses the City Clerk's powers and duties.

- (5) Fix salaries of deputies and employees pursuant to *I.C.* § 36-4-7-3(d); and
- (6) Perform all other duties prescribed by statute.

Sec. 2-23 Compensation of the City Clerk.¹⁹

a. The compensation for the services of the person holding the office of City Clerk shall be fixed by the Common Council. The ordinance must be published under *I.C.* § 5-3-1, with the first publication at least thirty (30) days before final passage by the legislative body.

b. The compensation may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed if in the previous year.²⁰

Sec. 2-24 through Sec. 2-27 Reserved for Future Use.

ARTICLE 4. THE BOARD OF PUBLIC WORKS AND SAFETY.²¹

Sec. 2-28 Board of Public Works and Safety Established.

a. The Board of Public Works and Safety is established by *I.C.* § 36-4-9-5. (Gen. Ord. No. 3, 2000, 4-13-00; Gen. Ord. No. 19, 2003, 7-10-03)

b. The Board shall consist of five (5) persons appointed by and serving at the pleasure of the Mayor pursuant to *I.C.* § 36-4-9-6. (Gen. Ord. No. 2, 1985 §1, 10-10-85). The civilian members of the Board shall be paid Fifty Dollars (\$50.00) for each meeting attended. (Gen. Ord. No. 3, 2000, 4-13-00; Gen. Ord. No. 19, 2003, 7-10-03)

Sec. 2-29 Departments under the Control of the Board of Public Works and Safety.

- a. Engineering Department;
- b. Street Department;
- c. Sewage Disposal Department (*1989 Terre Haute Municipal Code*, §119.02);
- d. Sewage Billing Department (Gen. Ord. No. 3, 2000, 4-13-00);
- e. Police Department;
- f. Fire Department; and

¹⁹ *I.C.*, § 36-4-7-4, addresses the fixing of annual compensation of elected City officers.

²⁰ *I.C.*, § 36-4-10-5.5, permits the City Clerk to hire an attorney.

²¹ *I.C.*, § 36-4-9-5, addresses the establishment of a Board of Public Works and a Board of Public Safety.

- g. Building Department. (Gen. Ord. No. 19, 2003, 7-10-03)

Sec. 2-30 Clerk of the Board.

A person appointed by the Mayor shall serve as Clerk of the Board of Public Works and Safety with a compensation as established by proper ordinance. A member of the Board of Public Works and Safety may be a civilian or may hold other appointive positions in the City during the member's tenure. (Gen. Ord. No. 3, 2000, 4-13-00; Gen. Ord. No. 19, 2003, 7-10-03)

Sec. 2-31 Meetings of the Board.

The Board of Public Works and Safety shall make rules governing the time and place for holding regular and special meetings and the procedure to be used for calling and giving notice thereof. (Gen. Ord. No. 3, 2000, 4-13-00; Gen. Ord. No. 19, 2003, 7-10-03)

Sec. 2-32 Duties and Powers of the Board.

The Board of Public Works and Safety shall have any and all powers given to it by Ordinance and as set forth in the applicable *Indiana Code*, including oversight of the Police and Fire Departments. (Gen. Ord. No. 3, 2000, 4-13-00; Gen. Ord. No. 19, 2003, 7-10-03)

Sec. 2-33 and Sec. 2-34 Reserved for Future Use.

ARTICLE 5. EXECUTIVE DEPARTMENTS.

Sec. 2-35 Establishment.

The executive departments are established with the full authority and power to undertake administrative acts as provided by ordinance and Indiana law. The Executive Departments operate under the jurisdiction of the Mayor except as ordinance or Indiana law otherwise provides for a board or commission to render advice or oversight. (Gen Ord. No. 3, 2000, 4-13-00)

Sec. 2-36 Department of Finance.²²

a. Under the provisions of *I.C.* § 36-4-9-4, a Department of Finance is established to be headed by the City Controller, who shall be appointed by the Mayor. (Gen. Ord. No. 4, 1983, 8-29-83; 1989 *Terre Haute Municipal Code*, § 117.01)²³

²² *I.C.*, § 36-4-10-5 and *I.C.*, § 36-4-10-6, address powers and duties of this department.

²³ Editor's Note: Gen Ord. No. 4, 1983, replaced Ord. No. 3, 1966, which established a City Controller's Department and defined the powers and duties of the purchasing agent.

b. The department maintains the City budget and financial records; pays department claims, collects fees and issues certain licenses and permits; and manages the City payroll.

Sec. 2-37 Department of Law.²⁴

a. Under the provisions *I.C.* § 36-4-9-4, a Department of Law is established to be headed by the City Attorney, who shall be appointed by the Mayor. (Gen. Ord. No. 4, 1983, 8-29-83; *1989 Terre Haute Municipal Code*, § 115.01)

b. The Legal Department advises the Mayor and the Common Council on legal issues; prosecutes City ordinance violations and handles lawsuits on behalf of the City.

c. The Legal Department includes the Human Resources (HR) Office which shall fill positions within the City's non-public safety departments, shall provide advice and assistance to the Mayor, Common Council and City departments on employment, employee discipline, hiring and firing issues and activities, and shall administer city employee benefits. (Gen. Ord. No. 35, 2003, 1-12-04)

Sec. 2-38 Department of Public Works and Safety.

Under the provisions of *I.C.* § 36-4-9-4, a Department of Public Works and Safety is established for the City. The Department shall consist of a Clerk and such other staff as may be funded by the City Council and appointed by the Mayor to provide clerical services to the Board of Public Works and Safety. (Gen. Ord. No. 3, 2000, 4-13-00; Gen. Ord. No. 19, 2003, 7-10-03)

Sec. 2-39 Department of Redevelopment.²⁵

Under the provisions of Chapter 173, Acts of 1957 *I.C.* § 36-7-14-4, a Department of Redevelopment is established with full power and authority to act as provided by law. (*1989 Terre Haute Municipal Code*, § 125.01)

Sec. 2-40 Area Planning Department.

a. The provisions of Chapter 138, Acts of 1957 are adopted. (Gen. Ord. No. 2, 1958, § 1, 3-4-85; *1989 Terre Haute Municipal Code*, § 127.01)

b. The Board of County Commissioners of Vigo County is authorized to establish an Area Planning Department in which the City of Terre Haute will participate, with an effective date of its establishment on May 1, 1958. (Gen. Ord. No. 2, 1958, § 2, 3-4-58)

Sec. 2-41 Cemetery Department.

²⁴ *I.C.* § 36-4-9-12, sets forth the powers and duties of the Department of Law.

²⁵ *I.C.*, § 36-7-14-1, *et seq.*, addresses the powers in this area.

a. The Cemetery Department maintains and supervises Highland Lawn and Woodlawn Municipal Cemeteries.

b. Specific regulations are set forth in Chapter 5 of this *Terre Haute City Code*.

Sec. 2-42 City Hall Maintenance Department.

a. The City Hall Maintenance Department is headed by a Superintendent.

b. The department is responsible for maintenance of the City Hall and its grounds.

Sec. 2-43 Engineering Department.

a. The Engineering Department is headed by a City Engineer.

b. The department plans, designs, constructs and maintains public infrastructure including but not limited to streets, sewers, traffic and drainage facilities.

c. The department includes inspectors and examiners through which the City issues building, plumbing, and electrical permits, issues selected licenses and conducts examinations therefore; and has such additional powers and duties as are set forth in Chapter 7 and 10 of this *Terre Haute City Code*. (Gen. Ord. No. 35, 2003, 1-12-04)

Sec. 2-44 Fire Department.²⁶

a. The Fire Department is headed by a Fire Chief.

b. It is established to protect the citizens.

c. An emergency service is established for the citizens of the City of Terre Haute and the County of Vigo, Indiana, operated and maintained by and through the facilities of the Fire Department of the City of Terre Haute, and administered by the Board of Public Safety of the City of Terre Haute. (Special Ord. No. 93, *Journal of Common Council*, p. 21)

d. The Fire Department inspects and rejects hazardous environmental conditions and maintains automatic traffic signals.

e. Additional powers and duties are set forth in Chapter 6 of this *Terre Haute City Code*.

Sec. 2-45 Reserved.²⁷

²⁶ *I.C.*, § 36-8-2-3, pertains to establishing a firefighter system.

²⁷ Editor's Note: The Building Inspection Department was eliminated by the passage of Gen. Ord. No. 35, 2004, which passed on January 12, 2004.

Sec. 2-46 Mass Transit Department.

- a. The Mass Transit Department is headed by a Transportation Director, who also manages the downtown parking garage and the Street Department. (Gen. Ord. No. 35, 2003, 1-14-04)
- b. The department oversees the planning and operation of the Mass Transit system.

Sec. 2-47 Department of Parks and Recreation.²⁸

- a. Under the provisions of *I.C.* § 36-10-3-39 as enacted in the Acts of the Indiana General Assembly of 1981, there is established and created a Department of Parks and Recreation of the City of Terre Haute, Indiana, composed of a Board of Parks and Recreation, a superintendent and other personnel that the Board determines. (*1989 Terre Haute Municipal Code*, § 137.01)
- b. Additional powers and regulations are set forth in Chapter 5 of this *Terre Haute City Code*.

Sec. 2-48 Police Department.²⁹

- a. The Police Department is headed by a Police Chief.
- b. It is established to protect the citizens.
- c. The department cites and/or arrests law violators; maintains arrest records; conducts criminal investigations; conducts vehicle record checks; and assists in issuing gun permits.
- d. The department houses the Civilian Environmental Protection Department which enforces the Terre Haute City Code and reports directly to the Police Chief. (Gen. Ord. No. 35, 2003, 1-12-04)
- e. Additional powers and duties are set forth in Chapter 6 of this *Terre Haute City Code*.³⁰
- f. The Police Department may hire a legal advisor as a salaried position subject to approval of the Mayor and funding by the Common Council of the City of Terre Haute on an annual basis. If the Police Department elects to employ a legal advisor, the Police Department shall comply with the following requirements:

²⁸ *I.C.*, § 36-10-3-1, *et seq.*, addresses the establishment of the Department.

²⁹ *I.C.*, § 36-8-2-2, pertains to establishing a police and law enforcement system.

³⁰ *I.C.*, § 36-8-3-3, addresses the Board of Public Works and Safety and its role regarding police and fire departments and the Council's role of setting their salaries before August 20th.

(1) At the March, June, September and December regular meetings of the Terre Haute City Council, the Terre Haute Police Department will provide to the Common Council of the City of Terre Haute, a report detailing the activities of the legal advisor during the quarter.

(2) A report submitted to the City Council as provided in Subsection (1) above, shall contain the following information: An itemization of the legal advisor's activities, including but not limited to, training, giving advice, attention to Police Merit Commission matters, development of policies and procedures, court appearances, telephone calls, research, preparation of training materials, and time spent meeting with members of the Terre Haute Police Department. In addition, the report shall include copies of training session syllabi and training attendance sheets. (Gen. Ord. No. 3, 2003, 2-13-03; Gen. Ord. No. 35, 2003, 1-12-04))

(3) If the Police Department does not employ a legal advisor, any funds approved by the Common Council for legal services shall be paid to the Legal Department for legal services to the Police Department. (Gen. Ord. No. 35, 2003, 1-12-04)

Sec. 2-49 Sewage Billing Department.

- a. A manager oversees this department.
- b. It prepares bills for users of the city sewage system and collects sewer bills and tap-on fees.
- c. Additional powers and duties are set forth in Chapter 9 of this *Terre Haute City Code*.

Sec. 2-50 Street Department.

- a. The Street Department is headed by the Transportation Director. (Gen. Ord. No. 35, 2003, 1-14-04)
- b. The Street Department maintains the City's streets and alleys, and conducts the city cleanup and leaf collections.

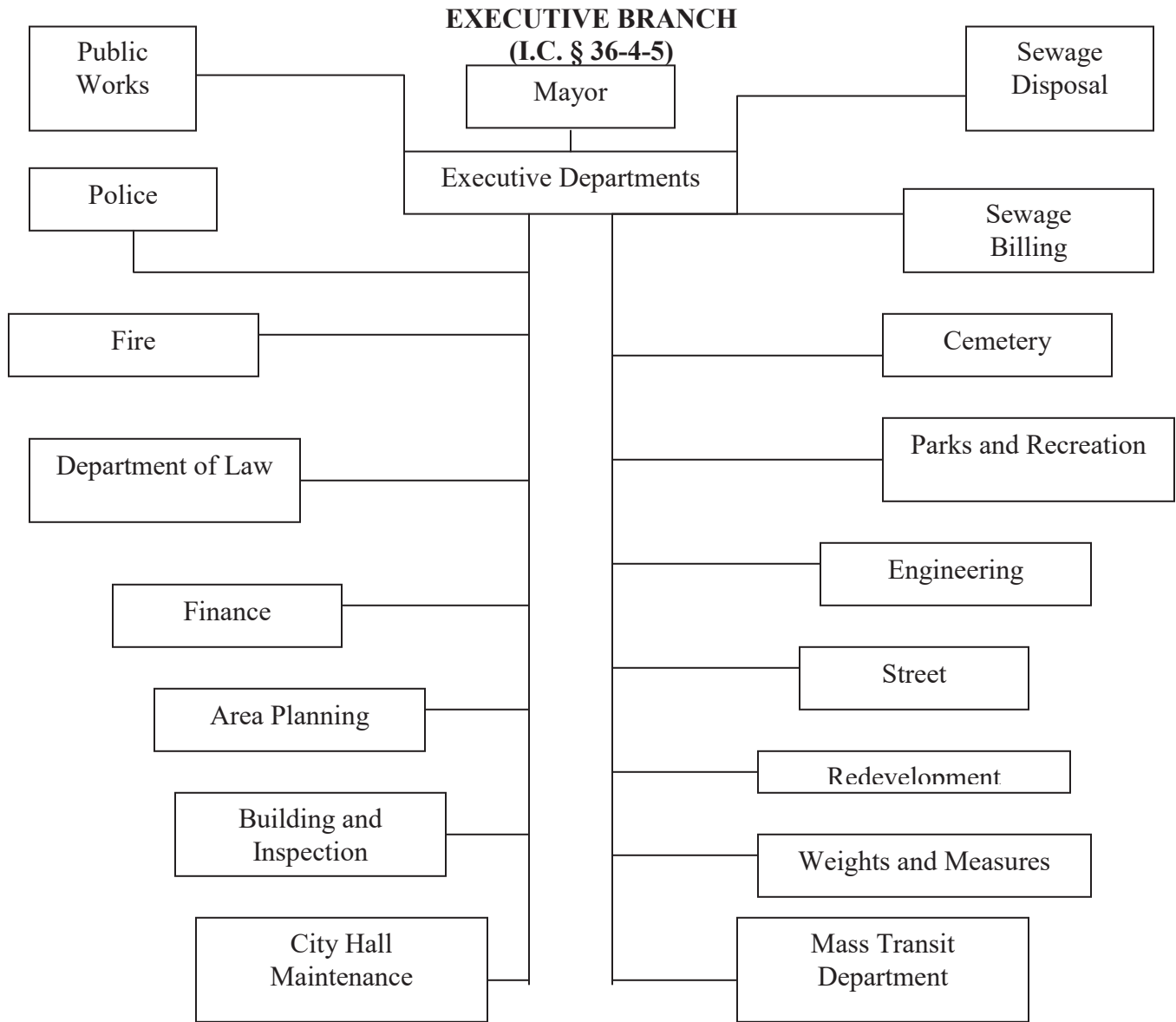
Sec. 2-51 Sewage Disposal Department.

- a. The Sewage Disposal Department oversees the Wastewater Treatment Plant and is headed by a Superintendent.
- b. The Plant maintains and oversees the disposal of sewage and waste.
- c. Additional regulations and duties are set forth in Chapter 9 of this *Terre Haute City Code*.

