

ORDINANCE NO. 2024-21

**AN ORDINANCE ESTABLISHING THE
TOWN OF EDINBURGH FIREFIGHTERS' PENSION BOARD**

WHEREAS, the Edinburgh Town Council ("Town Council") adopted Ordinance 2019-17 on November 21, 2019, establishing the Edinburgh Fire Department.

WHEREAS, the Fire Chief, subordinate officers, and firefighters of the Edinburgh Fire Department are currently enrolled in and members of the Public Employees' Retirement Fund ("PERF").

WHEREAS, the Town Council has considered the benefits that the 1977 Police Officers' and Firefighters' Pension and Disability Fund created pursuant to Indiana Code 36-8-8-4 ("1977 Fund") and administered by the Board of Trustees of the Indiana Public Retirement System established by I.C. 5-10.5-3-1 ("System Board") would provide to the Town of Edinburgh's Fire Chief, subordinate officers, and firefighters if the Town of Edinburgh were to participate in the 1977 Fund.

WHEREAS, the Town will adopt the appropriate resolutions that are required for participating units of the 1977 Fund.

WHEREAS, in order to participate in the 1977 Fund, I.C. 36-8-8-2.1(c) requires the establishment of a local board that is composed in the same manner described in I.C. 36-8-7-3(b).

WHEREAS, I.C. 36-8-7-4(a) states that if a unit has less than five (5) members in its fire department, the unit may provide for the organization of a local board consisting of the fire chief, the executive of the unit, and one (1) member of the fire department.

WHEREAS, I.C. 36-8-8 requires a local board to perform duties and make determinations in accordance with the provisions of I.C. 36-8-8.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF
EDINBURGH, INDIANA, ORDAINS AND ENACTS THE FOLLOWING:**

1. Definitions.

- A. "Fire Department" means the Edinburgh Fire Department, the governmental organization which is responsible for providing fire protection services to the Town of Edinburgh.
- B. "Fire Chief" means the Chief of the Edinburgh Fire Department and any person specifically designated as the authority in charge by the Fire Chief during the Fire Chief's absence.
- C. "Local Board" means the Town of Edinburgh Firefighters' Pension Board as provided in I.C. 36-8-8-2.1(c), I.C. 36-8-7-3, and I.C. 36-8-7-4.
- D. "Member" means a full-time fully paid firefighter of the Edinburgh Fire Department, including the Fire Chief.
- E. "Fire Company" means each organization or group doing duty as part of the fire department, including engine companies, hose companies, those in the telephone or telegraph service, inspectors, mechanics, watchmen, and others in charge of apparatus for extinguishing fires.

- 2. Establishment of Firefighters' Pension Board.** Pursuant to I.C. 36-8-8-1, et seq., the Town of Edinburgh Firefighters' Pension Board ("Local Board") is hereby established.

3. **Local Board Membership.** The Town currently has less than five (5) Members in the Fire Department, therefore, pursuant to I.C. 36-8-7-4, the Local Board shall be composed of three (3) trustees as follows:
 - A. Fire Chief, who is an ex officio voting trustee.
 - B. President of the Edinburgh Town Council, who is an ex officio voting trustee.
 - C. One (1) Member who is a voting trustee and elected for the term and in the manner provided below.

4. **Initial Election of Trustee.** The initial Member of the Local Board shall be elected as follows:
 - A. The first election of the active Member trustee shall be held within thirty (30) days of the effective date of this Ordinance.
 - B. The Fire Chief shall post a notice in at least one (1) prominent location at each Edinburgh Fire Station setting the date, time, and place of the meeting to nominate candidates and elect the Trustee of the Local Board. The notice shall be posted at least forty-eight (48) hours before the scheduled meeting.
 - C. At this meeting, each Member of the Fire Department is entitled to one (1) ballot and the person receiving the highest number of votes is elected. The Town Council President, the Fire Chief, and the Town Clerk-Treasurer shall canvass and count the ballots, and the Clerk-Treasurer shall issue a certificate of election to the Member having received the highest number of votes. If two (2) persons have received the same number of votes, the Town Council President and the Fire Chief shall immediately determine by lot who will be the Trustee from the persons receiving an equal number of votes.
 - D. The Trustee so elected shall serve a one (1) year term beginning immediately after the Trustee's election.
 - E. The Trustee holds his/her office until his/her successor is elected and qualified.

