

**AN ORDINANCE AMENDING CHAPTER 36: PERSONNEL POLICIES,
OF THE CITY OF FORT WAYNE, INDIANA CODE OF ORDINANCES.**

WHEREAS, the City of Fort Wayne ("City") is committed to providing care to any police officer or firefighter who is injured as a result of the performance of the person's duty or who contracts an illness as a result of the performance of the person's duty, as provided in Indian Code Section 36-8-4-5; and

WHEREAS, the City is committed to establishing a fair, consistent and efficient method for addressing the appeals process for hurt on duty injury or illness claims by a member of the Fort Wayne Professional Firefighters Union, Local 124, the Fraternal Order of Police Lodge 14, and the Fort Wayne Patrolmen's Benevolent Association (each, a "Union").

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

SECTION 1. That CHAPTER 36: PERSONNEL POLICIES of the City of Fort Wayne, Indiana, Code of Ordinances be amended as follows:

AMEND SECTION 36.04 HURT ON DUTY APPEALS PROCESS

(A) A police officer or firefighter whose request for payment of care under IC § 36-8-4-5 is denied by the City ("Appellant") may appeal any such denial to the Hurt on Duty Compensability Committee ("Committee") which is hereby created and established to consist of the following representatives:

(1) Deputy Mayor for the City or designee, to be appointed by the City;

(2) Police Chief or Fire Chief, or designee, to be appointed by the City;

(3) A Pension Board attorney representing either the Police Pension Board or the Fire Pension Board, who shall be a non-voting member of the Committee, to be appointed by the members of the Committee; and

(4) Pension trustee to be appointed by the Union representing the Appellant.

(B) Within 60 days of the establishment of the Committee, the Committee shall establish written rules of order for conducting business ("Rules and Procedures"). A majority of the Committee members constitutes a quorum, and a majority vote of all voting Committee members is necessary to transact business and administrative matters. The Committee shall select from among their number a president, vice

1 president, and secretary. The Committee shall keep a permanent record of its
2 proceedings. For appeal hearing purposes, a majority of the voting Committee members
3 designated for a hearing in Section (D) below constitutes a quorum to conduct an
4 appeals hearing. A majority vote of the voting Committee members at a hearing shall
5 decide an appeal.

6 (C) The Appellant must submit an appeal to the City's Risk Manager, in writing, within
7 14 days of the date the notice of the Risk Manager's determination is sent.

8 (D) If the Appellant is a police officer, then, in such event, the Committee
9 representatives for appeal hearing purposes shall be as follows:

10 (i) The Deputy Mayor for the City or his/her designee, to be appointed by the
11 City;

12 (ii) The Police Chief or his/her designee, to be appointed by the City;

13 (iii) The Pension Board Attorney, appointed by the Committee; and

14 (iv) The Police Pension Trustee, appointed by the Police Union representing the
15 Appellant.

16 If the Appellant is a firefighter, then, in such event, the Committee
17 representatives for appeal hearing purposes shall be as follows:

18 (i) The Deputy Mayor for the City or his/her designee, to be appointed by the
19 City;

20 (ii) The Fire Chief or his/her designee, to be appointed by the City;

21 (iii) The Pension Board Attorney, appointed by the Committee; and

22 (iv) The Fire Pension Trustee, appointed by the Fire Union representing the
23 Appellant.

24 (E) If the Appellant fails to adhere to deadline requirements set forth in the
25 Committee's Rules and Procedures, the Appellant's appeal shall be dismissed, with
26 prejudice. If the City fails to adhere to deadline requirements set forth in the Rules and
27 Procedures, the Member may elect to initiate arbitration pursuant to IC § 34-57-2, et
28 seq., within 30 days. The prevailing party shall not be responsible for arbitration fees
29 under this section. The non-prevailing party shall pay the arbitration fees.