Sec. 2-52 Organizational Charts.

The following pages set forth the Elected Officials Organization Chart and the Executive Departments of the City.

CITY OF TERRE HAUTE



Sec. 2-53 through Sec. 2-55 Reserved for Future Use.

ARTICLE 6. BOARDS, COMMISSIONS AND OTHER ENTITIES.³¹

Sec. 2-56 Board of Aviation Commissioners.³²

The Department of Aviation shall be under the control of four (4) members to be known as the Board of Aviation Commissioners, to be appointed by the Mayor, with such powers and subject to such qualifications and limitations as provided in such act. (1989 *Terre Haute Municipal Code*, § 123.01)

Sec. 2-57 Area Board of Zoning Appeals.³³

a. The Mayor shall appoint three (3) members of the Area Board of Zoning Appeals, to serve on such Board after its establishment.

b. Additional duties and regulations of the Area Board of Zoning Appeals are set forth in Chapter 10 of this *Terre Haute City Code*.

Sec. 2-58 Economic Development Commission.³⁴

a. The Terre Haute Economic Development Commission is created and shall have the powers granted by the laws of the State of Indiana as described in Chapter 402 of the Acts of 1965 and the acts amendatory thereof and supplemental thereto. (Special Ord. No. 68, 1966, § 1, 1-18-67)

b. There shall be five (5) members of the Terre Haute Economic Development Commission. Such members shall be selected and appointed according to Senate Enrolled Act No. 325 passed by the 1973 General Assembly of the State of Indiana, and serve according to said Senate Enrolled Act. No. 325. (Special Ord. No. 623, 1973, § 2, *Journal of Common Council*, 7-12-73, pp. 218-219)

Sec. 2-59 Housing Authority.

a. Under the provisions of Chapter 207, Acts of 1937, *I.C.* § 36-7-18-1, *et seq.*, a housing authority known as the Housing Authority of Terre Haute, is established with full power and authority pursuant to the Housing Authorities Act of 1937.

b. Any local regulations in this area may be set forth in Chapter 6 of this *Terre Haute City Code*.

³¹ Editor's Note: Gen. Ord. No. 1, 1995 repealed Chapter 134 addressing the Human Relations Commission.

³² *I.C.*, § 36-9-2-3, authorizes a city to establish, aid, maintain, and operate airports.

³³ *I.C.*, § 36-7-4-900 series address powers and duties of the Board of Zoning Appeals.

³⁴ *I.C.*, § 36-7-12-4, *et seq.*, addresses economic development commissions.

Sec. 2-60 Crossroads of America Youth Orchestra and Board of Manager.³⁵

a. **Establishment.** There is established a Municipal Youth Symphony Orchestra to be known and designated as Crossroads of America Youth Orchestra, Terre Haute, Indiana. (Special Ord. No. 13, § 1, 4-18-61, *Journal of Common Council*, p. 55)

b. **Board of Managers; Appointment; Term.** The Municipal Youth Symphony Orchestra shall be under the control of a Board of Managers who shall be known and designated as the Board of Managers of the Crossroads of America Youth Orchestra, Terre Haute, Indiana. There shall be seven (7) members of such Board. The Mayor shall appoint three (3) of the members, whose terms shall be: one (1) for the term of one (1) year, one (1) for the term of two (2) years and one (1) for the term of three (3) years. The City Council shall appoint two (2) of the members whose terms shall be one (1) for the term of one (1) year, and one (1) for the term of two (2) years. The Board of Managers shall appoint two (2) members, whose terms shall be one (1) for one (1) year and one (1) for two (2) years. (Gen. Ord. No. 6, 2005, 5-12-05)

Upon the expiration of the terms of the respective original appointees, their successors shall be appointed by the appointing authority, each for the term of three (3) years. (Special Ord. No. 13, § 2, 4-18-61, *Journal of Common Council*, pp. 55-56; Special Ord. No. 16, 2003. 5-9-02)

c. **Requirements for Board Members.** Each member of the Board of Managers shall be a resident of the City throughout his term of office, shall be freeholder therein, and shall serve without compensation. (Special Ord. No. 13, § 3, 4-18-61, *Journal of Common Council*, p. 56)

d. **Orchestra Membership Requirements.** To be eligible for membership in the Crossroads of America Youth Orchestra, an applicant must be a student between grades five (5) and twelve (12), both inclusive. (Special Ord. No. 13, § 4, 4-18-61, *Journal of Common Council*, p. 56; Gen. Ord. No. 20, 2011, 1-12-12)

e. **Board Powers and Duties.** The Board of Managers shall hold regular meetings, at least quarterly, and three (3) members thereof shall constitute a quorum; they shall appoint a conductor and a business manager, and prescribe the duties and fix the compensation of each. Such Board of Managers may adopt such additional rules and regulations as they may deem expedient, not inconsistent with the provisions of this Section. (Special Ord. No. 13, § 5, 4-18-61, *Journal of Common Council*, p. 56)

f. **Annual Report.** The Board of Managers shall prepare a detailed report to be submitted to the Mayor and City Council annually during the month of June, covering all of the activities of the Crossroads of America Youth Orchestra for the preceding twelve (12) months, including financial statements and such other statements as are necessary or useful in presenting

³⁵ Editor's Note: Special Ord. No. 16, 2002, 5-9-02, changed the name of the Terre Haute Municipal Youth Symphony Orchestra to the Crossroads of America Youth Orchestra and changed the Board from three (3) members to five (5) members with the Mayor appointing three (3) members and the City Council appointing two (2) members.

an accurate accounting of the activities of the Crossroads of America Youth Orchestra. (Special Ord. No. 13, § 6, 4-18-61, *Journal of Common Council*, p. 56)

Sec. 2-61 Redevelopment Commission.

a. There is created and established a Department of Redevelopment controlled by a board of five (5) members known as the Redevelopment Commission.

b. The members of the Redevelopment Commission shall have the authority and power, and shall conduct themselves in accordance with *I.C. § 36-7-14-1, et seq.*, as added by Acts 1981, Public Law 309, Section 33, As Amended, and as supplemented from time to time.

c. The Mayor shall appoint three (3) persons to the Commission and the Common Council shall appoint two (2) persons, pursuant to applicable state law.

Sec. 2-62 Fire Pension Board.

The Fire Pension Board of Trustees shall discharge its duties and responsibilities pursuant to the 1937 Firefighters Pension Fund addressed in *I.C. § 36-8-7-1, et seq.*, and the 1977 Police Officers' and Firefighters' Pension and Disability Fund addressed in *I.C. § 36-8-8-4*.

Sec. 2-63 Police Pension Board.

The Police Pension Board of Trustees shall discharge its duties and responsibilities pursuant to the 1977 Police Officers' and Firefighters' Pension and Disability Fund addressed in *I.C. § 36-8-8-4*.

Sec. 2-64 Information Technology Advisory Board.

a. An Information Technology Advisory Board is established to provide technical expertise, advice and guidance to the City administration. (Gen. Ord. No. 22, 2003, 9-11-03)

b. The Terre Haute Information Technology Advisory Board shall consist of the following representatives:

- (1) Mayor 3 Voting
- (2) City Council 2 Voting

The appointments of the Mayor and the Council may be laypersons or City employees but must be based on the individual's computer skills, knowledge and experience. The appointments must be residents of Vigo County. Such appointments shall be for a term of one (1) year. (Gen. Ord. No. 22, 2003, 9-11-03) (Gen. Ord. No. 25, 2007, 1-10-08)

c. All matters pertaining to the selection of computer personnel, purchasing of computer hardware and software, and policy making relative to data processing will come before

this Board. The Board will make personnel, software and hardware recommendations to the Mayor, and fiscal recommendations to the City Council. (Gen. Ord. No. 22, 2002, 12-13-01)

d. The City Attorney shall provide legal services for the Terre Haute Information technology Advisory Board which shall establish rules and procedures for the time and conduct of its meetings. (Gen. Ord. No. 22, 2001, 12-13-01; Gen. Ord. No. 22, 2003, 9-11-03)

Sec. 2-65 Human Relations Commission.

The Common Council of the City of Terre Haute finds that prejudice and the practice of invidious discrimination in employment, housing, public accommodations, education, and financing practices against any individual or group based on race, color, religion, national origin, age, gender, sexual orientation, gender identity, status, or physical or mental disability are a menace to the public peace and welfare, inimical to democracy, and harmful to the health and welfare of our citizens. The Common Council of the City of Terre Haute desires to better serve the residents of the City of Terre Haute and in an attempt to better meet the purpose of eradicating prejudice and the practice of invidious discrimination. The Common Council of the City of Terre Haute deems that it is necessary and appropriate and in the best interest of the residents of the City of Terre Haute to establish the Human Relations Commission. (Gen. Ord. No. 7, 2015, 7-16-15)

a. Definitions. For the purposes of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(1) “Discrimination” means any difference in treatment based upon race, color, religion, national origin, age, gender, sexual orientation, gender identity, marital status, or physical or mental disability. Discrimination also shall mean the exclusion of a person from or failure or refusal to extend to a person equal opportunities because of race, color, religion, national origin, age, gender, sexual orientation, gender identity, marital status, or physical or mental disability.

(2) “Gender Identity” means a person’s actual or perceived gender or perceived gender-related attributes, self-image, appearance, expression or behavior, whether or not such characteristics differ from those traditionally associated with the person’s assigned sex at birth.

(3) “Sexual Orientation” means male or female sexuality, real or perceived, by orientation or practice. (Gen. Ord. No. 7, 2015, 7-16-15)

b. Establishment; Membership; Vacancies.

(1) To assist in the elimination of discrimination in Terre Haute, there is hereby created a Commission to be known as the Terre Haute Human Relations Commission.

(2) The Commission shall consist of seven (7) members, not more than four (4) of whom shall be members of the same political party.. Three (3) of whom shall be appointed by

the Common Council and four (4) of whom shall be appointed by the Mayor. (Gen. Ord. No. 7, 2006, 5-11-06)

(3) Terms shall be for a period of three (3) years and until a successor has been appointed and qualified, except for one (1) Commissioner appointed by each the Common Council and the Mayor for an original term of (2) years, and until a successor has been appointed and qualified. The effect of this original appointment is to establish a staggering of terms such that there will never be a complete turnover of Commissioners at the end of any given three (3) year term. All Commissioners appointed shall be limited to not more than two (2) consecutive terms.

(4) As of the time of the establishment of this Commission, all seven (7) commission positions are vacant and therefore Common Council shall appoint members to fill three (3) of the vacancies, and thereafter shall be responsible for appointing their successors, and the Mayor shall appoint members to fill the remaining four (4) vacancies, and shall thereafter be responsible for appointing their successors.

c. Qualifications of Members.

(1) All members shall be residents of the City of Terre Haute or a property owner within the City of Terre Haute and who also resides within Vigo County. The Mayor and Common Council shall make only those appointments which ensure: (Gen. Ord. No. 6, 2006, 5-11-06)

(A) That members are persons who have demonstrated a commitment to the purpose for which the Commission is created; and

(B) That the Commission is broadly representative of the community in regard to race, religion, national origin, gender, sexual orientation, gender identity, and abilities (Gen. Ord. No. 7, 2015, 7-16-15); and

(2) It shall be the duty of the Mayor and the Common Council publicly to solicit suggestions for Commission appointments from organizations having an interest in the improvement of inter-group relations in the community, and to give thoughtful consideration to the appointment of persons so suggested.

d. Officers.

(1) At the first meeting of the Commission, which shall be called by the Mayor, the Commissioners shall elect one of their number to serve as chairman, and also shall elect such other officers as the Commission shall desire from among its members.

(2) If the Commission employs an Executive Director as permitted herein, the Commission may appoint the Executive Director to serve as Secretary to the Commission. In such an event, the Executive Director/Commission Secretary shall not be required to meet the

qualifications for membership on the Commission, and shall not be compensated for the services as Commission Secretary other than the salary established for the position of Executive Director.

e. Death, Incapacity or Resignation of Member; Removal.

(1) In the event of a death, incapacity, or resignation of any member, his or her successor shall be appointed by the one who appointed such member and the newly appointed member shall serve for the unexpired period of the term of the one replaced.

(2) Either the Mayor or the Common Council shall have the right to remove, at any time for cause, any member of the Commission appointed by that person or body.

f. Powers and Duties.

(1) The Commission shall have only those powers which are conferred herein and which are permitted to be exercised by a Human Relations Commission under the applicable provisions of Indiana law, including the power to:

- (A) Investigate and conciliate complaints of prejudice or invidious discrimination in employment, housing, public accommodations, education and financing practices;
- (B) Refer to the appropriate governmental entity those complaints which cannot be conciliated by the Commission;
- (C) Employ an Executive Director and other staff personnel as determined appropriate by the Commission and funded by the Common Council;
- (D) Adopt rules and regulations to conduct its business and its meetings;
- (E) Conduct programs and activities to carry out the purposes of the Terre Haute Human Relations Commission provided for in this Chapter within the territorial boundaries of the City.

(2) The Commission shall hold regular meetings and as called by the elected Commission President or two (2) Commissioners. All meetings and notices thereof shall be conducted in conformity with *I.C. § 5-14-1.5-1, et seq.*

(3) The Commission shall endeavor to keep itself fully informed concerning the studies and findings of private organizations in respect to the practices falling within the Commission's purpose.

(4) The Commission shall render an annual report of its activities to the Mayor and to the Common Council, and shall render such other additional reports as the Mayor or the Common Council may from time to time request. The reports shall describe in detail the investigations and conciliation proceedings it has conducted, the outcome of such proceedings,

the progress made and any other work performed and achievement toward the elimination of discrimination.

g. Responsibilities.

(1) Study the relationship between persons of various races, sexes, creeds, abilities and nationalities within the City and to advise and assist the various City departments in matters involving relationships between such groups to the end that prejudice, intolerance, bigotry, and discrimination will be eliminated in Terre Haute;

(2) Identify and recommend ways to eliminate discrimination based upon gender, race, sexual orientation, gender identity, religion, handicap, ancestry, national origin or place of birth in education, employment, public accommodations and housing (Gen. Ord. No. 7, 2015, 7-16-15);

(3) Study, investigate and recommend action in regard to any condition having an adverse effect upon relations between persons of various races, genders, sexual orientation, gender identities, creeds, abilities and nationalities (Gen. Ord. No. 7, 2015, 7-15-16);

(4) Institute and conduct educational and other programs intended to promote the equal rights and opportunities of all persons;

(5) Solicit the cooperation of the various racial, ethnic, disability, women's rights, and religious groups within the community in order to improve the quality of communications and understanding within the community; and

(6) Stimulate private and governmental departments and agencies to develop and foster meaningful programs in support of the objectives and purposes of the Terre Haute Human Relations Commission. (Gen. Ord. No. 4, 1999, 4-12-99)

Sec. 2-66 Other Boards, Commissions and Entities.

a. The following Boards, Commissions and Entities are continued in effect and are to discharge duties specifically provided to each by applicable federal, state, or local law:

Air Pollution Board	Housing Authority Board
Alcoholic Beverage Commission	Housing Authority Development Corporation
Area Planning Commission	Hulman Links Commission
Board of Aviation Commissioners	Parks and Recreation Board
Board of Health	Plumbers Advisory Board
Board of Public Works	Police Merit Board
Board of Public Safety	Police Pension Board
Board of Zoning Appeals	Redevelopment Commission
Cemetery Board	Sanitary District Commission
Economic Development Commission	State of Indiana River Marina Board
Electrical Examiners Board	Swope Gallery Board

Engravers Examining Board
Fire Department Pension Board

Sycamore Trails Board

- b. The Organization Charts on the following pages address various Boards.