5. **Election of Trustees from Active Members.**
 - A. After the initial one (1) year term, the Trustee from the Fire Department shall be elected at a meeting held on the second Monday in February each year. The meeting shall be called by the Fire Chief and held at the house or quarters of the Fire Department.
 - B. Pursuant to I.C. 36-8-7-4(c), the Local Board may amend its bylaws to elect the trustee from the Fire Department in an election held on any three (3) consecutive days in February specified in the bylaws.
 - C. Each Member of the Fire Department is entitled to one (1) ballot and the person receiving the highest number of votes is elected. The Town Council President, the Fire Chief, and the Town Clerk-Treasurer shall canvass and count the ballots, and the Clerk-Treasurer shall issue a certificate of election to the person having received the highest number of votes. If two (2) persons have received the same number of votes, the Town Council President and the Fire Chief shall immediately determine by lot who will be the Trustee from the persons receiving an equal number of votes.
 - D. The Trustee so elected shall serve a one (1) year term beginning immediately after the Trustee's election.
 - E. The Trustee holds his/her office until his/her successor is elected and qualified.

6. **Local Board Membership when Fire Department has five (5) or more members.**
 - A. When the Fire Department has five (5) or more Members, the Local Board shall be composed in the same manner described in I.C. 36-8-7-3(b). However, if there is not a retired member of the Fire Department, no one shall be appointed to that position until such time as there is a retired member.

- B. When the Fire Department has five (5) or more Members, elections of active members shall be held each year pursuant to I.C. 36-8-7-5. The Trustees elected at the first election held under this section shall serve staggered terms of one (1), two (2), three (3), and four (4) years. A Member's initial term shall be determined by lot.
- C. Trustees from the active Members elected at subsequent elections shall be elected for a term of four (4) years.
- D. When the Fire Department has five (5) or more Members, a retired member of the Fire Department shall be elected to serve as Trustee of the Local Board for a term of two (2) years. The election shall be held pursuant to I.C. 36-8-7-6.

7. Local Board Officers.

- A. The Fire Chief is the President of the Local Board.
- B. At the first meeting after each election, the Local Board shall elect a secretary, who may be chosen from among the trustees. The Local Board may consider it proper to have a secretary who is a member of the Fire Department to be elected by the Fire Department for a term of four (4) years in the same manner as the election for trustees.
- C. The secretary shall keep a full record of all the proceedings of the local board in a book provided for that purpose.
- D. The secretary shall, in the manner prescribed by I.C. 5-4-1, execute a bond conditioned upon the faithful discharge of the secretary's duties.

8. Employment Standards for Firefighters.

- A. The Town Council, as the appointing authority of firefighters, shall adopt standards for firefighters establishing a physical agility test that:
 - i. Does not discriminate on the basis of sex;
 - ii. Reflects the essential functions of the job;
 - iii. At a minimum includes testing required by I.C. 36-8-3.2-3, as amended, including the following:
 - 1. Fear of heights (acrophobia);
 - 2. Fear of confinement (claustrophobia);
 - 3. Muscular strength;
 - 4. Muscular endurance;
 - 5. Cardiovascular endurance; and
 - 6. Musculoskeletal flexibility.
- B. The Town Council shall also adopt standards for firefighters establishing a general aptitude test.
- C. The physical agility test standards and the general aptitude standards required by I.C. 36-8-3.2-3 must be presented to the board of firefighting personnel standards and education established by I.C. 22-12-3-1 for review, as required by I.C. 36-8-3.2-3(c).
- D. The Town Council, or its designee, shall administer the agility and aptitude tests to applicants and shall certify the results to the Local Board before extending an offer of employment.
- E. The Town of Edinburgh's administration of employment standards for firefighters shall be in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the Act.
- F. The Town Council may establish additional standards as a condition of employment which shall be in addition to the standards required by I.C. 36-8-8-19 and the standards identified by I.C. 36-8-3.2-3, set forth above.

