

## **TOWNSHIP OF UPPER DEERFIELD**

### **ORDINANCE 795**

#### **Amending Chapter 28 of the Upper Deerfield Township Code**

Chapter 28 of the Upper Deerfield Code is Amended in the following particulars:

Article 1 is hereby re-designated Article 2. A new Article 1 is adopted as follows.

#### **ARTICLE 1 VOLUNTEER FIRE COMPANIES**

##### **§28 – 1 Recognition and Designation of Fire Companies.**

There exists three Volunteer Fire Companies in Upper Deerfield Township that have heretofore provided fire fighting services to Upper Deerfield Township and its residents. Those Volunteer Companies are: Upper Deerfield Volunteer Fire Company Number 1, Seabrook Volunteer Fire AKA/ Seabrook Volunteer Fire and Rescue, and Upper Deerfield Volunteer Fire Company Number 3.

Upper Deerfield Volunteer Fire Company Number 1, Seabrook Volunteer Fire AKA/ Seabrook Volunteer Fire and Rescue, and Upper Deerfield Volunteer Fire Company Number 3 are hereby designated as the official fire fighting forces for Upper Deerfield Township in accordance with N.J.S.A. 40A:14-68. The continued service as designated fire fighting forces shall be subject to, and in accordance with, the terms and conditions of this Ordinance. Continued service by the companies and their members shall be deemed to be an acceptance of the provisions set forth herein.

##### **§28–2 Jurisdiction and Authority.**

The companies and their members shall be subject to the supervision and control of Upper Deerfield Township and in performing fire duty shall be deemed to be performing a governmental function. Each of the companies and their members shall be responsible for and have authority over day-to-day operations of the companies and in the manner and methods of fighting fires. The appointment or election of the chief of the volunteer fire company shall remain the prerogative of the membership of the fire company as set forth in the company's certificate of incorporation or bylaws.

##### **§28-3 Ownership of Equipment.**

The Township has heretofore purchased equipment for use by the companies, and in the future may purchase equipment for use by the companies. The Township has heretofore advanced funds to the companies for the purchase of equipment and in the future may advance funds for the purchase of equipment. Any such equipment purchased by the Township for use by the companies, or equipment purchased by the companies with money funded by the Township is, and shall be the property of the Township, to be returned to the Township in the event that any company ceases to be a designated fire company.

## **§28-4 Membership and Officers**

Membership in the three designated fire companies shall be in accordance with this Chapter and the by-laws, rules and regulations of the fire companies, including any amendments thereto. Membership in such companies shall be open to any persons able to perform fire-fighting functions and duties, without discrimination on the basis of an applicant's race, creed, color, sex, sexual orientation, age, national origin, ancestry, marital status or physical handicap. All members shall serve without compensation. Officers shall consist of a Chief and such other line officers or supervisors as are deemed necessary by each department. The appointment of Chief shall take place in accordance with each company's by-laws which shall be within the exclusive authority of each company to adopt. The Chief so appointed shall be authorized to control and supervise the fire company's authority and jurisdiction over fire-fighting within the Township.

## **ARTICLE 2 RULES AND REGULATIONS.**

### **§28-5 Rules and Regulations; Standard Operating Procedures; Township Policies and Procedures; Compliance with Law.**

The Township has in cooperation with the Companies heretofore established and adopted rules and regulations, standard operating procedures and standard operating guidelines governing the conduct of the companies as more particularly set forth in Ordinance 666 adopted April 7, 2011 and revised by Ordinance 704 adopted June 6, 2013. Collectively the Rules and Regulations, Standard Operating Procedures and Standard Operating Guidelines are hereby collectively designated as the "Upper Deerfield Township Manual for Volunteer Fire Companies". The continued service by each of the Companies as the officially designated fire fighting forces shall be conditioned upon compliance with the Upper Deerfield Township Manual for Volunteer Fire Companies, as revised hereby and as may be further revised by the Township Committee in the future.

In addition, and as a further condition of the designation of official fire fighting forces, the Companies, and each of them and their members shall abide by and comply with the rules and regulations adopted by Upper Deerfield Township as to the conduct of the municipal employees generally, the laws and regulations of the State of New Jersey and of the United States of America or regulation which govern or regulate the operation of fire companies and the deployment of personnel and equipment.

The Upper Deerfield Township Manual for Volunteer Fire Companies shall be filed with the municipal clerk. Copies shall be made available to or distributed to each member of each of the Companies. Additionally, a copy of the Upper Deerfield Township Manual for Volunteer Fire Companies shall be maintained and filed by each of the Companies.