Sec. 2-67 Industrial Development Advisory Council (IDAC).

- a. Establishment.

(1) Pursuant to I.C. 36-7-13 there is established an Industrial Development Advisory Commission (IDAC) for the City of Terre Haute, Indiana.

(2) The IDAC shall consist of six (6) members, all of which shall be appointed by the Mayor of the City of Terre Haute as follows:

At least one (1) member shall represent city government; at least one (1) member shall represent the “local industrial development committee”; at least one (1) member shall represent a local banking institution; at least one (1) member shall represent a local utility company; and at least one (1) member shall represent organized labor from the building trades. A member may represent more than one (1) of the organizations enumerated.

- b. Purpose.

The IDAC shall coordinate the efforts of officials of the City of Terre Haute and any private industrial development committee(s) in the community. The charge to the IDAC is to evaluate and establish consistent with the Indiana Code a Community Revitalization Enhancement District (CRED) within the City of Terre Haute to facilitate the retention and expansion of business enterprises to the benefit of the citizens of the city, county and state through the promotion of economic development in the form of job growth, business retention and expansion and wage enhancement; and to help offset obstacles to redevelopment such as obsolete or inefficient buildings, lack of development or cessation of growth, need to relocate or upgrade utilities, environmental contamination, transportation or access problems, and the need for additional parking infrastructure.

- c. Powers and Duties.

The IDAC shall have the powers and duties, and shall conduct itself in accordance with I.C. 36-7-13-1, et seq. as added by Acts 1981, Public Law 309, Section 32, as amended, and as supplemented from time to time. (Gen. Ord. No. 36, 2004, 12-09-04)

Sec. 2-68 through Sec. 2-70 Reserved for Future Use.

ARTICLE 7. PERSONNEL POLICIES AND PROCEDURES.³⁶

³⁶ I.C., § 36-1-4-14, authorizes the City to hire and discharge employees and establish system of employment based on merit and qualifications.

Sec. 2-71 Compensation of Officers and Employees.

a. Pursuant to *I.C.* § 36-1-4-15, the Common Council shall by ordinance fix the level of compensation for officers and employees.

b. Pursuant to *I.C.* § 36-8-3-3, the annual compensation of all members of the Fire and Police Departments shall be fixed by ordinance of the Common Council before September 20th.³⁷

c. That collective bargaining negotiations with the respective unions to establish salaries and benefits for members of the Fire and Police Departments shall be undertaken by the City Legal Department with the Controller's Office acting as an advisor. At least thirty (30) days prior to the commencement of negotiations, the City Council shall be advised by the Legal Department of the intent to negotiate. Prior to the first scheduled negotiations, the Council as a whole or through its Finance Committee and the Executive shall provide to the Legal Department advice and/or parameters for fiscal matters with the Fire and Police Departments. After each negotiation session, the Legal Department shall provide a written summary of negotiation progress and positions to the Council and the Executive. All negotiations regarding fiscal matters must be concluded no later than June 30 of the year and shall include at least the following representatives: one member of the Finance Committee, appointed by the Chairman of the Finance Committee, to serve in an observer status for the sole purpose of reporting back to the Finance Committee information as to the status and details of the negotiations. (Gen. Ord. No. 23, 2002, As Amended, 1-9-03; Gen. Ord. No. 2, 2005, 2-10-05)

d. When the negotiations are essentially completed, the Legal Department shall prepare the Fire and Police Department salary ordinances and provide them to the Council Finance Committee for review. The Chairman of the Finance Committee shall file with the City Clerk's Office the salary ordinances for the Police and Fire Departments prepared by the Legal Department no later than July 1st of each year for the ensuing budget year. (Gen. Ord. No. 23, 2002, As Amended, 1-9-03)

e. The City Executive shall establish through collective bargaining negotiation with the respective unions the salaries and benefits for employees of the Wastewater Treatment Plant, the Cemetery Department and the Street Department. The City Executive shall prepare and present salary ordinances detailing the salaries and benefits for the employees of the Wastewater Treatment Plant, Cemetery Department, and Street Department to the Common Council for the City of Terre Haute for its consideration. (Gen. Ord. No. 23, 2002, As Amended, 1-9-03)

f. The administration shall file with the City Clerk's Office the salary ordinances for non-police and non-fire City employees, including but not limited to the Wastewater Treatment Plant, the Cemetery Department and the Street Department by no later than July 30 of each year for the ensuing budget year. (Gen. Ord. No. 23, 2002, As Amended, 1-9-03)

³⁷ Editor's Note: *I.C.* § 36-8-3-3 was amended in 2003 to change the deadline for the passage of police and fire salary ordinances from August 20th to September 20th.

g. In the event of the negotiation of multi-year collective bargaining contracts, the contract shall provide that all fiscal matters are subject to the funding by the fiscal body on an annual basis, and the salary ordinance brought before the fiscal body each year of the multi-year contract shall include as an attachment, the fiscal terms for all years covered by the collective bargaining contract. The purpose of this Section is to provide complete information to the fiscal body when seeking the annual funding of a multi-year contract, and shall not provide a basis to assert the fiscal body has obligated itself to any funding beyond the salary ordinance for the current budget year. (Gen. Ord. No. 23, 2002, As Amended, 1-9-03)

Sec. 2-72 Other Employee Benefits.³⁸

The City may establish other employee benefits pursuant to applicable state law.

Sec. 2-73 Compensation for Employees – Military Duty.

a. The City of Terre Haute complies with *I.C.* § 10-2-4-3 providing full compensation and benefits to employees called to military duty or training for fifteen (15) days in any calendar year. (Gen. Ord. No. 4, 2002, 2-14-02; Gen. Ord. No. 18, 2002, 9-12-02; Gen. Ord. No. 21, 2003, 7-10-03)

b. The City wishes to establish a policy to prevent loss to City employees and their families when an employee is called to active military duty. Active military duty does not include training or voluntary service, but is limited to a call to active service by State or Federal authorities in time of war or other crisis. (Gen. Ord. No. 21, 2003, 7-10-03)

c. If a City employee is called to active military duty during a budget year for which the employee's position is funded, and if the employee's position is not filled, the City will pay to the employee the difference between the active military pay and the budgeted City compensation during the period of involuntary active military duty within that budgeted year. (Gen. Ord. No. 4, 2002, 2-14-02; Gen. Ord. No. 18, 2002, 9-12-02; Gen. Ord. No. 21, 2003, 7-10-03)

Sec. 2-74 City of Terre Haute Nepotism Policy.

a. Purpose. Decisions about hiring, promoting, evaluating, awarding salary increases, job assignment, terminating employees, and the awarding of contracts for goods, services, and public works projects should be based on the qualifications, performance, and ability of the employee or contractor. Every attempt to avoid favoritism and conflicts of interest in employment related and contractual decisions instills confidence of the electorate in its government. The purpose of this policy is to prohibit certain individuals from being employed by the City of Terre Haute in a position in which a relative, as defined in this Section, provides

³⁸ Editor's Note: The Americans with Disabilities Act is set forth at 28CFR part 35; *I.C.*, § 5-10-6-1 and *I.C.*, § 36-5-4-7 addresses vacations; *I.C.*, § 22-3-1-1, *et seq.*, set forth the Workers' Compensation Program; and *I.C.*, § 5-10.1-3-5 addresses the Public Employees Retirement Fund.

direct supervision. Additionally, this policy regulates contracting with relatives of individuals employed by the City of Terre Haute for goods, services, and public works projects.

b. Definitions.

- (1) **Break in Employment.** Termination, retirement, or resignation of an employee from the City. A break in employment does not occur due to absence from the workplace while on a paid or unpaid leave, including but not limited to: vacation, personal days, sick or family medical leave, or worker's compensation leave, or if the employment is terminated followed by immediate re-employment by the City without loss of payroll time.
- (2) **City.** The City of Terre Haute and its boards and departments.
- (3) **Direct Line of Supervision.** An elected officer or employee who is in a position to affect the terms and conditions of another individual's employment. Such affect may include, but is not limited to, making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. Decisions and action taken by the Mayor or City Council regarding the passage of annual salary ordinances, annual budgets, and personnel policies are excluded from this definition.
- (4) **Elected Official.** The Mayor, City Judge, City Clerk, and members of the Terre Haute City Council.
- (5) **Employed.** An individual who works for or is appointed to any department or board of the City on a full-time, part-time, temporary, intermittent, seasonal, hourly, or contractual basis.
- (6) **Member of the Fire Department.** The fire chief and any firefighter appointed to the Terre Haute Fire Department.
- (7) **Member of the Police Department.** The police chief and any police officer appointed to the Terre Haute Police Department.
- (8) **Relative.** For the purposes of this Section, the term includes any of the following:
 - (a) Spouse;
 - (b) Parent or step-parent;
 - (c) Child or step-child (includes an adopted child);
 - (d) Sister, brother, step-sister, step-brother (includes sister or brother by half-blood);

- (e) Niece or nephew;
- (f) Aunt or uncle;
- (g) Daughter-in-law or son-in-law; and
- (h) Sister-in-law or brother-in-law.

c. Employment Policy.

- (1) Individuals who are relatives, as defined in subsection b. above, of existing employees may not be employed by the City in a position that results in one (1) relative being in the direct line of supervision of the other relative.
- (2) An individual who is employed by the City on July 1, 2012, is not subject to this nepotism policy unless the individual has a break in employment, as defined herein, with the City.
- (3) If an individual is employed by the City and the individual's relative begins serving a term of elected office, the individual may continue his/her employment with the City and retain his/her position or rank even if that individual's position or rank would be in the direct line of supervision of the individual's relative.
- (4) While an individual who is employed by the City and the individual's relative begins serving a term of elected office may continue his/her employment with the City, that individual may not be promoted to a position or rank if the new position or rank would place that individual within the direct line of supervision of the individual's relative.

d. Contracting Policy. The City may enter into or renew a contract for the procurement of goods, services, or public works projects with a relative of an elected official or a business entity in which a relative has an ownership interest if:

- (1) The elected official files with the City a full disclosure which must be:
 - (a) In writing; and
 - (b) Describe the contract or purchase to be made by the City; and
 - (c) Describe the relationship the elected official has to the individual or business entity that provides the contract for goods, services or public works projects.
- (2) The appropriate City board or department:
 - (a) Issues a certified statement that the contract amount or purchase price was the lowest amount or price bid offered; or

- (b) Issues a certified statement detailing the reasons why the particular vendor or contractor was selected.
- (3) City satisfies all other requirements of Indiana's public purchasing (I.C. § 5-22) or public works projects (I.C. § 36-1-12) statutes.
- (4) The elected official complies with disclosure provisions of I.C. § 35-44-1-3.
- e. Submission of Compliance Statements. In addition to any other disclosures or certifications required by this Section, the following actions must be taken:
 - (1) The annual report filed by the City with the State Board of Accounts under I.C. § 5-11-13-1 must include a Mayor's statement that the City has implemented a nepotism policy with regard to employment matters and the contracting for the procurement of goods and services.
 - (2) Prior to December 31st of each year, each elected officer shall submit to the Mayor a certification in writing, subject to the penalties of perjury, that said officer has not violated the provisions of the City's nepotism policy with regard to employment matters and the contracting for the procurement of goods and services. (Gen. Ord. No. 6, 2012, 7-19-12)

Sec. 2-90 Internal Controls.

- a. The Common Council shall adopt, by resolution, minimum levels of internal control standards and procedures for the City on or before June 30, 2016.
- b. The Common Council may review any and all internal control standards and procedures passed through resolution as needed; however, said standards and procedures shall be reviewed at least once every three (3) years. In the event the Common Council reviews said standards and procedures and does not make a finding(s) requiring a change(s), the Common Council may fulfill its obligation under this Section by moving to reaffirm the resolution in its then current form.
- c. The City Controller is charged with creating and implementing all specific internal control procedures based upon principles resolved through the requirements set forth in this Section. Said specific internal control procedures may be reviewed, and updated, as needed; however, said specific internal control procedures shall be reviewed, and updated as needed, on an annual basis by the City Controller. Any ambiguity with regard to internal control standards and procedures resolved through the requirements set forth in this Section shall be interpreted by the City Controller unless specifically resolved otherwise by the Common Council.

d. The City Controller is charged with the primary duty and responsibility of the implementation and enforcement of any and all internal control standards and internal control procedures resolved through the requirements set forth in this Section and all specific control procedures created and implemented by the City Controller. The City Controller shall be responsible for maintaining any and all internal control procedures, specific or otherwise, and make said internal controls available upon request. Furthermore, the City Controller shall also be responsible for providing, or arranging for, the training of all City employees to effectively carry out said internal controls. (Gen. Ord. 7, 2016, 6-9-16)

ARTICLE 8. Reserved for Future Use.³⁹

Sec. 2-106 through Sec. 2-109 Reserved for Future Use.

ARTICLE 9. FUNDS AND FISCAL PROCEDURES.

Sec. 2-110 Payment for City Memberships.

a. The City of Terre Haute, Indiana, by and through its Common Council, is authorized to appropriate necessary funds to provide membership of the City of Terre Haute, employees and departments of the City of Terre Haute, and the elected and appointed officials and members of their respective boards and councils, in local, regional, state and national associations of a civic, educational or governmental nature which have as their purpose the betterment or improvement of municipal operations.

b. The City of Terre Haute may participate through duly designated representatives in the meetings and the activities of such associations and the Common Council of the City of Terre Haute may appropriate necessary funds to defray the expenses of such representative in connection therewith.⁴⁰ (Gen. Ord. No. 3, 1983, §§ 1 & 2, 8-12-83; *Journal of Common Council*, pp. 262-263)

Sec. 2-110-1 Procedure for Existing Credit Card Accounts.

a. The department head of any department which currently holds a credit card account, for which the City Controller is not listed as the account holder at the time this Section is enacted, shall surrender all credit cards to the City Controller. Any outstanding balances of the credit card account shall be paid, in full, and the account shall be closed by the City Controller within one hundred and twenty (120) days of the enactment of this Section. This subsection shall not apply if the provisions outlined in subsection (b) are met.

b. To retain any existing credit card accounts at the time this Section is enacted, the credit card account must list the City Controller as the account holder and:

- (1) The department head of any department which currently holds the benefit of the credit card account shall submit a document stating the reason for the current account along with the current contract provisions for the credit card account and

³⁹ Editor's Note: Gen. Ord. No. 1, 1995 repealed the provisions of Special Ord. No. 49, 1981, providing for equal employment opportunity and an affirmative action plan; and repealed Special Ord. No. 14, 1968, as amended, codified in Chapter 134 of the *Municipal Code for the City of Terre Haute*, establishing a Human Rights Commission. In the 1999 recodification of the *Code*, the provisions of Special Ord. No. 49, 1981 were inadvertently codified as Article 8. It was discovered in July of 2005 that those provisions relating to the Nondiscrimination in Employment Policy had been codified in 1999 and are now removed and Article 8 is reserved for future use.

⁴⁰ Editor's Note: Gen. Ord. No. 3 was made retroactive to September 1, 1982.

the most current credit card account statement to the appropriate board which holds the power to execute contracts for said department;

- (2) The City Controller shall include a statement of affirmation or objection, with signature, to accompany the document stating the reason for the current account and the most current credit card account statement; and
- (3) The appropriate board shall hold a vote to accept the continued use of the credit card account as well as acquiescing to the terms to which the current card holder is currently bound. In the event the appropriate board does not affirm the continued use of the credit card account, any outstanding balances of the credit card account shall be immediately paid, in full, and closed by the City Controller. (Gen. Ord. No. 1, 2016, 3-10-16)

2-110-2 Procedure for procurement of a new credit card account.

