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The Master Plan ordinance is subject to amendment and there seems to be no reason or legislative expression in the Act to require that the ordinance and its various amendments be recorded at length when the public already has notice of its purposes and provisions.

Neither is there any legislative expression providing for any fee to the Recorder for receiving and filing such ordinance as a part of his official records. The Recorder will collect the fees provided for recording plats of subdivisions and transfers of real estate.

Therefore, in my opinion the answer to your question number one (1) should be that "filed with the County Recorder" does not mean the *recording* of the ordinance.

In my opinion the Recorder is not entitled to any fee from the city or county for such "filing" until such time as the Legislature provides such fee.

WOL:vb

OFFICIAL OPINION NO. 63

July 12, 1949.

General Robinson Hitchcock,
Adjutant General,
The Adjutant General's Office,
Indianapolis, Indiana.

Dear Sir:

In response to your letter of June 16th, requesting an official opinion on the following questions:

"Are officers and enlisted men of the *Indiana National Guard* exempt from the payment of poll tax?"

The Act in question as stated in Burns' Indiana Statute 45-1210 reads as follows:

"Every officer and enlisted man of the active militia shall be exempt from service or any jury in any court of this state and from the payment of any poll and road-tax; and in case of an officer, his commission,

and of an enlisted man, a certificate of his commanding officer shall be sufficient evidence that he is so exempt,
* * *”

The purpose of the act in referring to poll tax exemption as stated is in the title of the Act (Acts 1923, Chapter 142) was “* * * (to prescribe) certain * * * exemptions for *all* members of the guard.”

There are, at the present time, three official opinions on the question of militia men being exempted from the payment of poll tax. The first opinion was issued on November 18, 1932 by the then Attorney General to the then Adjutant General. It stated that in the light of the statute in question “officers and enlisted men of the active militia are exempt from service on any jury in any *state court* of Indiana and are likewise exempt from the payment of any poll tax levied by the State of Indiana or any of its political subdivisions.” (Opinions of the Attorney General for the year 1932, at page 922.)

The second opinion was issued on December 3, 1937 by the then Attorney General to the then State Examiner of the State Board of Accounts. Reference was made therein to the fact that an act of 1919 (Acts 1919, ch. 50 1.5 p. 198—Burns’ Anno. Statute Sec. 64-201, 1933) which made “Every officer and enlisted man of the active militia, and every soldier and sailor in the active service of the United States Army and Navy, on any poll or road tax” exempt from such taxation. This Act giving general provision for tax exemption was amended in 1937 (Acts 1937, Ch. 262) and it failed to provide therein for a poll-tax exemption for the active militia of the State. The Attorney General in his opinion stated that such being the fact the 1937 Amendment took the place of the 1919 Act and thereby stood as giving no exemption to the active militia. However, the Attorney General alluded to the 1923 Act of reorganization of the State militia which made specific provision for poll tax exemption for the officers and enlisted men of the Indiana State and National Guard. He stated that:

“Since this Act has never been repealed or amended its provisions are still in effect and those qualifying under its provision, i. e., ‘officers and enlisted men of

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the active militia are now exempted from the payment of poll tax * * *.'” (Opinions of the Attorney General for the year of 1937, at page 140.)

The third opinion was issued on October 7, 1941 by the then Attorney General to the then Acting Adjutant General. The question in that opinion concerned the officers and men of the Indiana State Guard and it was the opinion of the Attorney General that the members of the Indiana State Guard were *active militia* and as such come under the provisions of (Sec. 45-1210) regarding the poll tax exemptions. (Opinions of the Attorney General for the year 1941, at page 342.)

In view of the fact that these three opinions discuss fully the question of both the Indiana State Guard and the Indiana National Guard in regard to poll tax exemption, I think it beyond question that, according to Burns' Anno. Statute Sec. 45-1210, the officers and enlisted men of the *Indiana National Guard* are exempt from the payment of poll tax.

JAW:man

OFFICIAL OPINION NO. 64

July 13, 1949.

Honorable James M. Propst,
Auditor of State,
State House,
Indianapolis, Indiana.

Dear Sir:

I have your request of July 7, 1949 for an official opinion involving the proper construction and authority vested in the Division of Auditing by virtue of two separate Acts of the Legislature of 1947. The first of these Acts referred to is Chapter 10 of said Acts, approved February 18, 1947 and the other is Chapter 279 of said Acts, approved March 13, 1947. It will be observed that both of these Acts were adopted at the same session of the Legislature. Each of the Acts have an emergency clause and each became effective on the approval.