

ORDINANCE NO. 17-22

(LEGISLATIVE)

**AN ORDINANCE OF THE CITY OF MUNCIE AMENDING AND UPDATING
CHAPTER 32 OF THE CITY OF MUNCIE CODE OF ORDINANCES**

WHEREAS, Chapter 32 of the City of Muncie Code of Ordinances governs the legislative branch of the City of Muncie; and

WHEREAS, Chapter 32 of the City of Muncie Code of Ordinances has not been updated for numerous years to remain consistent with changes to the Indiana Code; and

WHEREAS, the Common Council desires to make these amendments to update Chapter 32 and remain consistent with the Indiana Code and other applicable law.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MUNCIE, DELAWARE COUNTY, INDIANA THAT:

Section 1: The following sections of Chapter 32 of the City of Muncie Code of Ordinances shall be amended to read as follows:

Sec. 32.01 – Legislative authority; powers of the Common Council.

- (A) The legislative power of the city is vested in the Common Council. All powers and duties of the city that are legislative in nature shall be exercised or performed by the Common Council. The Common Council may not elect or appoint a person to any office or employment, except as provided by statute.
- (B) The Common Council may manage the finances of the city to the extent that the power is not vested in the executive branch.
- (C) The Common Council may pass ordinances, orders, resolutions, and motions for the government of the city, the control of the city's property and finances, and the appropriation of money.

(State Law Reference: Ind. Code § 36-4-4-4; Ind. Code § 36-4-6-18).

Sec. 32.02 – Council members; councilmanic districts.

There shall be nine (9) members of the Common Council composed of six (6) members elected from districts established by the Common Council pursuant to Ind. Code § 36-4-6-3 and three (3) at-large members elected from the whole city.

(State Law Reference: Ind. Code § 36-4-6-3).

Sec. 32.03 – Council meetings.

The Common Council shall hold regular meetings at least once a month. A special meeting of the Common Council shall be held when called in accordance with Sec. 32.34 herein. A majority of all the elected members of the Common Council constitutes a quorum.

(State Law Reference: Ind. Code § 36-4-6-7; Ind. Code § 36-4-6-10)

Sec. 32.04 – Officers of the Common Council.

At its first regular meeting following its election, and each succeeding January, the Common Council shall choose from its members a president, vice-president and reading secretary from the members of the Common Council. The duties of such officers shall be as follows:

- (A) The president of the Common Council shall preside at all council meetings, carry out such other duties as presiding officers generally perform, and shall carry out such duties as shall from time to time be directed by ordinance or resolution of the Common Council.
- (B) The vice-president shall preside in the absence of the president, or at the request of the president, and shall perform such other duties as may from time to time be directed by the president or the Common Council.
- (C) The reading secretary shall, upon the call of the presiding officer, read aloud by number and title each matter to be considered by the Common Council. Upon the vote of a majority of the members present and voting the reading clerk shall read aloud in its entirety any matter.

(State Law Reference: Ind. Code § 36-4-6-8, presiding officer)

Sec. 32.05. – Clerk of the Common Council

The City Clerk is the clerk of the Common Council and shall perform the duties set forth in Ind. Code § 36-4-6-9.

Sec. 32.06. – Expulsion of Members

The Common Council may:

- (A) expel any members for violation of an official duty;
- (B) declare the seat of any member vacant if the member is unable to perform the duties of the member's office;

(C) and adopt its own rules to govern proceedings under this section.

However, a two-thirds ($\frac{2}{3}$) vote is required to expel a member or vacate a member's seat.

(State Law Reference: Ind. Code § 36-4-6-6)

Sec. 32.07. – Adoption of ordinances.

- (A) A majority vote of the Common Council is required to pass an ordinance, or resolution unless a greater vote is required by statute.
- (B) A majority vote means at least a majority vote of all the elected members. A requirement that an ordinance, resolution, or other action be passed by a two-thirds ($\frac{2}{3}$) vote means at least a two-thirds ($\frac{2}{3}$) vote of all the elected members.
- (C) A two-thirds ($\frac{2}{3}$) vote of all the elected members, after unanimous consent of the members present to consider the ordinance, is required to pass an ordinance of the legislative body on the same day or at the same meeting at which it is introduced. This subsection does not apply to a zoning ordinance or amendment to a zoning ordinance that is adopted under Ind. Code § 36-7.
- (D) An ordinance, order, or resolution passed by the Common Council is considered adopted when it is signed by the presiding officer and Mayor or passed by the Common Council over the veto of the Mayor pursuant to Ind. Code § 36-4-6-16.
- (E) An ordinance shall be effective upon publication in accordance with Ind. Code § 36-4-6-14.
- (F) The publication of ordinances in book or pamphlet form shall constitute presumptive evidence of the ordinances in the book or pamphlet; of the adoption of the ordinances; and that the ordinances have been properly signed, attested, recorded, and approved.
- (G) After an ordinance, order, or resolution passed by the Common Council has been signed by the presiding officer, the clerk shall present it to the Mayor, and record the time of the presentation.
- (H) Within ten (10) days after an ordinance, order, or resolution is presented to the Mayor, the Mayor shall: (1) approve the ordinance, order, or resolution, by entering the Mayor's approval on it, signing it, and sending the Common Council a message announcing the Mayor's approval; or (2) veto the ordinance, order, or resolution, by returning it to the Common Council with a message accounting the Mayor's veto and stating the Mayor's reasons for