30 (F) If either party is dissatisfied with the Committee's determination of compensability,
the case may be referred to arbitration under IC § 34-57-2, et seq. The arbitrator shall
be selected as provided in the arbitration section of the applicable union's bargaining
agreement with the City. Any referral to arbitration must be initiated by a party within 30
days of the date of the Committee's determination. Otherwise, the matter will be deemed
closed.

(Ord. G-6-14, passed 4-8-14)

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Malak Heiny, City Attorney

§ 36.04 "HURT ON DUTY" APPEALS PROCESS.

(A) A police officer or firefighter whose request for payment of care under IC § 36-8-4-5 is denied by the Ceity (~~the~~ "AAppellant") may appeal any such denial to the "Hurt on Duty" Compensability Committee ("Committee") which is hereby created and established to consist of the following representatives:

(1) Risk Deputy Manager Mayor for the eCity or designee, to be appointed by the Ceity;

(2) Police Chief or Fire Chief, ~~as applicable~~, or designee, to be appointed by the eCity;

(3) A Pension Board attorney representing either the Police Pension Board or the Fire Pension Board, who shall be a non-voting member of the Committee, to be appointed by the ~~union representing the appellant members of the Committee~~; and

(4) Pension trustee to be appointed by the Union representing the Appellant; and

~~(5) Physician, selected by applicable speciality by the other members of the Committee from a panel of physicians established by the city and union representing the appellant.~~

~~(B) The appellant must submit an appeal to the city's Risk Manager, in writing, within 30 days of the date the notice of the denial is sent.~~

~~(B)~~ Within 60 days of the establishment of the Committee, the Committee shall establish written rules of order for conducting business ("Rules and Procedures"). A majority of the Committee members constitutes a quorum, and a majority vote of all voting Committee members is necessary to transact business and administrative matters. The Committee shall select from among their number a president, vice president, and secretary. The Committee shall keep a permanent record of its proceedings. For appeal hearing purposes, a majority of the voting Committee members designated for a hearing in Section (D) below constitutes a quorum to conduct an appeals hearing. A majority vote of the voting Committee members at a hearing shall decide an appeal.

(C) The Aappellant must submit an appeal to the City's Risk Manager, in writing, within 30 14 days of the date the notice of the Risk Manager's determination of the denial is sent.

(D) If the Appellant is a police officer, then, in such event, the Committee representatives for appeal hearing purposes shall be as follows:

(i) The Deputy Mayor for the City or his/her designee, to be appointed by the City;

(ii) The Police Chief or his/her designee, to be appointed by the City;

(iii) The Pension Board Attorney, appointed by the Committee; and

(iv) The Police Pension Trustee, appointed by the Police Union representing the Appellant.

If the Appellant is a firefighter, then, in such event, the Committee representatives for appeal hearing purposes shall be as follows:

(i) The Deputy Mayor for the City or his/her designee, to be appointed by the City;

(ii) The Fire Chief or his/her designee, to be appointed by the City;

(iii) The Pension Board Attorney, appointed by the Committee; and

(iv) The Fire Pension Trustee, appointed by the Fire Union representing the Appellant.

(ED) If the Appellant fails to adhere to deadline requirements set forth in the Committee's ~~Rules of Organization, Order and Procedure~~ ("Rules and Procedures"), the Appellant's appeal shall be dismissed, with prejudice. If the City fails to adhere to deadline requirements set forth in the Rules and Procedures, the City Member may elect to will initiate arbitration pursuant to IC § 34-57-2, et seq., within 30 days. The prevailing party shall not be responsibility for arbitration fees under this section. The non-prevailing party shall pay the arbitration fees.

(FED) If either ~~entity-party~~ is dissatisfied with the Committee's determination of compensability, the case may be referred to arbitration under IC § 34-57-2, et seq. The arbitrator shall be selected as provided in the arbitration section of the applicable union's bargaining agreement with the Ceity. Any referral to arbitration must be initiated by a party within 30 days of the date of the Committee's determination. Otherwise, the matter will be deemed closed.

(Ord. G-6-14, passed 4-8-14)