- a. Any department head of the City seeking the use of a credit card account shall submit a written request stating the proposed use of a credit card account and the requested line of credit to the City Controller;
- b. The City Controller shall submit a statement of affirmation or objection, with signature, and reason for request to the appropriate board which holds the power to execute contracts for said department;
- c. The appropriate board shall hold a vote to accept or deny the submission of a credit card account; however, any request for a line of credit to exceed Fifty Thousand Dollars (\$50,000) must first be approved by Resolution of the Common Council; and
- d. If the board approves a new credit card account, the City Controller will submit the credit card account application as the sole account holder; however, the department head requesting the credit card account may be listed as an authorized user. (Gen. Ord. No. 1, 2016, 3-10-16)

2-110-3 Procedures for Credit Card Usage.

- a. The credit cards issued for each credit card account shall be held solely for the use of the department head to which it has been issued. Upon request by an employee acting under the supervision of his or her department head, the credit card may be signed out to the employee with approval by his or her department head. A record showing the date of issuance and the date of return and the purpose of use, will be maintained by the department with a copy going to the City Controller's Office. The department head which holds a valid credit card account shall keep detailed receipts and notes of transactions, available for inspection and production at any reasonable time.
- b. All credit card billing statements shall be sent by the issuer to the department head which holds a valid credit card account. The department head is responsible for prompt

distribution of any credit card account statements to the City Controller. The City Controller is charged with prompt payment of credit card account statements from the appropriate budget line item pursuant to the claims procedures of the City.

c. The Controller shall pay the charge cards promptly so that no interest, carrying charges or penalties will be incurred due to late payments. Any employee of the City who causes interest or carrying charges to be added to the credit card account by a failure to timely provide the required information to the City Controller shall be personally liable for the interest or carrying charge. Any employee of the City who fails to provide a receipt for the purchase shall be personally liable for the purchase.

d. Any benefit derived from the use of a credit card account including, but not limited to, what is commonly referred to as a “percentage cash back” shall be applied to the appropriate line item budget from which any statements have or will be paid to satisfy any and all credit card account statements.

e. Any department head wishing to cancel an active credit card account held by his or her department must submit a document stating the reason he or she is seeking the cancelation to the board which approved the account through the procedures outlined in Section 2 or 3 of this chapter and said board shall hold a vote on the proposal submitted by the department head. Additionally, the City Controller may request the cancelation of any active credit card account, held by any department of the City, by submitting a document stating the reason he or she is seeking the cancelation to the board which approved the account through the procedures outlined in Section 2 or 3 of this chapter and said board shall hold a vote on the proposal submitted by the City Controller.

f. No credit card issued or retained through the procedures outlined in this section/chapter shall be used by any person for private/personal purchases.

g. Any violations of this section/chapter will result in disciplinary action, up to and including discharge pursuant to City of Terre Haute’s personnel policy. (Gen. Ord. No. 1, 2016, 3-10-16)

Sec. 2-111 Fireman’s Pension Fund.⁴¹

a. The City of Terre Haute, Indiana, which maintains a regularly organized and paid Fire Department, elects to establish a Fireman’s Pension Fund in said City.

b. A Board of Trustees to manage said Pension Fund under the terms and provisions of Chapter 31 of the Acts of the General Assembly of the State of Indiana of 1937 is created. (Special Ord. No. 2, 1945, 5-8-45; *Journal of Common Council*, p. 104)

c. The Board of Trustees is addressed in Sec. 2-62 of this *Terre Haute City Code*.

⁴¹ *I.C.*, § 36-8-7-1, *et seq.*, and *I.C.*, § 36-8-8-14, address the fire pension funds.

Sec. 2-112 Special Parks Non-Reverting Operating Account - Hulman Links Golf Course.⁴²

a. A special non-reverting operating account is established in the Park and Recreation Department for monies received from the pro shop at Hulman Links Golf Course and for monies paid for daily user fees. (Gen. Ord. No. 33, 2000, 1-11-01)

b. These monies will be used for golf course related activities. (Special Ord. No. 16, 1981, 3-12-81, *Journal of Common Council*, pp. 88-89)

c. Such funds shall be subject to appropriation by the Common Council of the City of Terre Haute, Indiana. (Gen. Ord. No. 33, 2000, 1-1-01)

Sec. 2-113 Special Parks Non-Reverting Operating Account - Rea Park Golf Course.⁴³

a. A special non-reverting operation account is established in the Parks and Recreation Department for monies received from the driving range, from rental fees from municipally owned golf carts and the monies paid for daily user fees at Rea Park Golf Course. (Special Ord. No. 63, 1984, 12-13-84, *Journal of Common Council*, p. 634; Gen. Ord. No. 33, 2000, 1-11-01)

b. Such funds shall be subject to appropriation by the Common Council of the City of Terre Haute, Indiana. (Gen. Ord. No. 33, 2000, 1-11-01)

⁴² Editor's Note: Special Ord. No. 16, 1981 amended Special Ord. No. 9, 1978, which was passed on 4-13-78.

⁴³ Editor's Note: Special Ord. No. 16, 1981 amended Special Ord. No. 9, 1978, which was passed on 4-13-78.

Sec. 2-114 Roadway Transfer Non-Reverting Fund.⁴⁴

a. A special non-reverting operating account, entitled Roadway Transfer Non-Reverting Fund, is established for receipt and deposit of funds received from the State of Indiana for the acceptance by the City of a transferred roadway.

b. Such funds shall be used for the operation, construction, maintenance, regulation, and other expenses incurred specifically related to the transferred roadway. Authorized expenditures from this fund shall include, but not be limited to: reconstruction, repairs, design, paving, painting, signalization, landscaping, and beautification.

c. Expenditure of any monies from this fund shall be subject to appropriation by the Common Council of the City of Terre Haute, Indiana. (Gen. Ord. No. 20, 2010, 1-13-11)

Sec. 2-115 Terre Haute Police Department Drug Training, Prevent, & Education Non-Reverting Fund.⁴⁵

a. A special non-reverting operating account, entitled Terre Haute Police Department Drug Training, Prevention, and Education Non-Reverting Fund, is established in the Terre Haute Police Department for proceeds from sale of permits to Drug and/or Tobacco Paraphernalia/Accessories Establishments (See: Sec. 4-362) and from the fines imposed for violations of such provisions (See: Sec. 4-366). (Gen. Ord. No. 7, 2014; 12-11-14)

b. Such funds shall be used for costs associated with the production of promotional materials to be used for drug training, education and prevention, including but not limited to: handouts, brochures, pamphlets, booklets, posters, stickers, or shirts. Such funds may also be used for costs associated with the purchase, usage, or lease of any equipment or facility used in conjunction with such programs, including but not limited to: presentation equipment and/or facilities used to host training or education events; travel for officers assigned to narcotic-type investigative units to attend narcotic relevant training; or contractual services for drug training, education or prevention events.

c. Such funds shall be subject to appropriation by the Common Council of the City of Terre Haute, Indiana.

Sec. 2-116 Parks & Recreation Department Non-Reverting Capital Project & Equipment Purchase Fund.⁴⁶

a. A special non-reverting operating account, entitled Terre Haute Parks and Recreation Department Non-Reverting Capital Projects & Equipment Purchase Fund, is

⁴⁴ Editor's Note: Sec. 2-114 Recreation Non-Reverting Account for Parks Municipal Softball League, as created by Special Ordinance No. 8, 1978 on April 13, 1978, was terminated and deleted by General Ordinance No. 20, 2006, passed on January 11, 2007.

⁴⁵ Editor's Note: Sec. 2-115 Recreation Non-Reverting Account, as created by Special Ordinance No. 58, 1983 on October 13, 1983, was terminated and deleted by General Ordinance No. 20, 2006, passed on January 11, 2007.

⁴⁶ Editor's Note: Sec. 2-116 Park Non-Reverting Operating Account, as created by Special Ordinance No. 19, 1982 on June 10, 1982, was terminated and deleted by General Ordinance No. 20, 2006, passed on January 11, 2007

established in the Terre Haute Parks and Recreation Department. This account shall be initially funded by the proceeds from the January 2013 DuPont settlement in the amount of \$1,002,486.05. This account shall also be funded by donations and special bequests to the Terre Haute Parks and Recreation Department.

b. Funds shall be used for the purchase and/or maintenance of capital projects within the Terre Haute Parks and Recreation Department and for the purchase of equipment. Such funds shall be subject to appropriation by the Common Council of the City of Terre Haute, Indiana.

c. Funds shall be used, in compliance with the restrictions set forth in subsection b., at the discretion of the Park Board.

d. Monies remaining in the fund at the end of the year shall not revert to any other fund and shall remain in the Parks & Recreation Department Non-Reverting Capital Projects Equipment Purchase Fund from year to year. (Gen. Ord. No. 8, 2013, 8-8-13)

Sec. 2-117 Police Pension Fund.

a. There is established a Police Pension Fund, for the use and benefit of the City of Terre Haute and the members of the Police Department.

b. The use of the Police Pension Fund shall be governed by I.C. § 36-8-6-1, *et seq.*

c. A Police Pension Fund Board of Trustees of the City of Terre Haute, Indiana, is established in accordance with the law, which shall administer the Police Pension Fund. (See Sec. 2-63 of this *Terre Haute City Code*).

d. That on or before January 01, 2019, a separate interest-bearing City account shall be created, segregating the 1925 Pension Fund from the City's general fund. Said account shall never bear a negative cash balance; however, as a result, qualified pension fund distributions may be required to be paid from other accounts and debited to the segregated 1925 Pension Fund Account until such time as state pension reimbursements are received.

e. If, on or after the enactment of this section e., any pension disbursements under this section are distributed by the City in an untimely manner; i.e., after the first of the month, Section d. shall accelerate. In such case the Common Council shall make all necessary and available appropriations enabling the creation of a segregated 1925 Pension Fund Account and shall direct the City Controller to create such an account to receive said appropriated funds. (Gen. Ord. 7, 2017, As Amended, 9-14-17)

Sec. 2-118 Police Continuing Education Fund.⁴⁷

a. There is established a fund known as the Law Enforcement Continuing Education Fund for the purpose of purchases made by the Terre Haute City Police Department for equipment, supplies, continuing education, and law enforcement training for the Police Department.

b. This fund shall be comprised of fees collected by the Terre Haute City Police Department from the following activities:

1. Vehicle inspections;
2. Accident reports;
3. Hand gun licenses and transfer; and
4. Law Enforcement Education (LEE) fees from city court cases. (Gen. Ord. No. 2, 1996, 8-8-96)
5. Moped Registration Fees. See: Sec. 8-101. (Gen. Ord. No. 9, 2011, 6-9-11)
6. Tow Release Fees. See: Sec. 6-184 (Gen. Ord. No. 2, 2012)
7. Fine(s) resulting from violation(s) of Chapter 4, Article 23, Non-consensual tow business. (Gen. Ord. 22, 2012; 1-10-13)
8. Parking ticket fees. See: Sec. 8-110 (Gen. Ord. No. 5, 2014)

Sec. 2-119 Local Road and Street Fund (LRS).

The Local Road and Street Fund (LRS) is established for the purpose of receiving applicable State funds and for expenditures permitted by statute. (*I.C.* § 8-14-2-1, *et seq.*)

Sec. 2-120 Motor Vehicle Highway Fund (MVH).

The Motor Vehicle Highway (MVH) Fund is continued for the purposes of receiving applicable State funds and for expenditures permitted by statute. (*I.C.* § 8-14-2-1, *et seq.*)

Sec. 2-121 Cumulative Capital Improvement Fund.⁴⁸

⁴⁷ *I.C.*, §§ 9-29-4-2, 9-29-11-1, 35-47-2-3, 33-19-8-4 and 33-6-3-4, address deposits into a Continuing Education Fund effective July 1, 1993. This fund replaces the Firearms Training Fund and the Accident Report Account.

⁴⁸ *I.C.*, § 36-9-16-1, *et seq.*, set forth the applicable State laws in this area.

a. In accordance with the requirements of Section 8 of Chapter 225, Acts 1965 General Assembly, there is created a special fund to be known as the Cumulative Capital Improvement Fund, into which the cigarette taxes allotted to the City by reason of Subsection C(1) of Section 27C and Section 27D of the Indiana Cigarette Tax Law, being Chapter 222 of the Acts of 1947, As Amended, shall be deposited. Such fund shall be a cumulative fund, and all of the monies deposited into such fund shall be appropriated and used solely for capital improvements as hereinafter defined, and none of such monies shall revert to the General Fund or be used for any purposes other than capital improvements. (1989 Terre Haute Municipal Code, § 118.01)

b. “Capital Improvement” means the construction or improvements of any property owned by the City, including but not limited to streets, thoroughfares and sewers and the retirement of general obligation bonds of the City issued and the proceeds used for the purpose of constructing capital improvement. Capital improvement shall not include salaries of any public officials or employees except those which are directly chargeable to a capital improvement. (1989 Terre Haute Municipal Code, § 118.02)

Sec. 2-122 Fire Department Non-Reverting Equipment Fund.

a. A special non-reverting operating account, entitled Terre Haute Fire Department Non-Reverting Equipment Fund, is established in the Terre Haute Fire Department for proceeds from the sale of used and excess Terre Haute Fire Department equipment and monies received from donations intended for the purchase and/or maintenance of equipment. (Gen. Ord. No. 24, 2003, 9-11-03)

b. Such funds shall be used for the purchase of new equipment or the repair of existing equipment for the Terre Haute Fire Department and shall be subject to appropriation by the Common Council of the City of Terre Haute, Indiana. (Gen. Ord. No. 4, 2000, 4-13-00)

Sec. 2-123 Terre Haute Fire Prevention Non-Reverting Fund.⁴⁹

a. A special non-reverting operating account, entitled Terre Haute Fire Department Fire Prevention Non-Reverting Fund, is established in the Terre Haute Fire Department.

b. The revenues generated by the fees set forth in Chapter 7, Article 3. Fire Prevention Code shall be collected and deposited in the dedicated Terre Haute Fire Department Fire Prevention Non-Reverting Fund.

c. Any grants or donations specifically designated for fire prevention equipment and/or fire prevention related activity shall be collected and deposited in the dedicated Terre Haute Fire Department Fire Prevention Non-Reverting Fund.

⁴⁹ Editor’s Note: Sec. 2-123 Fire Department Non Reverting Real Property Fund was eliminated by Gen. Ord. No. 14, 2012, 11-8-12.

d. Such funds shall be used solely for costs associated with operation and enforcement of the Terre Haute Fire Prevention Code, including, but not limited to, any and all investigation activities and administrative fees associated thereof.

e. Such funds shall be subject to appropriation by the Common Council of the City of Terre Haute, Indiana.

