

Passed 5/14/18 by a Vote of 6-0 Hudson was absent

ORDINANCE NO. : 11-2018

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, ESTABLISHING A NON-REVERTING LAW ENFORCEMENT RECORDING FUND AND A UNIFORM FEE FOR PRODUCTION OF LAW ENFORCEMENT RECORDINGS

WHEREAS, House Enrolled Act No. 1019, which went into effect July 1, 2016, made substantial changes to the law regarding Indiana's Access to Public Records Act (I.C. 5-14-3) as it relates to record requests for law enforcement recordings; and

WHEREAS, pursuant to Ind. Code § 5-14-3-8(g), “. . . a public agency may charge a fee, uniform to all purchasers that does not exceed the sum of the following: (1) the agency's direct cost of supplying the information in that form. However, the fee for a copy of the law enforcement recording may not exceed One Hundred Fifty Dollars (\$150.00);” and

WHEREAS, pursuant to I.C. 5-14-3-8(l), “. . . a fee collected under subsection (g) for the copying of a law enforcement recording may be:

- (1) retained by the public agency; and
- (2) used without appropriation for one (1) or more of the following purposes:
 - (A) to purchase cameras and other equipment for use in connection with the agency's law enforcement recording program.
 - (B) For training concerning law enforcement recording.
 - (C) To defray the costs of storing, producing and copying law enforcement recordings.

Money from a fee described in this subsection does not revert to the local general fund at the end of the fiscal year”; and

WHEREAS, pursuant to the new state law, the need exists to establish a law enforcement recording fund and to specify that fund can only be used as provided by I.C. 5-14-3-8(l); and

WHEREAS, in addition to creating said fund, the need exists to establish the fee, uniform to all purchasers, that does not exceed the sum of the City of Valparaiso, Indiana's (the “City”) direct cost of supplying the law enforcement recording, which cannot exceed One Hundred Fifty Dollars (\$150.00); and

WHEREAS, pursuant to I.C. 5-14-3-12, “direct cost” is defined as the following:

(d) “direct cost” means one hundred five percent (105%) of the sum of the cost of:

- (1) the initial development of a program, if any;

- (2) the labor required to retrieve electronically stored data; and
 - (3) any medium used for electronic output;
- for providing a duplicate of electronically stored data on a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter; and

WHEREAS, the City's Information Technology and Valparaiso Police Departments have analyzed the direct costs incurred by the City to provide said information and reasonably believes those costs to be in excess of One Hundred Fifty Dollars (\$150.00) per each request;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, AS FOLLOWS:

Section 1. Incorporation of Recitals.

The foregoing recitals (or whereas clauses) are incorporated herein by reference into this Ordinance as findings of fact.

Section 2. Establishment of Law Enforcement Recording Fund.

There is hereby established a Law Enforcement Recording Fund (the "Fund") pursuant to I.C. 5-14-3-8(l), as may be amended from time to time. The Fund shall be a restricted, non-reverting fund. The purpose of the Fund shall be for accounting for the receipt and expenditure of money received as fees for the copying law enforcement recordings. Expenditures from the Fund can only be for the following:

- (1) To purchase cameras and other equipment for use in connection with the agency's law enforcement recording program.
- (2) For training concerning law enforcement recording.
- (3) To defray the expenses of storing, producing, and copying law enforcement recordings.

The Fund may not be used for any other purposes than those stated herein and said Fund funds shall be administered by the Clerk-Treasurer of the City.

Section 3. Establishment of Law Enforcement Recording Fee.

There is hereby established a law enforcement recording fee (the "Fee") in the amount of One Hundred Fifty Dollars (\$150.00) which Fee shall be uniform to all purchasers of law enforcement recordings.

Section 4. Severability.

If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason by any court of competent jurisdiction, such decision shall not effect any other section, paragraph or provision of this Ordinance.

Section 5. Repealer.

All ordinances, resolutions and orders or parts thereof in conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed.

Section 6. Effective Date.

This Ordinance shall be in full force and effect after its passage in any publication required by law.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF VALPARRAISO, PORTER COUNTY, INDIANA, on the ____ day of May, 2018.

Jon Costas, Mayor
City of Valparaiso, Indiana

ATTEST:

Sharon Swihart, Clerk-Treasurer
of the City of Valparaiso, Indiana

Presented by me to the Mayor of the City of Valparaiso, Indiana, this ____ day of May, 2018, at _____ o'clock p.m.

Sharon Swihart, Clerk-Treasurer
of the City of Valparaiso, Indiana

This Ordinance approved and signed by me this ____ day of May, 2018, at _____ o'clock p.m.

Jon Costas, Mayor
City of Valparaiso, Indiana

