

Ordinance No. 2019-24

**AMENDED FLOYD COUNTY BOARD OF COMMISSIONERS  
ORDINANCE ESTABLISHING A FIRE PROTECTION DISTRICT FOR GREENVILLE  
TOWNSHIP, FLOYD COUNTY, INDIANA, AND PROVIDING FOR THE  
APPOINTMENT OF FIRE DISTRICT TRUSTEES OF THE GREENVILLE FIRE  
PROTECTION DISTRICT**

**WHEREAS**, Upon study and evaluation and in furtherance of the statutory provisions of the Title 36, Local Government, Article 8, Public Safety, Chapter 11, Fire Protection Districts, it is hereby found and determined that Greenville Township in Floyd County does need and therefore does hereby establish a Greenville Township Fire Protection District, consisting of all the geographical area, and thereby any conservancy areas or districts within Greenville Township in Floyd County including the Town of Greenville pursuant to IC 36-8-11-4.

**WHEREAS**, The Floyd County Commissioners passed Floyd County Ordinance No. 2019-12 establishing the Fire Protection District for Greenville Township on April 23, 2019.

**WHEREAS**, The Floyd County Commissioners wish to amend Ordinance No. 2019-12 by increasing the number of appointed trustees from three (3) trustees to five (5) trustees.

**WHEREAS**, The Floyd County Commissioners believe that the district needs at least five (5) trustees to appropriately manage and direct the district in its decision making processes.

**WHEREAS**, the Floyd County Commissioners are amending the number of trustees appointed by the Commissioners from the previously approved ordinance.

**WHEREAS**, the Floyd County Commissioners rely on Anderson v. Gaudin, 42 N.E.3d 82 (2015), Supreme Court of Indiana, which holds that under the Home Rule Act, boards of county commissioners are authorized to amend a fire protection district, even if such amendment dissolves the district.

Be it known, that the County Commissioners, as the county legislative body, hereby select and implement statutory provision 36-8-11-4 and those related thereto to create the Fire District that is provided for in this Ordinance.

**NOW, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF FLOYD, INDIANA:**

Section 1: This ordinance does hereby establish a fire protection district for the following purposes:

- A. Fire protection, including the capability for extinguishing all fires that might be reasonably expected because of the types of improvements, personal property, and real property within the boundaries of the district.
- B. Fire protection, including the identification and elimination of all potential and actual sources of fire hazard.
- C. Other purposes or functions related to fire protection and fire prevention.
  1. These purposes and functions are to effectively have jurisdiction and govern fire services throughout the District, and shall include educational interviews and effort: within the

- community for fire and hazard recombination and prevention, volunteer recruitment, proper training and working conditions for the safety of volunteers and expeditiously establishing, implementing, supervising and having full and proper accountability as to all applicable safety and operational standards and expectations.
2. Responsive and best effort services, with planning and due diligence coordination, are to be provided throughout the District.
  3. The area selected for this Fire Protection District shall include all of Greenville Township including the Town of Greenville, pursuant to IC 36-8-11-4.
- D. Other emergency services.
1. Upon consultation with and by expeditiously taking all steps necessary and in a manner prescribed by the Indiana State Board of Accounts, all of the obligations and responsibilities of the Town of Greenville and Greenville Township of Floyd County with regard to fire protection shall be timely assumed and fulfilled by the Board of Trustees, Greenville Township Fire Protection District, established by this Ordinance as a successor.
  2. The territory of the Greenville Township Fire Protection District referred to in D(1) above is and/or shall be the boundaries of Greenville Township as defined in the Floyd County Code.
- E. Assets.
1. To insure continuity in fire protection and in the best interest of the freeholders of the Town of Greenville and Greenville Township in Floyd County, upon establishment of the District, all assets related to fire protection, including both cash and capital, shall transfer from the Greenville Township Board to the Greenville Township Fire Protection District.

This procedure is hereby implemented consistent with and pursuant to IC 36-8-11-4 to have a transition and thereby assimilate and integrate the Town of Greenville and Greenville Township, Floyd County within the territory and jurisdiction of this Ordinance.

## Section 2: Board of fire trustees; appointment; terms of office; vacancies pursuant to IC 36-8-11-12

- A. Within thirty (30) days after the ordinance establishing the district becomes final, the county legislative body shall appoint a board of fire trustees. The appointed trustees serve at the pleasure of the Floyd County Commissioners. The trustees must be qualified by knowledge and experience in matters pertaining to fire protection and related activities in the district. A person who:
1. Is a party to a contract with the district; or
  2. Is a member, an employee, a director, or a shareholder of any corporation or association that has a contract with the district; may not be appointed or serve as a trustee.
- B. The legislative body shall appoint one (1) trustee from each township and one (1) trustee from each municipality contained in the district. The total number of trustees to be appointed by the Commissioners is five (5) trustees. The original trustees shall be appointed as follows:
1. One (1) for a term of one (1) year.
  2. One (1) for a term of two (2) years.
  3. One (1) for a term of three (3) years.