Sec. 2-124 Fire Department Non-Reverting Contractual Firefighting/Emergency Response Services Fund.

a. A special non-reverting operating account, entitled Terre Haute Fire Department Non-Reverting Contractual Firefighting/Emergency Response Services Fund, is established in the Terre Haute Fire Department for proceeds from contractual firefighting and/or emergency response services.

b. Such funds shall be used for the purchase, repair, maintenance and other expenses incurred for real and personal property of the City of Terre Haute, the City of Terre Haute Board of Public Works and Safety, or the Terre Haute Fire Department, which real or personal property is used by or for the benefit of the Terre Haute Fire Department.

c. In addition, funds received from contracts for special events emergency response services shall be used to pay for overtime of personnel required to fulfill the obligations of the contract.

d. Such funds shall be subject to appropriation by the Common Council of the City of Terre Haute, Indiana. (Gen. Ord. No. 19, 2000, 9-14-00)

Sec. 2-125 Non-Reverting Emergency Medical Service (E.M.S.) Capital Fund.

a. The revenues generated by the fees set forth in Sec. 4-282 shall be collected and deposited as follows: Ninety-five percent (95%) of the revenues shall be deposited in the dedicated Non-Reverting E.M.S. Capital Fund for Terre Haute Fire Department usage and Five percent (5%) of the revenues shall be desposited in the Terre Haute Fire Department Training Academy Non-Reverting Fund for capital and operational expenses of the Terre Haute Fire Department Training Academy. These funds shall be used for the purchase and repair of ambulance, fire, safety, and paramedic equipment, advanced life support equipment, ambulance personnel training, and expenses for administrative personnel to implement this ordinance, and capital and operational costs for a Terre Haute Fire Department Training Academy. (Gen. Ord. No. 8, 2000, 5-11-00; Gen. Ord. No. 10, 2006, As Amended, 6-8-06; Gen. Ord. No. 6, 2009, 8-13-09)

b. Funds in the Non-Reverting E.M.S. Capital Fund shall be subject to appropriation by the Terre Haute City Council. (Gen. Ord. No. 8, 2000, 5-11-00)

c. Billing and record keeping shall be maintained by the City Controller's Office. (Gen. Ord. No. 2, 2000, 2-10-00)

d. The ambulance/medical user fees established in Sec. 4-282 shall be effective and shall be charged for the specified services on the later of June 1, 2000, or the date when all administrative procedures necessary to implement the billing and collection of such ambulance/medical user fees have been implemented within the Terre Haute Fire Department or have otherwise been implemented through consulting contracts.

e. The administrative procedures for this provision shall be defined to include, but may not be limited to, the providing of administrative personnel for tracking, billing and collecting the charged fees, a billing system for charges and payments, and the structure for providing collected fees to the Controller's Office for deposit into the appropriate accounts as provided herein. (Gen. Ord. No. 2, 2000, 2-10-00)

Sec. 2-126 Police Department Non-Reverting Fund.

a. A special non-reverting operating account, entitled Terre Haute Police Department Non-Reverting Fund, is established in the Terre Haute Police Department for deposit of donations to the Terre Haute Police Department and the proceeds from the sale of Terre Haute Police Department equipment.

b. Such funds shall be used for the purchase, repair, maintenance and other expenses incurred for real and personal property of the City of Terre Haute, the City of Terre Haute Board of Public Works and Safety, or the Terre Haute Police Department, which real or personal property is used by or for the benefit of the Terre Haute Police Department. Such funds shall be subject to appropriation by the Common Council of the City of Terre Haute, Indiana. (Gen. Ord. No. 20, 2000, 9-14-00)

Sec. 2-127 Special Non-Reverting Employee Health Benefit Fund.

a. A special non-reverting fund is created for the City's partially self-funded employee health insurance plan, which fund shall be known as the "Special Non-Reverting Employee Health Benefit Fund."

b. The City Controller is hereby directed to begin a transfer from the various department budgets in an amount equal to the claim level for prescriptions and employee deductibles for November, 2000, and thereafter.

c. Upon completion of such transfer, the Common Council further authorizes the payment of the claim level for November, 2000 and thereafter from the special non-reverting fund established for purposes of administering this partially self-funded plan.

d. It is further understood that the City Controller is not adjudicating claims, but only paying the portion of the City's partially self-funded employee health insurance plan to the third party administrator and paying deductibles to employees in accordance with this Section. (Gen. Ord. No. 27, 2000, 12-14-00)

Sec. 2-128 Waste and Refuse Collection Cost Fund.⁵⁰

a. A special non-reverting operating account, entitled Waste and Refuse Collection Cost Fund, is established for the monthly charges collected pursuant to Section 9-116, and any penalties and collection costs collected resulting from delinquent payments.

b. Such funds shall be used solely for the purpose of paying the City's annual contract for Waste and Refuse Collection Cost, including administrative fees associated with the collection of charges outlined in Section 9-116.

c. Such funds shall be subject to appropriation by the Common Council of the City of Terre Haute, Indiana. (Gen. Ord. 6, 2016, 6-9-16)

Sec. 2-129 Abandoned Vehicle Non-Reverting Fund.

a. The Abandoned Vehicle Non-reverting Fund is created pursuant to *I.C.* § 9-22-1-30 which requires that the fiscal body establish an abandoned vehicle fund to receive those proceeds from the sale of abandoned vehicles including charges for bills of sale, and money received from persons who own or hold liens on vehicles for the cost of removal or storage of the vehicle.

b. Pursuant to *I.C.* § 9-22-1-27, such proceeds shall be deposited with the City Controller in the Abandoned Vehicle Non-reverting Fund, and the costs incurred for the removal, storage and disposal of abandoned vehicles shall be paid out of this Fund.

c. The fiscal body shall annually appropriate sufficient monies to carry out these services and the money remaining in the fund at the end of the year shall remain in the Fund and not to revert to the General Fund. (Gen. Ord. No. 35, 2000, 1-11-01)

Sec. 2-130 Reserved for Future Use. (Deleted by Gen. Ord. No. 15, 2005, 11-10-05)

Sec. 2-131 City Clerk's Records Perpetuation Fund.

a. A special non-reverting operating account, entitled City Clerk's Records Perpetuation Fund, is established in the City Clerk's Office for proceeds from court records perpetuation fees and fax fees.

b. Such funds shall be used for the development, maintenance, and support of document storage and retrieval.

c. The funds in the City Clerk's Records Perpetuation Fund shall be subject to the appropriation by the City Council prior to expenditure. (Gen. Ord. No. 16, 2001, 6-14-01)

⁵⁰ Editor's Note: Sec. 2-128 Park Department Skate Park Non-Reverting Fund, created by General Ordinance No. 20, 2000 and passed on January 11, 2002, was terminated and deleted by General Ordinance No. 20, 2006, passed on January 11, 2007.

Sec. 2-132 Animal Care Non-Reverting Fund.

a. A special non-reverting operating account, entitled Animal Care Non-Reverting Fund, is established for all monies collected from licensing and sale of permits, any donations, gifts, bequests or devises and all monies generated, received or collected in response to any Animal Control Commission or City special fund raising projects.

b. Such funds shall be used as designated by the donor or fund raising, or if undesignated, to promote the safe and humane treatment of animals in the City, to pay for any reasonable expenses incurred promoting the proper care, treatment and sterilization of animals and educating the public regarding the same.

c. Expenditure of funds in the Animal Care Non-Reverting Fund in excess of One Thousand Dollars (\$1,000.00) per quarter shall be subject to prior approval by the Animal Control Commission and subject to appropriation by the City Council prior to expenditure. (Gen. Ord. No. 2, 2002, 3-14-02)

Sec. 2-133 Reserved for Future Use. (Deleted by Gen. Ord. No. 15, 2005, 11-10-05)

Sec. 2-134 Reserved for Future Use.⁵¹

Sec. 2-135 Terre Haute City Code Non-Reverting Fund.

a. A special non-reverting account, entitled Terre Haute City Code Non-Reverting Fund, is established in the Legal Department and shall be funded by monies collected from the sale of the *Terre Haute City Code*.

b. Such funds shall be used for the purchase of supplies and postage necessary for the preparation of and updates to the *Terre Haute City Code*.

c. Expenditure of funds shall be subject to appropriation by the City Council prior to expenditure. (Gen. Ord. No. 8, 2003, 3-14-03)

Sec. 2-136 Rainy Day Fund.

a. There is hereby established a Rainy Day Fund consistent with the provisions of *I.C. § 36-1-8-5.1*.

b. The Rainy Day Fund shall be funded in the following manner:

(1) The unused and unencumbered funds raised by a general or special tax levy on the taxable property within the City of Terre Haute, and which remain after the purposes of the tax levy have been fulfilled; a supplemental distribution of CAGIT under *I.C. § 6-3.5-1.1-21.1*;

⁵¹ Editor's Note: Sec. 2-134 Telecommunications Non-Reverting Fund was eliminated by Gen. Ord. No. 15, 2012, 11-8-12.

supplemental distribution of COIT under I.C. 6-3.5-6-17.3; or a supplemental distribution of EDIT under 6-3.5-7.17.3, which are transferred to the Rainy Day Fund by the fiscal body consistent with the provisions of *I.C.* § 36-1-8-5. (Gen. Ord. No. 9, 2003, As Amended, 4-10-03; Gen. Ord. No. 16, 2004, 8-12-04)

(2) Transfers to the fund must be made after December 31, of any year and before March 1 of the subsequent year. (Gen. Ord. No 16, 1004, 8-12-04)

(3) In any fiscal year, the fiscal body of the City may transfer not more than ten percent (10%) of the City's total budget for that fiscal year into the Rainy Day Fund as provided in *I.C.* § 36-1-8-5.1. (Gen. Ord. No. 10, 2015, 8-13-15)

c. The City may, at any time, by ordinance or resolution, transfer to:

(1) its general fund; or

(2) any other appropriated funds of the City;

money that has been deposited in the Rainy Day Fund.

d. All funds to be used from the Rainy Day Fund must be appropriated by a simple majority vote of the fiscal body for the City of Terre Haute. (Gen. Ord. No. 9, 2003, As Amended, 4-10-03; Gen. Ord. No. 10, 2015, 8-13-15)

Sec. 2-137 Police Department Cash Change Fund.

There is hereby established in the Terre Haute Police Department a Cash Change Fund pursuant to *I.C.* § 36-1-8-2 which fund shall be established by warrant drawn on the general fund in the amount of \$590.25 in favor of Police Chief George Ralston which warrant shall be converted to cash and shall be used to make change when collecting the fees for police reports, to prevent the necessity of persons going to the Controller's Office for payment before receiving a report from the Police Department. The Cash Change Fund shall be returned to the General Fund when it is no longer needed or when there is a change in the custodian. (Gen. Ord. No. 5, 2004, 3-11-04)

Sec. 2-138 Police Department Petty Cash Fund.

There is hereby established in the Terre Haute Police Department Chief's Office a Petty Cash Fund pursuant to *I.C.* § 36-1-8-3 which shall be used to pay for small or emergency items of operating expense. The Office of the Chief of Police shall maintain records of receipts to the fund and expenditures therefrom and shall make a periodic report to the Office of the Controller on the balance of the fund and seeking any required reimbursement for expenditures. (Gen. Ord. No. 5, 2004, 3-11-04)

Sec. 2-138-1 Terre Haute Police Department Federal Equitable Sharing Fund.

a. There is hereby created a “Terre Haute Police Department Federal Equitable Sharing Fund.” The Fund shall consist of deposits of Federal Equitable Sharing monies received from the U.S. Department of Justice and from the U.S. Department of Treasury and payable to the Terre Haute Police Department and interest earned on such monies.

b. All monies collected or received under subsection a. shall be transferred to the City Controller who shall deposit said funds. Any such monies collected shall be maintained in a separate, interest bearing revenue account. Such account shall consist solely of deposits of Federal Equitable Sharing monies and interest earned thereon.

c. Monies received by the Terre Haute Police Department as a result of equitable sharing may be expended only with the approval of the City Executive upon a claim submitted by the Police Chief for the City of Terre Haute.

d. Shared funds may be expended only for law enforcement purposes in compliance with t regulations of the U.S. Department of Justice.

e. Monies remaining in the fund at the end of the year shall not revert to any other fund and shall continue in the Terre Haute Police Department Federal Equitable Sharing Fund.

Sec. 2-138-2 Waste Water Treatment Plant Petty Cash Fund.

There is hereby established in the Terre Haute Waste Water Treatment Plant a Petty Cash Fund pursuant to I.C. § 36-1-8-3 which shall be established in the amount of \$150.00 and used to pay for small or emergency items of operating expense. The Office of the Superintendent of the Waste Water Treatment Plant shall maintain records of receipts to the fund and expenditures therefrom and shall make a periodic report to the Office of the Controller on the balance of the fund and seeking any required reimbursement for expenditures. (Gen. Ord. No. 32, 2004, 12-09-04)

Sec. 2-138-3 Reserved for Future Use.⁵²

Sec. 2-138-4 Hazardous Materials Cost Recovery Fund.

a. A special non-reverting account, entitled Hazardous Materials Cost Recovery Non-Reverting Fund is established in the Fire Department. Proceeds shall include those monies derived from costs incurred in hazardous materials incidents.

b. Such funds shall be used only for expenditures authorized by I.C. § 36-6-12.2-8:

(1) Purchase of supplies and equipment used in providing hazardous materials emergency assistance under this chapter.

⁵² Editor’s Note: The Lead Awareness Fund established by General Ordinance No. 4, 2005 on April 14, 2005 was terminated and removed from the *City Code* by General Ordinance No. 7, 2007 on April 12, 2007.

(2) Training for members of the fire department in skills necessary for providing hazardous materials emergency assistance under *I.C. § 36-8-12.2*.

(3) Payments to persons with which the fire department contracts to provide services related to the hazardous materials emergency assistance provided by the fire department under *I.C. § 36-8-12.2*.

c. The funds in the Hazardous Materials Cost Recovery Non-Reverting Fund shall be subject to appropriation by the City Council prior to expenditure. (Gen. Ord. No. 13, 2005, 10-13-05)

Sec. 2-138-5 Electronic Map Generation Non-Reverting Fund.

a. A special non-reverting fund, entitled Electronic Map Generation Non-Reverting Fund, is established in the Engineering Department and shall be funded by monies paid to the Engineering Department for funds collected for duplication of electronic data as provided in *I.C. § 5-14-3-8(j)*.

b. Such funds shall be used for the following purposes:

(1) The maintenance, upgrading, and enhancement of the electronic map; and

(2) The reimbursement of expenses incurred by the City in supplying an electronic map in the form requested by a purchaser.

c. Expenditure of funds shall be subject to appropriation by the City Council prior to expenditure. (Gen. Ord. No. 20, 2005, 12-15-05)

Sec. 2-138-6 Fire Training Academy Non-Reverting Fund.

a. A special non-reverting account, entitled Fire Training Academy Non-Reverting Fund is established in the Fire Department for revenues from EMS Non-Reverting Fund, donations, grants, and other revenue sources for capital and operational expenses incurred by the Fire Training Academy.

d. Such funds shall be subject to appropriation by the Common Council of the City of Terre Haute. (Gen. Ord. No. 11, 2006, 6-8-06)

Sec. 2-139 Other Funds Continued.

The following funds are continued in effect. Each fund shall be funded and operated in accordance with all statutory requirements.