9. **Powers and Duties.** Pursuant to I.C. 36-8-8 and I.C. 36-8-3.2, the Local Board shall have the following powers and duties:
- A. The Local Board shall make all rules necessary for the discharge of its duties and shall hear and make all determinations required by the laws of the State of Indiana.
 - B. Each trustee shall, before entering upon the duties of the trustee's office, take an oath to faithfully perform the trustee's duties, pursuant to I.C. 36-8-7-3(c).
 - C. Certify to the System Board that an applicant to become a firefighter has passed the minimum agility and aptitude tests set forth in I.C. 36-8-3.2.
 - D. Certify to the System Board the results of the baseline statewide physical examination and the baseline statewide mental examination.
 - E. Submit the certification of the results of the baseline statewide physical examination within six (6) months of the date of the examination, as required by 35 IAC 2-9-5(c).
 - F. Conduct hearings under I.C. 36-8-8-12.7 to determine whether a member of the 1977 Fund has a covered impairment as defined by I.C. 36-8-8-12.3.
 - G. Make determinations required by I.C. 36-8-8-12.5 as to whether the fund member has a Class 1, Class 2, or Class 3 impairment.
 - H. Conduct hearings and make determinations concerning impairments or disability under I.C. 36-8-8-12.7 and make the recommendations to the System Board.
 - I. If the Local Board determined that a covered impairment exists and the safety board (Town Council) has determined that there is no suitable and available work within the Fire Department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, or if the fund member has filed an appeal under I.C. 36-8-8-12.7(o), the Local Board shall submit its determinations and the safety board's determination to the System Board's director.
 - J. Make determinations, pursuant to I.C. 36-8-8-13.5 concerning impairments and forward determinations to the System Board as required by I.C. 36-8-8-13.5.
 - K. Review a fund member's impairment pursuant to I.C. 36-8-8-13.7.
 - L. Make determinations under I.C. 36-8-8-13.8 and 14.1 when a Member dies.
 - M. Designate a community mental health center or a managed care provider (as defined in I.C. 12-7-2-127(b)), a hospital, a licensed physician, or a licensed psychologist to administer the baseline statewide mental examination, pursuant to I.C. 36-8-8-19(c). The examining physician must have no pre-existing personal relationship with the applicant. The results of the mental examination shall be interpreted by a licensed physician or a licensed psychologist.
 - N. Determine the standards for passing the baseline statewide mental examination, pursuant to I.C. 36-8-8-19(c) and 35 IAC 2-9-4(c).
 - O. Name the physician(s) who will conduct the statewide physical examination and mental examination, pursuant to I.C. 36-8-8-19(e).
 - P. Determine whether a candidate passes the additional local physical and mental standards, if any, established by the Town Council pursuant to I.C. 36-8-3.2-6.
 - Q. Issue subpoenas, discovery orders, and protective orders in accordance with the Indiana Rules of Trial Procedure to facilitate the receipt of accurate and original documents necessary for the proper administration of I.C.36-8-8.
 - R. The Local Board shall have the powers and duties granted by the Indiana General Assembly from time to time.
10. **Firefighters' Pension Fund.** The Edinburgh Firefighters' Pension Fund is hereby established.

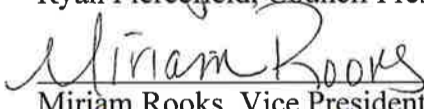
- A. The source of money for the Edinburgh Firefighters' Pension Fund will be payroll deductions for the employer's share and the employee's share of pension benefits required for participation in the 1977 Fund, and any other money appropriated by the Town Council for this fund.
- B. The fund shall be used only for the transfer of the employer contributions required by I.C. 36-8-8-6 and the employee contributions required by I.C. 36-8-8-8 into the 1977 Fund and for any other purpose required by I.C. 36-8-8.
- C. This is a non-reverting fund.
11. **Construction of Clause Headings.** The clause headings appearing in this ordinance have been provided for convenience and reference, and do not purport and will not be deemed to define, limit, or extend the scope or intent of the clauses to which the headings pertain.
12. **Repeal of Conflicting Ordinances.** The provisions of all other ordinances in conflict with the provisions of this ordinance are of no further force or effect upon the remaining provisions of this ordinance.
13. **Severability of Provisions.** If any part of this ordinance is held to be invalid, such part will be deemed severable and its validity will have no effect upon the remaining provisions of this ordinance.
14. **Duration and Effective Date.** The provisions set forth in this ordinance become and will remain in full force and effect (until their repeal by ordinance) on the day of passage and adoption of this ordinance by signature of the executive in the manner prescribed by I.C. 36-5-2-10.

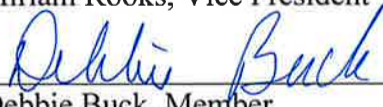
INTRODUCED on the 14th day of **October, 2024.**

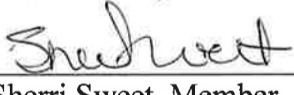
DULY PASSED on this 28th day of October, 2024, by the Town Council of the Town of Edinburgh, Indiana, having been passed by a vote of 5 in Favor and 0 Opposed.

EDINBURGH TOWN COUNCIL


Ryan Piercefield, Council President


Miriam Rooks, Vice President


Debbie Buck, Member


Sherri Sweet, Member


Michael Bryant, Member

ATTEST:


Rhonda Barrett, Clerk-Treasurer