4. All others for a term of four (4) years.

The terms expire on the first Monday of January of the year their appointments expire. As the terms expire, each new appointment is for a term of four (4) years.

- C. If a vacancy occurs on the board, the county legislative body shall appoint a trustee with the qualifications specified in subsection (A) for the unexpired term.

### Section 3: Trustees; meetings pursuant to IC 36-8-11-13

- A. The board shall fix the time for holding regular meetings, but the board shall meet at least once in the months of January, April, July and October. The county legislative body may order that regular meetings be held more frequently.
- B. Special meetings of the board may be called by the chairman or by three (3) trustees, upon written request to the secretary. At least three (3) days before a special meeting, the secretary shall send to all trustees a written notice fixing the time and place of the meeting. Written notice is not required if:
  1. The time of the special meeting has been fixed in a regular meeting; or
  2. All trustees were present at a meeting at which a special meeting was called.

All meetings will comply with the notice requirements of the Indiana "Open" Door Law.

### Section 4: Trustees; powers and duties pursuant to IC 36-8-11-15, begin immediately upon appointment.

- A. The board:
  1. Has the same powers and duties as a township executive with respect to fire protection functions, including those duties and powers prescribed by IC 36-8-13, although all cooperative and joint actions permitted by that chapter must be undertaken according to this chapter;
  2. Has the same powers and duties of the township executive relative to contracting with volunteer firefighting companies, as prescribed by IC 36-8-12 and IC 36-8-13;
  3. Shall appoint, fix the compensation and prescribe the duties of a fiscal officer, secretarial staff, persons performing special and temporary services or providing legal counsel, and the personnel considered necessary for the proper functioning of the district; however, a person appointed as a fiscal officer must be bonded by good and sufficient sureties in an amount ordered by the county legislative body to protect the district from financial loss;
  4. Shall exercise general supervision of and make regulations for the administration of the district's affairs;
  5. Shall prescribe uniform rules pertaining to investigations and hearings;
  6. Shall supervise the fiscal affairs and responsibilities of the district. Upon its organization, the fire district created by this ordinance shall immediately and automatically be authorized to substitute and assume successor duties to the fire services authority, and responsibilities of the Township Trustee;

7. May delegate to employees of the district the authority to perform ministerial acts, except in cases in which final action of the board is necessary;
  8. Shall keep accurate and complete records of all departmental proceedings, record and file all bonds and contracts, and assume responsibility for the custody and preservation of all papers and documents of the district;
  9. Shall make an annual report to the executive and the fiscal body of the county that at least lists the financial transactions of the district and a statement of the progress in accomplishing the purposes for which the district has been established;
  10. Shall adopt a seal and certify all official acts;
  11. May sue and be sued collectively by its legal name (Board of Trustees, Greenville Township Fire Protection District) with service of process made on the chairman of the board, but costs may not be taxed against the members individually in an action;
  12. May invoke any legal, equitable, or special remedy for the enforcement of this chapter or of proper action of the board taken in a court;
  13. Shall prepare and submit to the fiscal body of the county an annual budget for operation and maintenance expenses and for the retirement of obligations of the district, subject to review and approval by the fiscal body;
  14. May, if advisable, establish one (1) or more advisory committees;
  15. May enter into agreements with and accept money from a federal or state agency and enter into agreements with a municipality located within or outside the district, whether or not the municipality is a part of the district, for a purpose compatible with the purposes for which the district exists and with the interests of the municipality;
  16. May accept gifts of money or other property to be used for the purposes for which the district is established;
  17. May levy taxes at a uniform rate on the real and personal property within the district;
  18. May issue bonds and tax anticipation warrants;
  19. May incur debts and liabilities;
  20. May purchase or rent property;
  21. May sell services or property that are produced incidental to the operations of the district making a fair and reasonable charge for it;
  22. May make contracts or otherwise enter into agreements with public or private persons or federal or state agencies for construction, maintenance, or operations of all or in part of the district;
  23. May receive and disburse money; and
  24. May impose a false alarm fee or service charge under IC 36-8-13-4.
- B. Powers granted by this chapter may be used only to accomplish the purpose or purposes as stated in the ordinance establishing the district. However, an act of the board necessary and proper to accomplish the purposes for which the district is established is not invalid because it incidentally accomplishes a purpose other than one for which the district is established.

Section 6: Taxing district; district considered Municipal Corporation pursuant to 36-8-11-16

All real property within a fire protection district constitutes a taxing district for the purpose of levying taxes to pay for the construction, operation and maintenance of district programs and facilities. A tax levied must be levied at a uniform rate upon all taxable property within the district. A fire protection district is a municipal corporation within the meaning of the Constitution of Indiana and all general statutes.

Section 7: Bonds; authorization pursuant to IC 36-8-11-17

Bonds may be issued only against the taxable property of a fire protection district and may be paid in part by revenues derived from reasonable charges for services or property produced incidental to the operation of the district. Bonds shall be issued in the same manner as conservancy district bonds are issued under IC 14-33-11.