FUND NO.	DESCRIPTION	CODE §
0101	General Fund	

0200	Rainy Day Fund	2-136
0201	Motor Vehicle Highway (MVH)	2-120
0202	Local Road & Street	2-119
0204	Parks & Recreation	2-116
0205	Cemetery	
0211	Recreation Non-Reverting (Deleted by GO 20, 2006, 1-11-07)	2-115
0226	Public Parking Garage	
0228	Abandoned Vehicle Fee Non-Reverting	2-129
0233	TH Police Continuing Education	2-118
0236	City Clerk's Record Perpetuation Non-Reverting Fund	2-131
0270	EMS Non-Reverting	2-125
0271	TH Fire Contractual Services Non-Reverting	2-124
0272	Arson Investigation Non-Reverting (Deleted by Gen. Ord. No. 13, 2012, 11-8-12)	
0273	TH Police Big City/County	
0274	TH Police Non Reverting	
0275	TH Police DUI Task Force	
0276	TH Police Meth Lab State Grant	
0279	TH Police Street Crimes	
0280	TH Police Staying Right	
0284	TH Police Operation Pullover	
0287	Skate Park (Deleted by Gen. Ord. No. 20, 2006, 1-11-07)	2-128
0288	Hulman Links Non-Reverting	2-112
0289	Hulman Trust	
0290	Rea Park Non-Reverting	2-113
0291	Animal Control	2-132
0292	Engineering Non-Reverting	
0293	CSO Study	
0294	TH Youth Center	
0295	Non Federal Income	
0296	Home Program	
0297	District Capital	
0298	Sanitary District General	
0330	Sanitary District Bond	
0401	Cumulative Capital Improvement	2-121
0402	Cumulative Capital Development	
0406	CDBG	
0471	Tax Allocation	
0474	Sanitary District Project #17	
0475	Sanitary District Project #18	
0476	North Central Terre	
0477	Fire Dept. Non-Reverting Equipment	2-122
0478	Fire Dept. Non-Reverting Property (Deleted by Gen. Ord. No. 14, 2012, 11-8-12)	2-123

0504	Self Insured Property & Casualty	
0606	Sewage Operation	
0620	Wastewater Treatment Plant	
0621	Transit	
0702	Fire Pension	2-111
0703	Police Pension	2-117
0712	Payroll	
0713	Marble Hill Settlement	
0714	Cemetery Donations (Deleted by GO 3, 2005, 3-10-05)	
0715	TH Police Donations/Auctions	
0716	Park Donations (Deleted by GO 20, 2006, 1-117-07)	5-20
0717	Spirit of Terre Haute (Deleted by GO 20, 2006, 1-11-07)	
0718	Group Health Non-Reverting	2-127
0719	Spencer Ball Park	
0720	Cemetery Non-Reverting (Deleted by Go. 3, 2005, 3-10-05)	
0721	Levi Music Trust	
0722	Brittlebank Trust	
0723	Municipal Softball Non-Reverting (Deleted by GO 20, 2006, 1-11-07)	2-114
0724	TH Police Drug Forfeiture	
0725	Inspection Mowing Non-Reverting (Deleted by GO 15, 2005, 11-10-05)	2-130
0726	Cherry Street Project	
0727	Inspection General Contractor Non-Reverting (Deleted by Gen. Ord. No. 15, 2005, 11-10-05)	2-133
0728	Cemetery Trust	
0729	Sanitary District Project #19	
0730	TH Police Block Grant	
0731	Sanitary District Project #16	
0732	Telecommunications Non-Reverting	2-134
	Terre Haute City Code Non-Reverting Fund	2-135

ARTICLE 10. ORDINANCE VIOLATIONS BUREAU.

Sec. 2-140 Ordinance Violations Bureau Created.⁵³

There is created an Ordinance Violations Bureau for the City of Terre Haute which shall have the powers as granted by the laws of the State of Indiana described in *I.C. § 33-36-2-1, et seq. (1989 Terre Haute Municipal Code)*

Sec. 2-141 Purpose.

It shall be the purpose of the Ordinance Violations Bureau to accept appearances, waivers of trial, admissions of certain ordinance violations, and payment of civil penalties of Fifty

⁵³ *I.C.*, § 33-36-2-1, *et seq.*, address the ordinance violations bureau.

Dollars (\$50.00) or less, as set forth by ordinances. (Special Ord. No. 84, 1994, § 1, (142.02), 12-8-94)

Sec. 2-142 Administration.

The Clerk of the City of Terre Haute, Indiana shall be the appropriate person to administer the said Ordinance Violations Bureau. (1989 Terre Haute Municipal Code, § 142.03)

Sec. 2-143 Schedule of Code Provisions and Penalties.

a. The following Code provisions and respective civil penalties are designed for enforcement through the Ordinance Violations Bureau: (Special Ord. No. 84, 1994, § 1, (142.04), 12-8-94)

CHART OF VIOLATIONS AND PENALTIES

TERRE HAUTE CITY CODE §	SUBJECT MATTER	CIVIL PENALTIES	FIRST OFFENSE
6-183	Abandoned Vehicles		\$50.00 (Gen. Ord. No. 3, 1969, § 10, 7-16-69)
4-262 4-256 4-258 261	Alarm Systems Alarm Business License False Alarms Auto Telephone Dialing	\$25.00 - \$50.00	\$25.00 – 1 st offense \$50.00 – 2 nd offense (Gen. Ord. No. 5, 1996, § 527.17, 10-11-96)
8-112	Bicycles		\$25.00 (Gen. Ord. No. 1, 1984, § 15.3, 5-10-84)
7-21	Building Code	\$25.00 - \$2,500.00	\$25.00 (Gen. Ord. No. 1, 1988, § 20, 2-18-88)
6-101	Burning		\$25.00 (Spec. Ord. No. 84, 1994, § 1, 12-8-94)
5-101	Cemetery No Parking Areas	\$25.00	
6-122	Curfew (Trick-or-Treating)	\$300.00	(Special Ord. No. 67, 1980, § 2, 10-8-90)
6-83	Dogs and Other Animals		\$50.00 (Gen. Ord. No. 25, 2001, 3-14-02)
6-123, 6-165	Noise Nuisance		\$25.00 (Spec. Ord. No. 84, 1994, § 1, 12-8-94)
8-110	Parking	\$10.00 (\$15.00 if unpaid within 5	(Gen. Ord. No. 16, 2000, 9-14-00)

		business days)	
6-84	Pet Restraint		\$50.00 (Gen. Ord. 25, 2001; 3-14-02)
6-159	Property Damage	\$300.00 - \$2,500.00	(Spec. Ord. No. 85, 1994, § 1, 12-8-94)
9-93	Septic Tank		\$25.00 (Spec. Ord. No. 50, 1964, 12-23-64)
6-52	Smoke Free Facility	\$25.00	\$25.00 (Gen. Ord. No. 10, 1999, 12-9-99)
6-207	Trees	\$500.00 - \$2,500.00	(Gen. Ord. No. 5, 1998, As Amended, § 933.19, 4-17-98)
6-166	Vehicle Noise	\$25.00	\$25.00 (Gen. Ord. No. 14, 1998, § 509.05, 9-10- 98)

b. This schedule shall establish civil penalties to be assessed a violator who elects to admit to an ordinance or code violation, but shall in no way impair the ability of the City to bring suit to seek the imposition of any fine greater than that provided for by the schedule that is otherwise allowed by the *Terre Haute City Code* and/or state law.

c. Civil penalties shall be paid to, receipted, and accounted for by the Violations Clerk under procedures provided by the State Board of Accounts.

d. Payment of civil penalties may be made in person or by mail to the Violations Clerk.

e. Upon a person waiving the right to trial and entering an admission of a violation with the Violations Clerk, the Clerk shall assess and receive from the violator the amount prescribed by the schedule set forth in Subsection a. herein.

f. The provisions of *I.C.* §§ 33-6-3-1 through 33-6-3-5, as they may be amended from time to time, shall govern the operation of the Ordinance Violations Bureau and collection of all civil penalties.

Sec. 2-144 through 2-149 Reserved for Future Use.

ARTICLE 11. COLLECTIVE BARGAINING/BINDING ARBITRATION.

Sec. 2-150 Employees' Right to Collective Bargaining.

In accordance with *I.C. § 22-7-1-2*, all employees of the City of Terre Haute that are members in good standing with a labor union, as defined in *I.C. § 22-7-1-1* and have a recognized bargaining agent shall have the right, pursuant to *I.C. § 22-7-1-2*, to organize, select a bargaining representative and to bargain collectively with the City of Terre Haute for wages, benefits, and working conditions. (Gen. Ord. No. 6, 1998, § 143.01, 6-12-98)

Sec. 2-151 Binding Arbitration.

All employees of the City of Terre Haute that are members in good standing with a labor union shall have the right to have included in their working agreement with the City a clause providing for binding arbitration of disputes or grievances concerning the meaning or application of any provision of the contract. The specific provisions of the pertinent contract with regard to the scope and procedure of the arbitration shall govern arbitration. (Gen. Ord. No. 6, 1998, § 143.02, 6-12-98)

Sec. 2-152 Alternative Dispute Resolution.

Pursuant to *I.C. § 22-1-1-8(4)*, the City of Terre Haute encourages the inclusion of alternative dispute resolution such as mediation and arbitration into working agreements as viable alternatives to litigation. (Gen. Ord. No. 6, 1998, § 143.03, 6-12-98)

Sec. 2-153 Arbitration Regulations.

Arbitration between the City of Terre Haute and the union in question shall comply with the following regulations:

- a. All of the procedures for resolution of grievances or disputes concerning the meaning or application of a specific contract in question must be strictly followed prior to any mediation or arbitration.
- b. The City of Terre Haute and the union in question shall share the cost of mediation or arbitration equally.
- c. Once the arbitration process is complete, the decision made by the arbitrator shall be binding for the life of the specific contract in question, unless reversed by a court of competent jurisdiction. (Gen. Ord. No. 6, 1998, § 143.04, 6-12-98)

Sec. 2-154 Exclusive Jurisdiction of Police Merit Commission/Board of Public Works and Safety.

Nothing in this Article shall conflict with the provisions of *I.C. § 36-8-3.5-1, et seq.*, defining the powers and authority of the Police Merit Commission with respect to police officers and *I.C. § 36-3-3-1, et seq.*, defining the powers and authority of the Board of Public Works and Safety with respect to firefighters. (Gen. Ord. No. 6, 1998, § 143.05, 6-12-98)

Sec. 2-155 through Sec. 2-159 Reserved for Future Use.

ARTICLE 12. PURCHASING REGULATIONS.

Sec. 2-160 Designating Purchasing Agency.

The Board of Public Works and Safety is hereby designated as the Purchasing Agency for the City of Terre Haute, Indiana, with all of the powers and duties authorized under *I.C.* § 5-22. The Purchasing Agency shall designate in writing the Purchasing Agent. The Purchasing Agency may also designate in writing additional purchasing agents as necessary. (Gen. Ord. No. 23, 1998, § 143.01, 12-10-98)

Sec. 2-161 Purchase of Supplies under \$25,000.

The Purchasing Agency may purchase supplies with an estimated cost of less than Twenty Five Thousand Dollars (\$25,000.00) on the open market without inviting or receiving quotes or bids. (Gen. Ord. No. 23, 1998, § 143.02, 12-10-98)

Sec. 2-162 Purchase of Services.

It is hereby determined that each agency and/or department may purchase services in whatever manner the purchaser determines to be reasonable. (Gen. Ord. No. 23, 1998, § 143.03, 12-10-98)

Sec. 2-163 Purchase of Supplies Manufactured in the United States.

Supplies manufactured in the United States shall be specified for all purchases and shall be purchased unless the City of Terre Haute Board of Public Works and Safety determines:

- a. The supplies are not manufactured in the United States in reasonably available quantities;
- b. The price of the supplies manufactured in the United States exceeds by an unreasonable amount the comparable supplies manufactured elsewhere;
- c. The quality of the supplies manufactured in the United States is substantially less than the quality of comparably priced available supplies manufactured elsewhere; or
- d. The purchase of supplies manufactured in the United States is not in the public interest. (Gen. Ord. No. 23, 1998, § 143.04, 12-10-98)

Sec. 2-164 Purchasing Agency Procedures for Solicitation and Receipt of Bids and Proposals.

The Purchasing Agency for the City of Terre Haute shall adopt written procedures for the solicitation and receipt of bids and proposals for goods and services consistent with the provisions of *I.C.* § 5-22, *et seq.*, which shall include procedures for electronic transmission of material as provided in *I.C.* § 5-22-3-4. (Gen. Ord. No. 6, 2002, 3-14-02)

Sec. 2-165 through Sec. 2-169 Reserved for Future Use.

ARTICLE 13. FIRE DEPARTMENT MERIT SYSTEM.

Sec. 2-170 Chief.

a. The Executive shall appoint a Chief of the Terre Haute Fire Department who shall serve at the pleasure of the Executive.

b. The Chief shall have general charge of the daily operations of the department and may, with the approval of the Executive and funding by the fiscal body, appoint any number of executive assistants who shall hold the temporary rank and title of ASSISTANT CHIEF and/or BATTALION CHIEF, TRAINING CHIEF, CHIEF MECHANIC, SAFETY DIRECTOR AND EMS/HAZMAT COORDINATOR, as the Chief deems necessary to allow for the efficient discharge of executive duties. The Chief shall select "BATTALION CHIEFS" from among those holding the permanent merit rank of no lower than Captain in the department and meeting the standards determined by the Fire Merit Commission which shall be established and enforced no later than June 30, 2006. All executive assistants shall be temporary, and each executive assistant shall retain their former rank, unless promoted in accordance with this personnel system. (Gen. Ord. No. 19, 2002, As Amended, 9-12-02; Gen. Ord. No. 17, 2004, 8-12-04)

c. The Chief, with the approval of the Merit Board, shall establish a classification of ranks, grades and positions in the Fire Department and shall designate the authority and responsibilities of each rank, grade and position.

d. The Chief shall have the authority to assign or reassign any member of the Fire Department to serve at any station or headquarters, and to perform such duties as he shall designate, provided such grade and assignment results in no decrease in the firefighters rank and provided, the firefighter's minimum salary is commensurate with his/her rank.

e. The Chief has exclusive control of the Fire Department, subject to the rules and orders of the Merit Board. (Gen. Ord. No. 19, 2002, As Amended, 9-12-02)

Sec. 2-171 Merit Board.

There shall be established a civilian Fire Merit Board which shall consist of five (5) members who shall be appointed as follows: two (2) members who shall be elected by the active members of the Fire Department, the Union being delegated the responsibility of conducting the election and certifying the results to the Merit Board, in accordance with *I.C.* § 36-8-3.5-1, two (2) members shall be appointed by the Executive and one (1) member shall be appointed by the legislative body. Each member of the Merit Board shall be at least twenty-one (21) years of age, be of good moral character, be a legal resident of the City of Terre Haute for three (3) consecutive years preceding the term, and no member appointed or elected to the Merit Board shall be a member of the police or fire department, no more than two (2) board members may be past members of the police or fire department, and no board members may receive remuneration

as salary from the City, or of any other fire department or agency, or hold another elective or appointive office in either a city, town, township, county or state government.

a. Members of the Merit Board, called Board Members, shall serve for a term of four (4) years, however one (1) of the Executive's initial appointments and one (1) of the department's initial selections are for a term of two (2) years. All members, either elected or appointed shall serve during their respective terms and until their respective successors shall be appointed or elected, and qualified. A vacancy shall be filled by the appointing or electing authority within thirty (30) days for the remainder of the unexpired term.

An appointed member of the Merit Board may be removed by the appointing authority with or without cause and without right of hearing. If a vacancy occurs among the appointed members of the Merit Board, the appointing authority shall appoint a replacement to serve the unexpired term. If a vacancy occurs among the members of the Merit Board elected by the active members of the department, a replacement shall be elected by the active members of the department in accordance with *I.C.* § 36-8-3.5-8 to serve the unexpired term. A member of the Merit Board may be reappointed or elected for successive terms.

b. Three (3) members of the Board shall constitute a quorum for the purpose of taking official action; and a majority vote of all the Board Members is necessary to transact the business of the Board.

c. The Merit Board shall submit a proposed annual budget to the City Council. The legislative body shall include in the budget sufficient amounts to cover the necessary expenses of the Merit Board and only provide each member of the Merit Board a monthly stipend of Fifty Dollars (\$50.00).

d. The Merit Board shall administer and supervise a merit system established by this Article.

Within one hundred and eighty (180) days after the board is elected, it shall adopt rules to govern:

- (1) The time and place for holding regular and special meetings, the selection of officers, the maintenance of a record of meetings, and the procedures to be followed in conducting business;
- (2) The selection and appointment of persons to be employed as members of the department, subject to the applicable pension statutes;
- (3) Promotions and demotions of members of the department;
- (4) Disciplinary action or dismissal of members of the department;

except for upper level policy making positions for which authority is conferred on the City Executive by statute. Such rules shall be consistent with all statutory requirements for the

selection, appointment, promotion, demotion, discipline and dismissal of members of the department. The Board shall comply with statutory provisions for adoption of rules. (Gen. Ord. 19, 2002, As Amended, 9-12-02)

Sec. 2-172 through Sec. 2-179 Reserved For Future Use.

