

GREENWOOD COMMON COUNCIL

ORDINANCE NO. 23-04

**AN ORDINANCE AMENDING THE GREENWOOD FIRE DEPARTMENT MERIT
SYSTEM TO PROHIBIT COMMISSIONER EX PARTE COMMUNICATION
CONCERNING DISCIPLINARY MATTERS**

WHEREAS, the Common Council of the City of Greenwood ("Common Council") repealed and re-established a merit system for the Greenwood Fire Department in accordance with Ind. Code § 36-8-3.5-3 by Common Council Ordinance No. 20-26, as amended;

WHEREAS, Ind. Code § 36-8-3.5-1(f) authorizes the Common Council to amend the adopted merit system;

WHEREAS, it has been determined that the Fire Department Merit System should be further amended to prohibit commission members from participating in ex parte communications concerning any pending disciplinary matter, other matters about which charges are expected, or summary discipline review;

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

Section 1. Greenwood Municipal Code (1993), as amended, Chapter 6, Article 15. Fire Department Merit System, is hereby amended as follows:

- A. In Sec. 6-462, Discipline by the Commission; Appeal, by inserting the following additional subsection (h), to read as follows:

"(h) Ex Parte Communication. A Commissioner shall not initiate, participate in, or consider *ex parte* communication concerning any pending disciplinary matter or other matters about which charges are expected. *Ex parte* communication includes any communication with a Commissioner by a party, representative of a party, or a person acting on behalf of a party without the presence of the adverse party. The term does not include the formal written submissions submitted to the Commission (and served upon opposing parties) and testimony and evidence presented at the hearing. A Commissioner who is exposed to *ex parte* communication (or attempts) shall immediately inform other Commissioners and the adverse party. A commissioner who has received *ex parte* information may be excluded from any participation in the subject matter of the *ex parte* communication upon motion of either party and majority vote of the remaining Commissioners. A Commissioner's failure to disclose *ex parte* communication (including attempts which he or she rebuffs) may subject the Commissioner to removal from the Commission pursuant to *I.C.*, 36-8-3.5-7. A member who participates in *ex parte* communication or attempts at *ex parte* communication shall be subject to discipline up to termination. Nothing in this subsection shall be construed to prevent the Chief or the Chief's delegate from communicating with the Commission pursuant to Indiana Code or Greenwood ordinances.

- B. In Sec. 6-463, Summary Discipline by the Chief; Review, by inserting the following additional subsection (d), to read as follows:

"(d) Ex Parte Communication. A Commissioner shall not initiate, participate in, or consider *ex parte* communication concerning any pending disciplinary matter or other matters about which charges are expected. *Ex parte* communication includes any communication with a Commissioner by a party, representative of a party, or a person acting on behalf of a party without the presence of the adverse party. The term does not include the formal written submissions submitted to the Commission (and served upon opposing parties) and testimony and evidence presented at the hearing. A Commissioner who is exposed to *ex parte* communication (or attempts) shall immediately inform other Commissioners and the adverse party. A commissioner who

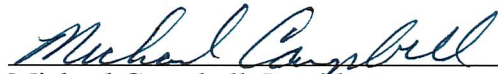
has received *ex parte* information may be excluded from any participation in the subject matter of the *ex parte* communication upon motion of either party and majority vote of the remaining Commissioners. A Commissioner's failure to disclose *ex parte* communication (including attempts which he or she rebuffs) may subject the Commissioner to removal from the Commission pursuant to *I.C.*, 36-8-3.5-7. A member who participates in *ex parte* communication or attempts at *ex parte* communication shall be subject to discipline up to termination. Nothing in this subsection shall be construed to prevent the Chief or the Chief's delegate from communicating with the Commission pursuant to Indiana Code or Greenwood ordinances.

Section 2. All other provisions of Greenwood Municipal Code (1993), as amended, Chapter 6, Article 15. Fire Department Merit System, as amended, not specifically referenced herein shall remain unchanged.

Section 3. The sections, paragraphs, sentences, clauses, phrases and words of this ordinance are separable, and if any word, phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs and sections of this ordinance.

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Passed by the Common Council of the City of Greenwood, Indiana, this 22nd day of February, 2023.


Michael Campbell, President
Greenwood Common Council

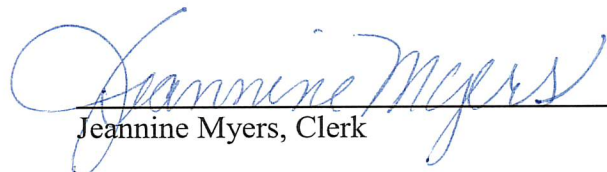
ATTEST:

I hereby certify that the foregoing within and attached ordinance was duly passed by the Common Council of the City of Greenwood, Indiana, at a meeting thereof held on the _____ day of _____, 2023 by the following vote:

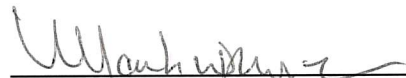
AYE: NAY:

Ronald Bates	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Michael Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Linda S. Gibson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ezra J. Hill	<input checked="" type="checkbox"/>	<input type="checkbox"/>
J. David Hopper	<input checked="" type="checkbox"/>	<input type="checkbox"/>
David Lekse	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bradley Pendleton	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Michael Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Erin Betron	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The foregoing within and attached ordinance passed by the Common Council of the City of Greenwood, Indiana, on the 22nd day of February, 2023, is presented by me this 24th day of February, 2023, at 10:10 o'clock A.m., to the Mayor of the City of Greenwood, Indiana.


Jeannine Myers, Clerk

The foregoing within and attached ordinance passed by the Common Council of the City of Greenwood, Indiana, on the 22nd day of February, 2023, is approved by me this 24th day of February, 2023, at 12:00 o'clock A.m.


Mark W. Myers, Mayor of
the City of Greenwood, Indiana