Section 8: Annual budget; tax levy pursuant to IC 36-8-11-18

- A. The board shall annually budget the necessary money to meet the expenses of operation and maintenance of the district, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, bond redemption, and all other expenses lawfully incurred by the district. After estimating expenses and receipts of money, the board shall establish the tax levy required to fund the estimated budget.
- B. The budget must be approved by the fiscal body of the county, any other entities established by statute, and the department of local government finance.
- C. Upon approval by the department of local government finance, the board shall certify the approved tax levy to the auditor of the county having land within the district. The auditor shall have the levy entered on the county treasurer's tax records for collection. After collection of the taxes, the auditor shall issue a warrant on the treasurer to transfer the revenues collected to the board, as provided by statute.

Section 9: No duplicate tax levies pursuant to IC 36-8-11-19

The department of local government finance, when approving a rate and levy fixed by the board, shall verify that a duplication of tax levies does not exist between a fire protection district and a municipality or township within the boundaries of the district, so that taxpayers do not bear two (2) levies for the same service, except as provided otherwise herein.

Section 10: Indebtedness incurred before establishment of the district pursuant to IC 36-8-11-20

A unit that incurred indebtedness for fire protection services before the establishment of a fire protection district under this chapter shall continue to repay that indebtedness by levies within the boundaries of the unit until the indebtedness is paid in full.

Section 11: Purchase of firefighting equipment on installment conditional sale or mortgage contract pursuant to IC 36-8-11-26

- A. After a sufficient appropriation for the purchase of firefighting apparatus and equipment, including housing, is made and is available, the district's fiscal officer, with the approval of the

board and the county fiscal body, may purchase the firefighting apparatus and equipment for the district on an installment conditional sale or mortgage contract running for a period not exceeding:

1. Six (6) years; or
2. Fifteen (15) years for a district that:
  - a. Has a total assessed value of sixty million dollars (\$60,000,000) or less, as determined by the department of local government finance; and
  - b. Is purchasing the firefighting equipment with funding from the:
    - i. State of its instrumentalities; or
    - ii. Federal government or its instrumentalities.
- B. The purchase shall be amortized in equal or approximately equal installments payable on January 1 and July 1 each year.

Section 12: Payment of line of duty health care expenses for firefighters pursuant to IC 36-8-11-27

- A. A fire protection district shall pay for the care of full-time, paid firefighter who suffers:
  1. An injury; or
  2. Contracts an illness;  
during the performance of the firefighter's duties.
- B. The fire protection district shall pay for the following expenses incurred by a firefighter described in subsection (A):
  1. Medical and surgical care.
  2. Medicines and laboratory, curative and palliative agents and means.
  3. X-ray, diagnostic, and therapeutic service, including service provided during the recovery period.
  4. Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.
- C. Expenditures required in subsection (A) shall be paid from the fund used by the fire protection district for payment of costs attributable to providing fire protection services in the fire protection district. The fire protection district may purchase insurance or other instruments to offset the responsibility as described herein.
- D. A fire protection district that has paid for the care of a firefighter under subsection (A) has a cause of action for reimbursement of the amount paid under subsection (A) against any third party against whom the firefighter has a cause of action for:
  1. An injury sustained because of; or
  2. An illness caused by a third party. The fire protection district's cause of action under this subsection is in addition to, and not instead of, the cause of action of the firefighter against the third party.

Section 13: In applying and construing this Ordinance as remedial and public safety legislation, if one or more provisions of this Ordinance is possibly not valid or not fully enforceable, such provision shall be construed in a manner to be valid and enforceable, if possible, to thereby fulfill the intention and purpose of establishing the Greenville Township Fire Protection District, and if not possible, then said

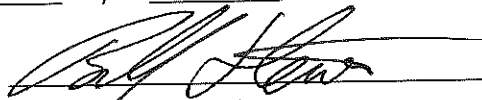
provision shall be severed and not affect the validity and enforceability of the remainder of the ordinance.

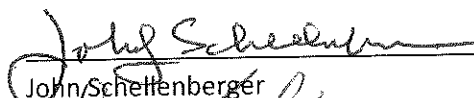
Section 14: This ordinance shall take effect upon passage as by law provided.

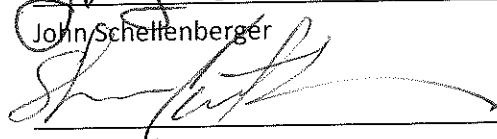
Section 15: This ordinance does reaffirm the establishment of the FIRE PROTECTION DISTRICT FOR GREENVILLE TOWNSHIP, FLOYD COUNTY, INDIANA.

Section 16: This ordinance hereby amends and replaces Floyd County Ordinance No. 2019-12.

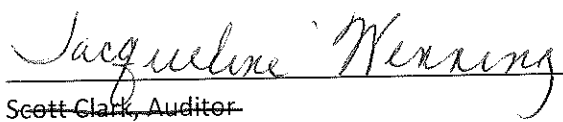
ADOPTED by the Board of Commissioners, this 1 day of October, 2019.

  
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Billy Stewart, President

  
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John Schellenberger

  
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Shawn Carruthers

ATTEST:

  
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Jacqueline Wexing

~~Scott Clark, Auditor~~