ARTICLE 14. DISCONTINUANCE OF CITY HEALTH INSURANCE BENEFITS FOR CITY EMPLOYEES.

Sec. 2-180 Discontinuance of City Health Insurance Benefits for City Employees.

a. The City of Terre Haute presently offers its full-time employees health insurance benefits during their employment with the City.

b. *I.C.* § 5-10-8-2.2 requires and in the collective bargaining contracts and salary ordinances, the administration and the Common Council for the City of Terre Haute has provided City health insurance benefits for retired Police Officers and Firefighters (hereinafter “Retired Public Safety Employees”), their Spouses, Surviving Spouses and Dependents.

c. The provisions of *I.C.* § 5-10-8-2.2 provide for the discontinuance of City health insurance benefits for Retired Public Safety Employees, their Spouses, Surviving Spouses and Dependents upon the occurrence of certain events.

d. The Common Council for the City of Terre Haute wishes to provide for the discontinuance of health insurance benefits for Retired Public Safety Employees, their Spouses, Surviving Spouses and Dependents consistent with the provisions of *I.C.* § 5-10-8-2.2 upon the occurrence of specified events. (Gen. Ord. No. 20, 2003, 7-10-03)

Sec. 2-181 Definitions.

a. **City.** The incorporated City of Terre Haute, Indiana.

b. **Public Safety Employee.** A full-time Police Officer or Firefighter of the City.

c. **Retired Public Safety Employee.** A Police Officer or Firefighter who:

(1) leaves employment with the City after June 30, 1986; and

(2) has completed twenty (20) years of full-time employment with a City Public Safety Department; and

(3) has reached the age of fifty-two (52) years on or before the retirement date, but is not eligible on the retirement date for Medicare coverage; and

(4) files a written request with the Personnel Department requesting retiree insurance benefits within ninety (90) days after the retirement date or the enactment of this Article.

d. **City Insurance.** Individual or family group medical insurance benefits made available by the City to all full-time City employees.

e. **Surviving Spouse.** The spouse of a Public Safety Employee at the time of the Public Safety Employee's death while in active service or after retirement.

f. **Child or Dependant.** A natural child, stepchild or adopted child of a Public Safety Employee who is less than eighteen (18) years of age and not emancipated; eighteen (18) years of age or older and physically or mentally disabled as established by Social Security Administration disability guidelines; at least eighteen (18) and less than twenty-one (21) years of age, enrolled in and regularly attending a secondary school or is a full-time student in an accredited university or college. (Gen. Ord. No. 20, 2003, 7-10-03)

Sec. 2-182 Benefits.

a. Until a Retired Public Safety Employee, his or her Spouse, Dependent(s), or Surviving Spouse is eligible for Medicare coverage, the City shall make available a group health insurance program for such persons, and shall pay the percentage listed in the then-current salary ordinance of the premium for such group health insurance. When a Retired Public Safety Employee, his/her Spouse, Dependant or Surviving Spouse becomes eligible for Medicare coverage, the Retired Public Safety Employee, his/her Spouse's, Dependent's or Surviving Spouse's eligibility for participation in the City Insurance shall automatically terminate.

b. When a Surviving Spouse and/or Dependant becomes eligible for other health insurance, the eligibility for participation in the City Insurance shall automatically terminate.

c. The obligation of the City to pay the designated percentage of the City Insurance premium is conditioned upon the Retired City Employee, his/her Spouse, Dependent or Surviving Spouse making payment of any balance of his/her monthly City Insurance premium. (Gen. Ord. No. 20, 2003, 7-10-03)

Sec. 2-183 Benefits for Other Employees.

For City employees who are not public safety employees and are not covered by any other union contract/agreement, the City will continue to pay its portion of the monthly premium of a retiree's single employee group health and hospitalization insurance plan for retirees until they reach their 65th birthday in consideration of the following:

a. Retiree is at least sixty-two (62) years old;

b. Retiree is currently and has been a full-time employee of the City for at least twenty (20) years;

c. Retiree is currently enrolled in the group health and hospitalization insurance plan provided by the City and has been enrolled for at least ten (10) years, five (5) years of which have occurred continuously up to the time of retirement;

d. Retiree informs the City Controller in writing of his request for such coverage at least thirty (30) days prior to retirement;

e. Retiree may choose another city offered insurance plan (i.e., employee/spouse, employee/children, family, etc.), but the retiree will be responsible for paying the difference between the employee only plan and the selected plan.

ARTICLE 15. FAIR HOUSING.

Sec. 2-190 Purpose.

The purposes of this Article are the following:

a. To adopt an ordinance pursuant to I.C. 22-9-1-12.1 to effectuate the public policy set forth in I.C. 22-9-1-2 within the City of Terre Haute, Indiana;

b. To provide fair housing rights and remedies; and

c. To provide fair housing law that is substantially equivalent to federal law (Title VIII of the Civil Rights Acts of 1988).

Sec. 2-191 Definitions.

The definitions in this Section apply throughout this Article.

a. **Aggrieved Person.** Includes any person who:

(1) claims to have been injured by a discriminatory housing practice; or

(2) believes that the person will be injured by a discriminatory housing practice that is about to occur.

b. **Commission.** Refers to the Terre Haute Human Relations Commission designated by General Ordinance No. 4, 1999, as amended now or hereafter amended.

c. **Complainant.** A person, including the Commission, who files a complaint under this Article.

d. **Conciliation.** The attempted resolution of issues raised by a Complainant or by the investigation of a complaint, through informal negotiations involving the Aggrieved Person, the respondent, and the Commission.

e. **Conciliation Agreement.** A written agreement setting forth the resolution of the issues in Conciliation.

f. **Director.** Refers to the Executive Director hired by the Commission pursuant to G.O. No. 4, 1999, as now or hereafter amended.

g. **Discriminatory Housing Practice.** An act prohibited by I.C. 22-9.5-5 or this Article.

h. **Dwelling.** Shall mean:

(1) any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residency by one (1) or more families; or

(2) any vacant land that is offered for sale or lease for the construction or location of a building, structure or part of a building or structure described by subsection (1).

i. **Family.** Includes a single individual.

j. **Disabled.**

(1) Shall mean, with respect to a person:

(a) a physical or mental impairment that substantially limits one (1) or more of the person's major life activities.

(b) a record of having an impairment described in subsection (1); or

(c) being regarded as having an impairment described in subsection (1).

(2) The term does not include current illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)).

(3) The term does not include an individual solely because that individual is a transvestite.

k. **Person.** One or more individuals, corporations, limited liability companies, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11, receivers, and fiduciaries.

l. **Respondent.** Shall mean:

(1) the person accused of a violation of this Article in a complaint of discriminatory housing practice; or

- (2) any person identified as an additional or a substitute respondent under this Article or an agent of an additional or a substitute respondent.

m. **To Rent.** Includes to lease, to sublease, to let, or to otherwise grant for a consideration the right to occupy premises not owned by the occupant.

Sec. 2-192 Exemptions – Sale or Rental of Single-Family Homes, Rooms or Units in Certain Dwellings.

a. Subject to Subsection b. of this Section, Sections 2-206 through 2-214 do not apply to the following:

- (1) The sale or rental of a single-family house sold or rented by an owner if:

- (a) the owner does not:

- 1. Own more than three single-family houses at any one time, or
- 2. Own any interest in, nor is there owned or reserved on the owner's behalf, under any express or voluntary agreement, title to or any right to any part of the proceeds from the sale or rental of more than three single-family houses at any one time, and

- (b) The house was sold or rented without:

- 1. The use of the sale or rental facilities or services of a real estate broker, an agent or a salesman licensed under I.C. 25-34.1; or of an employee or agent of a licensed broker, or agent or a salesman; or the facilities or services of the owner of a dwelling designed or intended for occupancy by five (5) or more families, or
- 2. The publication, posting or mailing of a notice, a statement or an advertisement prohibited by Sec. 2-207.

(2) The sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other if the owner maintains and occupies one of the living quarters as the owner's residence.

b. The exemption in Subsection a.(1) of this Section applies to only one sale or rental in a twenty-four (24) month period if the owner was not the most recent resident of the house at the time of the sale or rental.

Sec. 2-193 Exemptions – Religious Organizations.

This Article does not prohibit a religious organization, association or society or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from:

- a. Limiting the sale, rental or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion; or
- b. Giving preference to persons of the same religion, unless membership in such religion is restricted because of race, color or national origin.

Sec. 2-194 Exemptions – Private Club.

This Article does not prohibit a private club, not in fact open to the public, which as an incident to the club’s primary purpose, provides lodging which the club owns or operate for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members, unless membership in such club is restricted because of race, color or national origin.

Sec. 2-195 Exemptions – Housing for Older Persons.

a. As used in this Article, “Housing for Older Persons” means housing that the Commission determines is:

- (1) Specifically designed and operated to assist elderly persons under a federal or state program;
 - (2) Intended for, and solely occupied by, persons at least sixty-two (62) years of age;
- or
- (3) Intended and operated for occupancy by at least one person at least fifty-five (55) years of age in each unit.

b. Housing that includes units that are unoccupied or that are occupied by person who do not meet the age requirements of Subsection a.(2) or a.(3) of this Section does not fail to meet the requirements for housing for older persons if:

- (1) The unoccupied units are reserved for persons who meet the age requirements of Subsection a.(2) or a.(3) of this Section;
- (2) The occupants who do not meet the age requirements of said Subsection a.(2) or a.(3) have resided in the housing since September 13, 1988, or an earlier date, and the persons who became occupants after September 13, 1988, meet the age requirements of said Subsection a.(2) or a.(3).

c. The Commission shall adopt rules to establish criteria for making determinations under Subsection a. of this Section. These rules must include at least the following provisions:

(1) Except as provided in Subsection c.(2) of this Section, the housing must provide significant facilities and services specifically designed to meet the physical or social needs of older persons.

(2) If the provision of the facilities and services described in Subsection c.(1) of this Section is not practicable, the housing must be necessary to provide important housing opportunities for older persons.

(3) At least eight percent (80%) of the units must be occupied by at least one person who is at least fifty-five (55) years of age.

(4) The owner or manager of the housing must publish and adhere to policies and procedures that demonstrate an intent by the owner or manager to provide housing for persons who are at least fifty-five (55) years of age.

d. The provisions of Sections 2-206 through 2-214 relating to familial status do not apply to housing for older persons.

Sec. 2-196 Exemptions – Appraisals of Property.

This Article does not prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, sex, disability, familial status or national origin.

Sec. 2-197 Health or Safety Restrictions – Other Laws Not Affected.

a. This Article does not affect a reasonable local or state restriction on the maximum number of occupants permitted to occupy a dwelling, or a restriction relating to health or safety standards.

b. This Article does not affect a requirement of nondiscrimination in any other state or federal law.

Sec. 2-198 Administration of Article.

The Commission shall administer this Article.

Sec. 2-199 Adoption of Rules.

The Commission may adopt rules necessary to implement this Article.

Sec. 2-200 Action on Complaints Alleging Violations.

As provided by Sec. 2-219, the Commission shall receive, investigate, conciliate and act on complaints alleging violations of this Article.

Sec. 2-201 Delegation of Powers and Duties to Director.

The Commission may, by rule, authorize the Director hired by the Commission to exercise the Commission's powers or perform the Commission's duties under this Article.

Sec. 2-202 Cooperation with Other Entities.

The Commission shall cooperate with and, as appropriate, may seek or provide technical and other assistance to federal, state, local and other public or private entities that are formulating or operating programs to prevent or eliminate discriminatory housing practices.

Sec. 2-203 Subpoenas and Discovery Provisions.

a. The Commission may issue subpoenas and order discovery as provided by this Article in aid of investigations and hearing under this Article.

b. Subpoenas and discovery in aid of investigations may be ordered to the same extent and are subject to the same limitations as subpoenas and discovery in a civil action in a circuit court. Subpoenas and discovery in aid of hearings are subject to I.C. 4-21.5.

Sec. 2-204 Deferral and Transfer of Complaints.

a. The Commission may defer proceedings under this Article and transfer a complaint to the Indiana Civil Rights Commission if the Indiana Civil Rights Commission has been recognized by the United State Department of Housing and Urban Development as having adopted statutes providing fair housing rights and remedies that are substantially equivalent to the rights and remedies granted under federal law.

b. The Commission may defer proceedings under this Article and transfer a complaint to the Department of Housing and Urban Development pursuant to the rules and regulations of the Commission and of the Department of Housing and Urban Development.

Sec. 2-205 Acceptance of Gifts and Grants.

The Commission may accept gifts and grants from any public or private source for the purpose of administering this Article.

Sec. 2-206 Discrimination in Connection with Sale or Rental of Dwellings Prohibited – Exception.

a. A person may not refuse to sell or to rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, sex, familial status, disability, or national origin.

b. A person may not discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in providing services or facilities in connection with the sale or rental of a dwelling, because of race, color, religion, sex, familial status, disability or national origin.

c. This Article does not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

Sec. 2-207 Discriminatory Notices, Statements or Advertising Prohibited.

A person may not make, print or publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, disability, familial status or national origin, or an intention to make such a preference, limitation or discrimination.

Sec. 2-208 Representations Regarding Availability of Dwelling for Inspection.

A person may not represent to any person because of race, color, religion, sex, disability, familial status or national origin that a dwelling is not available for inspection, for sale or rental when the dwelling is so available.

Sec. 2-209 Representations Regarding Entry of Certain Persons into Neighborhood.

A person may not, for profit, induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, religion, sex, disability, familial status or national origin.

Sec. 2-210 Persons with a Disability – Discrimination Prohibited.

a. A person may not discriminate in the sale or rental or otherwise make available or deny a dwelling to any buyer or renter because of a disability of:

(1) The buyer or renter;

(2) A person residing in or intending to reside in the dwelling after the dwelling is sold, rented or made available; or

(3) Any person associated with the buyer or renter.

b. A person may not discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability of:

(1) The person;

(2) A person residing in or intending to reside in the dwelling after the dwelling is sold, rented or made available; or

(3) Any person associated with the person.

c. For purposes of this Section only, “discrimination” includes the following:

(1) A refusal to permit, at the expense of or on behalf of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by the person with a disability if the modifications may be necessary to afford the person full enjoyment of the premises.

(a) A landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a manner that is consistent with the quality of the existing premises and that any required building permits will be obtained.

(b) A landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the premises, at the end of the tenancy, to the condition that existed before the modification, reasonable wear and tear excepted.

I The landlord may not increase for persons with a disability any customarily required security deposit. However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the estimated cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.

(2) A refusal to make reasonable accommodations in rules, policies, practices or services, when the accommodations may be necessary to afford the person with a disability equal opportunity to use and enjoy a dwelling.

(3) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in a manner that:

(a) The public use and common use parts of the dwellings are readily accessible to and usable by persons with a disability.

(b) All the doors are designed to allow passage into and within all premises within the dwellings and are sufficiently wide to allow passage by persons with a disability in wheelchairs; and

I All premises within the dwellings contain the following features of adaptive design:

1. An accessible route into and through the dwelling;
2. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.
3. Reinforcements in bathroom walls to allow later installation of grab bars;
4. Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

and

d. As used in Subsection c. of this Section, “covered multifamily dwellings” means:

(1) Buildings consisting of four (4) or more units if the buildings have one or more elevators; and

(2) Ground floor units in other buildings consisting of four (4) or more units.

e. Compliance with the rules of a fire prevention and/or building safety authority that incorporate by reference the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (ANSI A117.1) satisfies the requirements of Subsection c.(3)I of this Section.

f. This Section does not require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

Sec. 2-211 Residential Real Estate Related Transaction Defined.

As used in Sections 2-206 through 2-214, “residential real estate transaction” means the following: Making or purchasing loans or providing other financial assistance:

- a. To purchase, construct, improve, repair or maintain a dwelling.
- b. To secure residential real estate.