## **ARTICLE 3 DISCIPLINE**

### **§28-6 Discipline of Members**

It shall be the affirmative obligation of the Chief and the officers of each of the Companies to assure compliance by each of the members with the Upper Deerfield Township Manual for Volunteer Fire Companies, the rules and regulations adopted by the Township Committee governing conduct of municipal employees generally or as may be required by the laws of the State of New Jersey and the laws of the United States of America. Each Chief shall be obligated to investigate any complaint made against any member or any such manuals, rules regulations or laws and to impose such discipline as may be necessary to assure continued compliance with the Upper Deerfield Township Manual for Volunteer Fire Companies, to avoid repeat violations of the provisions thereof, and to address the conduct of the members that create a risk of danger to persons or property or which may expose the Township to potential liability.

The Chief shall file a report with the Township Administrator of all complaints made against any member, all investigations conducted and the disposition of any investigation or complaint made against any member not later than 30 days following the receipt of any complaint.

In the event that a Chief does not fulfill his or her obligations as set forth herein, the Township Committee may conduct investigations and impose discipline in accordance with the Upper Deerfield Township Manual for Volunteer Fire Companies.

#### **§ 28-7 Discipline of Company Chief.**

Any complaint made against any Chief shall be made to the Township Committee. The Township Committee may impose any level of discipline it deems appropriate in its discretion, including suspension or removal if circumstances warrant for a violation by the Chief of any provision of any manual, rule, regulation or law as aforesaid.

The failure of any Chief or officer to fulfill his or her obligation to investigate and/or impose discipline of members in accordance with the provisions of §28-6 shall constitute a violation of the duties of Chief for which the Township Committee may impose discipline pursuant to the provisions of this §28-7.

#### **§ 28-8 Amendment of Township of Upper Deerfield Fire Department Rules and Regulations.**

The Upper Deerfield Fire Department Rules and Regulations adopted January 20, 2011, as amended, are further amended in the following particulars:

##### **§ 28-8.1** Section 6.1.1 is deleted and replaced with the following:

6.1.1 DISCIPLINARY ACTION. Employees/members, regardless of rank, shall be subject to disciplinary action, according to the nature or aggravation of the offense, for:

a. Committing an offense punishable under the laws or statutes of the United States, the State of New Jersey or any other State, or municipal ordinances;

b. Failure, either willfully or through negligence or incompetence, to perform the duties of their rank or assignment;

- c. Standard of Conduct similar to NJAC 4A:2-2.3(a), any rule or regulation, or directive of the department; or
- d. Failure to obey any lawful instruction, orders, or command of a supervisor.
- e. Any violation of Standard Operating Guidelines.
- f. Any violation of the Rules and Regulations set forth in the Upper Deerfield Township Fire Department Rules and Regulations.
- g. Any violation of the rules and regulations adopted by Upper Deerfield Township governing the conduct of municipal employees generally.

**§ 28-8.2.** Section 6.2.1 is deleted and replaced by the following:

6.2.1 Procedures. In any case involving the imposition of penalties against a member of a fire department with the Township of Upper Deerfield, a member of the department shall be entitled to a written complaint or advisement of disciplinary infraction and for the proposed disciplinary action to be taken by the department. The affected member of any fire department shall have the right to a hearing before the Fire Chief of the company in which he is a member, which hearing shall be informal.

**§ 28-8.3.** Section 6.2.2 is deleted and replaced with the following:

6.2.2 Penalties. The following range of discipline imposed for any conduct found to be in violation of section 6.1.1 and depending on the severity of the violation and member's history of violations or lack thereof.

- a. Counseling;
- b. Oral reprimand or performance notice;
- c. Written reprimand;
- d. Suspension
- e. Transfer/reassignment;
- f. Demotion; or
- g. Dismissal.

The foregoing list shall not be considered as establishing any progressive system of discipline. Rather, the list establishes a range of possible disciplines to be imposed. Further, the list shall not be considered exhaustive and any discipline consistent with law may be imposed.

**§ 28-8.4** Section 6.2.3 is deleted and replaced with the following:

6.2.3 Review by Governing Body. Upon the conclusion of any investigation, or upon the imposition of any discipline of any member, the Chief or other officer imposing the discipline shall provide a report to Township Committee of the investigation conducted and the result thereof, charges brought, findings and conclusions, and discipline imposed within 30 days of the commencement of investigation if no charges brought, or 30 days of the date when charges are brought.

Any penalty imposed under Section 6.2.2 above up to a suspension of five days or less shall be final and unappealable. Any suspension of 6 days or greater may be appealed within 20 days of the decision of the Fire Chief to the governing body of the Township of Upper Deerfield. On any such appeal, the governing body may, in its discretion, consider the matter denovo, consider new evidence and impose such discipline up to and including removal, as it may deem appropriate, or in its discretion may determine to review the appeal on the record and report of the Chief.

The Township Committee may in its sole discretion to review the decision of the Fire Chief to not bring charges following any investigation, or the decision of the Fire Chief where charges are brought, regardless of any appeal filed by the member.

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James Crilley, Chairman

Adopted: February 7, 2019

Attested:

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Roy J. Spoltore, Township Clerk

First Reading: January 17, 2019

Publication: January 24, 2019

Publication of Final Adoption: February 13, 2019