

**TOWNSHIP OF UPPER DEERFIELD**

**RESOLUTION 23-150**

**DENYING PETITION FOR REFERENDUM TO APPROVE OR REJECT ORDINANCE 856 ADOPTED AUGUST 17, 2023, AMENDING CHAPTER 28 OF THE TOWNSHIP CODE DESIGNATING FIRE COMPANIES 31 AND 33 AS THE VOLUNTEER FIRE COMPANIES AUTHORIZED TO PROVIDE FIREFIGHTING SERVICES PURSUAT TO N.J.S.A. 40A:14-68.**

**WHEREAS**, on August 17, 2023, Township Committee of Upper Deerfield Township adopted Ordinance 856 amending Chapter 28 of the Township Code designating Fire Companies 31 and 33 as the Volunteer Fire Companies authorized to provide firefighting services in the Township pursuant to N.J.S.A. 40A:14-68 and terminating any contract previously granted to Seabrook Fire a/ka/ Seabrook Volunteer Fire and Rescue Squad known as Company 32; and

**WHEREAS**, On, September 5, 2023, William Hitchner, Anna Sutton, Sandra Acevedo, Melinda Quigley, Benjamin A. Green as a “Committee of Petitioners” filed a petition pursuant to NJSA 40:69A-185, “invoking the power of referendum for the voters to approve reject at the polls” Ordinance 856; and

**WHEREAS**, the Power of Referendum set forth in N.J.S.A. 40:69A-185 applies to the Optional Forms of Government, made available under what is commonly referred to as the “Faulkner Act” as more particularly set forth in N.J.S.A. 40:69A-1 et. seq; and

**WHEREAS**, Upper Deerfield Township was incorporated as a “Township” form of government by act of the New Jersey Legislature on February 23, 1922 as more particularly set forth in Chapter 19 of the Chapter Laws of 1922 and accepted by the voters of Upper Deerfield Township as certified to the New Jersey Legislature on April 3, 1922; and

**WHEREAS**, as a Township form of government Upper Deerfield Township is regulated by the provisions of N.J.S.A. 40A:63-1 et. seq. and not N.J.S.A. 40:69A-1 et. seq; and

**WHEREAS**, N.J.S.A. 40:69A-185 does not apply to Township forms of government and therefore does not apply to Upper Deerfield Township; and

**WHEREAS**, no power of referendum is granted to the voters of a Township to approve and/or reject ordinances adopted by Township governments; and

**WHEREAS**, the petition submitted by the “Committee of Petitioners” to have the voters approve or reject Ordinance 856 is without legal authority to request or grant, and is therefore a legal nullity.

**NOW THEREFORE, BE IT RESOLVED** by the Township Committee of Upper Deerfield Township that the petition to submit a referendum to the voters of Upper Deerfield Township to approve or reject Ordinance 856 pursuant to N.J.S.A. 40:69A-185 be and the same is hereby denied.

Moved By: John L. Daddario

Seconded By: Joseph Spoltore

**VOTING**

James P. Crilley  
John L. Daddario  
Scott Smith  
Thomas Speranza  
Joseph Spoltore

<u>In Favor</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>
X			
X			
X			
			X
X			

## CERTIFICATION

I hereby certify that the foregoing is a true copy of Resolution adopted by the Township Committee of the Township of Upper Deerfield, in the County of Cumberland, at a meeting thereof held September 21, 2023.

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Roy J. Spoltore, Township Clerk