

BILL NO. G-16-02-21

General Ordinance No.

**AN ORDINANCE AMENDING CHAPTER 36 OF THE
CITY OF FORT WAYNE, INDIANA, CODE OF ORDINANCES:
“PERSONNEL POLICIES” BY ADDING § 36.04**

WHEREAS, the Common Council of the City of Fort Wayne (“Common Council”) believes illegal, unethical, or otherwise inappropriate conduct in the workplace exposes the City to liability, decreases employee morale, and leads to an unsafe and unproductive work environment; and

WHEREAS, Common Council wants City employees and others to report serious concerns about illegal, unethical, or otherwise inappropriate conduct in the workplace so the City can address and correct such conduct; and

WHEREAS, Common Council believes some City employees may be reluctant to report illegal, unethical, or otherwise inappropriate conduct in the workplace out of fear that he or she will be disciplined or otherwise suffer retaliation; and

WHEREAS, the ability to record conversations or events involving City employees, supervisors, or elected officials can promote the reporting of illegal, unethical, or otherwise inappropriate conduct by providing City employees with a means to substantiate their allegations of such conduct; and

WHEREAS, there are other circumstances under which it would be beneficial to allow City employees to record conversations or events involving other City employees, supervisors, or elected officials; and

WHEREAS, Common Council does not believe City employees should automatically be terminated or otherwise disciplined for recording conversations or events involving City employees, supervisors, or elected officials provided that such recordings do not otherwise violate local, state, or federal law; and

WHEREAS, Common Council desires to protect City employees and encourage the reporting of illegal, unethical, and otherwise inappropriate conduct in the workplace by prohibiting the automatic termination or discipline of City employees solely for recording a conversation or event involving another City employee, supervisor, or elected official.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Chapter 36 of the Fort Wayne Code of Ordinances titled “PERSONNEL POLICIES” is amended to add the following section:

§36.04 PROHIBITION OF AUTOMATIC TERMINATION OF CITY EMPLOYEES FOR RECORDING CONVERSATIONS OR EVENTS INVOLVING OTHER CITY EMPLOYEES WITHOUT THEIR CONSENT.

(A) *Definitions.* As used in this Section, the following terms shall have the following meanings.

- (i) “City” shall mean the City of Fort Wayne and any City of Fort Wayne subdivision, department, division, commission, authority, institution, establishment, facility, or governmental unit under the supervision of the City of Fort Wayne.
- (ii) “Employee” shall mean any and all employees of the City including employees in supervisory positions and elected officials.
- (iii) “Recording” shall mean any form of audio or video recording that fixes a series of spoken words or images in a tangible medium from which they can be reproduced or otherwise communicated.

(B) *Prohibition of Automatic Discipline for Recording City Employees.* It shall be unlawful for an employee of the City to be automatically terminated or otherwise disciplined solely for recording another employee while on City property or at a City event, even if the other employee has not consented to the recording.

(C) *Recordings Taken in Violation of Law.* Notwithstanding subsection (B), it shall not be unlawful for an employee of the City to be terminated or otherwise disciplined if, upon the advice of counsel, the City determines the recording and/or use or dissemination of the recording violates local, state, and/or federal laws concerning privacy, trademarks, patents, copyrights, national security, or any other laws applicable to a recording.

(D) *Ordinance Supersedes Prior Policies.* This Ordinance shall supersede any and all prior policies of the City dealing with the recording of City employees while on City property or at a City event.

SECTION 2. That the City is directed to take all action necessary and proper for the implementation of this Ordinance.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

John Crawford, Council Member

APPROVED AS TO FORM AND LEGALITY

Joseph G. Bonahoom, City Council Attorney