the veto. If the Mayor fails to perform the duties of this subsection, the ordinance, order, or resolution is considered vetoed.

- (I) Whenever an ordinance, order, or resolution is vetoed by the Mayor, it is considered defeated unless the Common Council, at its first regular or special meeting after the ten (10) day period, passes the ordinance, order, or resolution over the Mayor's veto by a two-thirds ($\frac{2}{3}$) vote.
- (J) Within a reasonable time after an ordinance of the legislative body is adopted, the City Clerk shall record it in a book kept for that purpose. The record must include: (1) the signature of the presiding officer; (2) the attestation of the City Clerk; (3) the Mayor's approval or veto of the ordinance; (4) if applicable, a memorandum of the passage of the ordinance over the veto; and (5) the date of each recorded item. The record or a certified copy of it constitutes presumptive evidence of the adoption of the ordinance.

(State Law Reference: Ind. Code § 36-4-6-11 through 17)

Sec. 32.08 – Investigatory powers.

- (A) The Common Council may investigate: (1) the departments, officers, and employees of the city; (2) any charges against a department, officer, or employee of the city; and (3) the affairs of a person with whom the city has entered or is about to enter into a contract.
- (B) When conducting an investigation, the Common Council: (1) is entitled to all records pertaining to the investigation; and (2) may compel the attendance of witnesses and the production of evidence by subpoena and attachment served and executed in Delaware County, Indiana.
- (C) If a person refuses to testify or produce evidence at an investigation conducted under this section, the Common Council may order its clerk to immediately present to the circuit court of the county a written report of the facts relating to the refusal. The court shall hear all questions relating to the refusal to testify or produce evidence and shall also hear any new evidence not included in the clerk's report. If the court finds that the testimony or evidence sought should be given or produced, it shall order the person to testify or produce the evidence, or both.

(State Law Reference: Ind. Code § 36-4-6-21)

Sec. 32.09 – Financial management powers.

- (A) The Common Council shall have the duties and powers set forth in Ind. Code § 36-4-7 with respect to the fixing of compensation of city officers

and employees, the fixing of the tax rate and the annual appropriations (including any increase or decrease thereof).

- (B) The Common Council may, by ordinance, make loans of money and issue bonds for the purpose of refunding those loans. The contents of the ordinance and terms of the bonds shall be in accordance with Ind. Code § 36-4-6-19.
- (C) The Common Council may, by ordinance, make loans of money for not more than five (5) years and issue notes for the purpose of refunding those loans in accordance with Ind. Code § 36-4-6-20(a).
- (D) The Common Council may, by ordinance, make loans and issue notes for the purposes of refunding those loans in anticipation of revenues of the city that are anticipated to be levied and collected during the term of the loans in accordance with Ind. Code § 36-4-6-20(b).

Section 2: Section 32.42 (A) and (D) shall be amended to change the reference from “president pro tempore” to “vice -president” in accordance with Ind. Code § 36-4-6-8.


Section 3. This Ordinance shall take effect upon approval by the Mayor of the City of Muncie and any publication required by ordinance or law.

Section 4. All other sections of Chapter 32 of the City of Muncie Code of Ordinances not specifically amended by this Ordinance shall remain unchanged.

	Yeas	Nays	Abstained	Absent
Jeff Green	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Jeff Robinson	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Brandon Garrett	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Bradley Polk	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Jerry D. Dishman	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Roger Overbey	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Aaron Clark	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Troy A. Ingram	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Ro Selvey	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>


 President, Common Council

ATTEST:


 Belinda Munson, City Clerk

Presented by me to the Mayor for his approval this 2 day of May, 2022.


 Belinda Munson, City Clerk

The above Ordinance is approved vetoed by me this 2nd day of May, 2022.


 Dan Ridenour, Mayor

This Ordinance is proposed by Council Member



This Ordinance is approved in form by Legal Counsel