Sec. 2-212 Discrimination Prohibited – Selling, Brokering or Appraising Residential Real Property.

A person whose business includes engaging in residential real estate related transactions may not discriminate against a person in making a real estate related transaction available or in the terms or conditions of a real estate related transaction because of race, color, religion, sex, disability, familial status or national origin.

Sec. 2-213 Discrimination Prohibited; Brokers' Organizations, Services or Facilities.

A person may not deny any person access to, or membership or participation in, a multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or discriminate against a person in the terms or conditions of access, membership or participation in such an organization, service or facility because of race, color, religion, sex, disability, familial status or national origin.

Sec. 2-214 Coercion, Intimidation, Threats or Interference.

A person may not coerce, intimidate, threaten or interfere with any other person:

- a. In the exercise or enjoyment of any right granted or protected by this Article; or
- b. Because the person has exercised or enjoyed, or has encouraged another person in the exercise or enjoyment of, any right granted or protected by this Article.

Sec. 2-215 Administrative Enforcement; Investigation of Discriminatory Housing Practices; Filing of Complaint; Amendment; Notice.

The Commission shall investigate alleged discriminatory housing practices.

- a. A complaint concerning an alleged discriminatory housing practice as defined in this Article must be filed not later than ninety (90) days after an alleged discriminatory housing practice has occurred or terminated, whichever is later.
- b. A complaint under this Article may be reasonably and fairly amended at any time.
- c. When a complaint is filed under this Article, the Commission shall do the following:
 - (1) Give the aggrieved person notice that the complaint has been received;
 - (2) Advise the aggrieved person of the time limits and choice of forums under this Article;
 - (3) Not later than twenty (20) days after the filing of the complaint or the identification of an additional respondent under Sec. 2-218, serve on each respondent:
 - (a) A notice identifying the alleged discriminatory housing practice and advising the respondent of the procedural rights and obligations of a respondent under this

Article.

- (b) A copy of the original complaint.

Sec. 2-216 Administrative Enforcement; Complaint Response.

a. Not later than ten (10) days after receipt of the notice and copy under Sec. 2-215 c.(3), a respondent may file an answer to the complaint.

b. An answer must be:

- (1) In writing;
- (2) Under oath; and
- (2) In the form prescribed by the Commission.

c. An answer may be reasonably and fairly amended at any time with the consent of the Director.

d. An answer does not inhibit the investigation of a complaint.

Sec. 2-217 Administrative Enforcement; Investigation of Complaints Referred by Federal Government.

a. If the federal government or the state has referred a complaint to the Commission or has deferred jurisdiction over the subject matter of the complaint to the Commission, the Commission shall promptly investigate the allegations set forth in the complaint.

b. The Commission shall investigate all complaints, except as provided by Subsection c. of this Section, shall complete an investigation not later than one hundred (100) days after the date the complaint is filed, or if the Commission is unable to complete the investigation within the one hundred (100) day period, shall dispose of all administrative proceedings related to the investigation not later than one (1) year after the date the complaint is filed.

c. If the Commission is unable to complete the investigation within the time periods prescribed by Subsection b. of this Section, the Commission shall notify the complainant and the respondent in writing of the reasons for the delay.

Sec. 2-218 Administrative Enforcement; Joinder of Additional or Substitute Respondents.

a. The Commission may join a person not named in the complaint as an additional or substitute respondent if in the course of the investigation the Commission determines that the person should be accused of a discriminatory housing practice.

b. In addition to the information required in the notice under Sec. 2-215c.(3), the Commission shall include in a notice to a respondent joined under this Section an explanation of the basis for the determination that the person is properly joined as a respondent.

Sec. 2-219 Administrative Enforcement; Conciliation Agreements.

a. The Commission shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the Commission, to the extent feasible, engage in conciliation with respect to the complaint.

b. A conciliation agreement is an agreement between a respondent and the complainant and is subject to Commission approval.

c. A conciliation agreement may provide for binding arbitration or other methods of dispute resolution. Dispute resolution that results from a conciliation agreement may authorize appropriate relief, including monetary relief.

d. A conciliation agreement shall be made public unless the complainant and respondent agree otherwise and the Commission determines that disclosure is not necessary to further the purposes of this Article.

e. Nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under this Article without the written consent of the persons concerned.

f. After completion of the Commission's investigation, the Commission shall make available to the aggrieved person and the respondent, at any time, information derived from the investigation and the final investigation report relating to that investigation.

Sec. 2-220 Administrative Enforcement; Action for Temporary Relief or Preliminary Relief.

a. If the Commission concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this Article, the Commission may file a civil action for appropriate temporary relief or preliminary relief pending final disposition of the complaint in a circuit or superior court that is located in the county in which the alleged discriminatory housing practice occurred.

b. A temporary restraining order or other order granting preliminary or temporary relief under this Section is governed by the Indiana Rules of Trial Procedure.

c. The filing of a civil action under this Section does not affect the initiation or continuation of administrative proceedings under Sec. 2-228.

Sec. 2-221 Administrative Enforcement; Final Investigative Report.

- a. The Commission shall prepare a final investigative report showing the following:
 - (1) The names and dates of contacts with witnesses;
 - (2) A summary of correspondence and other contacts with the aggrieved person and the respondent showing the dates of the correspondence and contacts;
 - (3) A summary description of other pertinent records;
 - (4) A summary of witness statements;
 - (5) Answers to interrogatories.
- b. A final report under this Article may be amended if additional evidence is discovered.

Sec. 2-222 Administrative Enforcement; Determination of Probable Cause.

- a. The Commission shall determine based on the facts whether probable cause exists to believe that a discriminatory housing practice has occurred or is about to occur.
- b. The Commission shall make the determination under Subsection a. of this Section not later than one hundred (100) days after the date a complaint is filed unless:
 - (1) It is impracticable to make the determination; or
 - (2) The Commission has approved a conciliation agreement relating to the complaint.
- c. If it is impracticable to make the determination within the time period provided by Subsection b. of this Section, the Commission shall notify the complainant and respondent in writing of the reasons for the delay.
- d. If the Commission determines that probable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Commission shall immediately issue a finding of probable cause on behalf of the aggrieved person.

Sec. 2-223 Administrative Enforcement; Finding of Probable Cause; Contents; Copies.

- a. A finding of probable cause issued under Sec. 2-222:
 - (1) Must consist of a short and plain statement of the facts on which the Commission has found probable cause to believe that a discriminatory housing practice has occurred or is about to occur;
 - (2) Must be based on the final investigative report; and

Need not be limited to the facts or grounds alleged in the complaint.

b. Not later than twenty (20) days after the Commission issues a finding of probable cause, the Commission shall send a copy of the finding of probable cause with the information concerning the election under Sec. 2-226 to the following:

(1) Each respondent, together with a notice of the opportunity for a hearing provided by Sec. 2-228;

(2) Each aggrieved person on whose behalf the complaint was filed.

Sec. 2-224 Administrative Enforcement; Dismissal of Complaint.

a. If the Commission determines that no probable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Commission shall promptly dismiss the complaint.

b. The Commission shall make public disclosure of each dismissal under this Section.

Sec. 2-225 Administrative Enforcement; Finding of Probable Cause Precluded after Commencement of Civil Actions.

The Commission may not issue a finding of probable cause under this Article regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under federal or state law seeking relief with respect to that discriminatory housing practice.

Sec. 2-226 Administrative Enforcement; Election To Have Claims Decided in Civil Action.

a. A complainant, a respondent or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in a finding of probable cause decided in a civil action as provided in Sec. 2-227.

b. The election must be made not later than twenty (20) days after the date of receipt by the electing person of service under Sec. 2-223b. or, in the case of the Commission, not later than twenty (20) days after the date the finding of probable cause was issued.

c. The person making the election shall give notice to the Commission and to all other complainants and respondents to whom the finding of probable cause relates.

Sec. 2-227 Administrative Enforcement; Filing of Civil Action; Intervention by Aggrieved Persons; Granting Relief.

a. If timely election is made under Sec. 2-226, the Commission shall, not later than thirty (30) days after the election is made, file a civil action on behalf of the aggrieved person seeking relief under this Section in a circuit or superior court that is located in the county in which the alleged discriminatory housing practice occurred.

b. An aggrieved person may intervene in the action, as permitted by the court.

c. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief that a court may grant in a civil action under I.C. 22-9.5-7.

d. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court may not award the monetary relief if that aggrieved person has not complied with discovery orders entered by the court.

Sec. 2-228 Administrative Enforcement; Hearing.

a. If a timely election is not made under Sec. 2-226, the Commission shall provide for a hearing on the finding of probable cause.

b. Except as provided by Subsection c. of this Section, I.C. 4-21.5 governs a hearing and an appeal of a hearing under this Section.

c. A hearing under this Section may not continue regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved person under federal or state law seeking relief with respect to that discriminatory housing practice.

Sec. 2-229 Administrative Enforcement; Order for Appropriate Relief; Penalties.

a. If the Commission determines at a hearing under Sec. 2-228 that a respondent has engaged in or is about to engage in a discriminatory housing practice, the Commission may order the appropriate relief, including actual damages, reasonable attorney's fees, court costs and other injunctive or equitable relief.

b. To vindicate the public interest, the Commission may assess a civil penalty against the respondent in an amount that does not exceed the following:

(1) Ten Thousand Dollars (\$10,000.00) if the respondent has not been adjudged by order of the Commission or a court to have committed a prior discriminatory housing practice.

(2) Except as provided by Subsection c. of this Section, Twenty Five Thousand Dollars (\$25,000.00) if the respondent has been adjudged by order of the Commission or a court to have committed one other discriminatory housing practice during the five (5) year period ending on the date of the filing of the finding of probable cause.

(3) Except as provided by Subsection c. of this Section, Fifty Thousand Dollars (\$50,000.00) if the respondent has been adjudged by order of the Commission or a court to have committed two (2) or more discriminatory housing practices during the seven (7) year period ending on the date of the filing of the finding of probable cause.

c. If the acts constituting the discriminatory housing practice that is the object of the finding of probable cause are committed by the same individual who has been previously adjudged to have committed acts constituting a discriminatory housing practice, the civil penalties in Subsections b.(2) and (3) of this Section may be imposed without regard to the period of time within which any other discriminatory housing practice occurred.

d. The Commission may sue to recover a civil penalty due under this Section.

Sec. 2-230 Administrative Enforcement; Certain Contracts, Sales, Encumbrances or Leases Unaffected by Order.

A Commission order under Sec. 2-229 does not affect a contract, a sale, an encumbrance or a lease that:

a. Was consummated before the Commission issued the order; and

b. Involved a bona fide purchaser, an encumbrancer, or a tenant who did not have actual notice of the finding of probable cause filed under this Article.

Sec. 2-231 Administrative Enforcement; Respondents Subject to Licensing or Regulation by Governmental Agencies.

If the Commission issues an order with respect to a discriminatory housing practice that occurred in the course of a business subject to licensing or regulation by a governmental agency, the Commission shall, not later than thirty (30) days after the date of the issuance of the order:

a. Send copies of the findings and the order to the governmental agency; and

b. Recommend to the governmental agency appropriate disciplinary action.

Sec. 2-232 Administrative Enforcement; Issuance of Subsequent Orders to Same Respondent.

If the Commission issues an order against a respondent against whom another order was issued within the preceding five (5) years under Sec. 2-229, the Commission shall send a copy of each order issued under that section to the Attorney General.

Sec. 2-233 Enforcement by Private Persons; Filing of Action by Aggrieved Person.

a. Pursuant to I.C. 22-9.5-7-1, an aggrieved person may file a civil action in the circuit or superior court located in the county in which the alleged discriminatory practice

occurred not later than one (1) year after the occurrence of the termination of an alleged discriminatory housing practice or the breach of a conciliation agreement entered into under this Article, whichever occurs last, to obtain appropriate relief with respect to the discriminatory housing practice or breach.

b. The one (1) year period does not include any time during which an administrative hearing under this Article is pending with respect to a complaint or finding of probable cause under this Article based on the discriminatory housing practice. This Subsection does not apply to actions arising from a breach of a conciliation agreement.

c. An aggrieved person may file an action under this Section whether or not a complaint has been filed under this Article and without regard to the status of any complaint filed under this Article.

d. If the Commission has obtained a conciliation agreement with the consent of an aggrieved person, the aggrieved person may not file an action under this Section with respect to the alleged discriminatory housing practice that forms the basis for the complaint except to enforce the terms of the agreement.

e. An aggrieved person may not file an action under this Section with respect to an alleged discriminatory housing practice that forms the basis of a finding of probable cause issued by the Commission if the Commission has begun a hearing on the record under this Article with respect to the finding of probable cause.

Sec. 2-234 Enforcement by Private Persons; Award of Relief.

If the court finds that a discriminatory housing practice has occurred or is about to occur in a civil action under this Article, pursuant to I.C. 22-9.5-7-2, the court may award to the prevailing party the following:

- a. Actual and punitive damages;
- b. Reasonable attorney's fee;
- c. Court costs;
- d. Subject to I.C. 22-9.5-7-3, any permanent or temporary injunction, temporary restraining order or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.

Sec. 2-235 Enforcement by Private Persons; Certain Contracts, Sales, Encumbrances or Leases Unaffected by Relief Granted.

Relief granted under this Article does not affect a contract, a sale, an encumbrance or a lease that:

- a. Was consummated before the granting of the relief; and
- b. Involved a bona fide purchaser, an encumbrancer or a tenant who did not have actual notice of the filing of a complaint or a civil action under this Article.

Sec. 2-236 Intervention by Commission.

- a. The Commission may intervene in a civil action in the circuit or superior court under this Article if the Commission determines that the case is of general public importance.
- b. The Commission may obtain the same relief available to the Commission under Sec. 2-238.

Sec. 2-237 Enforcement by the Commission; Filing of Civil Action.

- a. Pursuant to I.C. 22-9.5-8.1-1, the Commission may file a civil action for appropriate relief if the Commission has probable cause to believe that:
 - (1) A person is engaged in a pattern or practice of resistance to the full enjoyment of any right granted by this Article; or
 - (2) A person has been denied any right granted by this Article and that denial raises an issue of general public importance.
- b. An action under this Section may be filed in a circuit or superior court located in the county in which the alleged pattern, practice or denial occurred.

Sec. 2-238 Enforcement by the Commission; Award of Relief.

In a civil action filed under Sections 2-237 through 2-240, the court may do the following:

- a. Award preventative relief, including a permanent or temporary injunction, restraining order or other order against the person responsible for a violation of this Article as necessary to assure the full enjoyment of the rights granted by this Article.
- b. Award other appropriate relief, including monetary damages, reasonable attorney's fees and court costs;
- c. To vindicate the public interest, assess a civil penalty against the respondent in an amount that does not exceed the following:
 - (1) Fifty Thousand Dollars (\$50,000.00) for a first violation;One Hundred Thousand Dollars (\$100,000.00) for a second or subsequent violation.

Sec. 2-239 Enforcement by the Commission; Intervention in Civil Action.

A person may intervene in a civil action under Sections 2-237 through 2-240 if the person is:

- a. An aggrieved person to the discriminatory housing practice; or
- b. A party to a conciliation agreement concerning the discriminatory housing practice.

Sec. 2-240 Enforcement of Subpoena.

The Commission attorney, on behalf of the Commission or other party at whose request a subpoena is issued under this Article, may enforce the subpoena in appropriate proceedings in the circuit or superior court.

Sec. 2-241 Attorney's Fees and Court Costs.

A court in a civil action brought under this Article, or the Commission in an administrative hearing under Sec. 2-228, may award reasonable attorney's fees to the prevailing party and assess court costs against the nonprevailing party.