

**TOWNSHIP OF MAHWAH
ORDINANCE NO. 2037**

AN ORDINANCE OF THE TOWNSHIP OF MAHWAH, COUNTY OF BERGEN, STATE OF NEW JERSEY, AMENDING SECTION 2-17, FIRE DEPARTMENT, OF THE TOWNSHIP CODE TO HARMONIZE CODE PROVISIONS WITH CURRENT STATE REQUIREMENTS AND FIRE DEPARTMENT RULES AND REGULATIONS

WHEREAS, the Mahwah Fire Department has reviewed section 2-17 of the Township of Mahwah Code and recommends certain changes to harmonize the Code with current State requirements and Fire Department rules and regulations; and

WHEREAS, the Business Administrator and Township Attorney and revised the proposed changes and find them acceptable; and

WHEREAS, the Township Council desires to amend the Township Code.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Mahwah, County of Bergen, State of New Jersey, as follows:

SECTION 1. Chapter 2, Administration, § 2-17, Fire Department, of the Township Code is hereby amended as follows:

§ 2-17.1 Composition; Authority to Establish Rules and Regulations.
[Ord. #556; 1976 Code § 23-1]

- a. The Mahwah Volunteer Fire Department shall consist of the present Fire Department, known as Company No. 1, Company No. 2, Company No. 3, Company No. 4, and Company 5, and as many more companies as the Township Council of the Township shall from time to time approve by resolution.
- b. The firematic officers of the Fire Department shall consist of one Chief and two Assistant Chiefs, to be elected as First Assistant Chief and Second Assistant Chief, respectively.
- c. The Fire Department shall have the right, by a vote or a majority of the members thereof, to establish rules and regulations for the governance of the department. However, such rules and regulations shall in all cases be approved by the Township Council before becoming effective.
- d. Board of Firematic Officers. The Board of Firematic Officers shall consist of the firematic officers of the Fire Department, the firematic officers of each fire company and the President of each fire company or, in his absence, the Vice President of the fire company. They shall meet once a month and shall be responsible for the firematic functions of the department, in accordance with the rules and regulations of the department.

§ 2-17.2 Company Organization.
[Ord. #556; 1976 Code § 23-2; Ord. #1275, §§ I — IV; amended 12-15-2022 by Ord. No. 1995]

- a. Each company of the Fire Department shall have the following officers: one Battalion Chief, one Captain and two Lieutenants. Additionally, Company No. 1 shall have a Rescue Captain and Lieutenant.
- b. The membership of each company shall be classified as follows: active, active exempt, probationary, daytime, junior firefighter, and inactive exempt.
- c. Each company of the department shall consist of not more than 100 active members.
- d. Active Membership.
 1. The active membership shall be within the quota of the New Jersey State Firemen's Association. This class shall be composed of those persons who joined the company between the ages set forth by the State of New Jersey, have passed the physical examination according to the New Jersey State Firemen's Association standards and who are on quota or are awaiting selection to the quota by the company at the annual meeting. Failure to make 25% of one's duty for two consecutive years will constitute automatic removal from the quota. Any active member shall enjoy the privilege of holding any firematic office, provided that they qualify as set forth in the rules and regulations of the Fire Department. Active members shall have the right to vote on any matter brought before the company; provided that they qualify as set forth in the rules and regulations of the Fire Department.
 - a. Members must complete Fire Academy within 18 months of Academy start date or shall be removed.
 2. Those persons eligible for the quota who are awaiting openings in the quota shall be active members of the fire companies.
 3. Hereafter, no person shall be considered an active member of the Fire Department, nor be entitled to any privileges as such, until certified by the company to which they have applied for membership and approved by the Township Council.
- e. Inactive Exempt Member - The procedure and qualifications for election to this type of membership shall be the same as that of an active member. An inactive exempt member may hold any elective office as per qualifications set forth in the rules and regulations of the department.
- f. Active Exempt Membership. Any member having received his State and/or Township exemption may continue to enjoy all the privileges of an active fireman and shall be required to perform all the duties of an active fireman in this type of membership. Such members shall be eligible to vote for and hold any office, provided that they qualify as set forth in the rules and regulations of the department.
- g. Any person shall be eligible to apply for membership in a fire company in the Township, provided that the applicant:
 1. Is sound in body and of good health sufficient to satisfy the Board of Trustees of the Police and Firemen's Retirement System of New Jersey as to his eligibility for

membership in the retirement system.

2. Is able to read, write and speak the English language.
 3. Is of good moral character.
 4. Has not been convicted of any criminal offense in the 1st, 2nd, 3rd, or 4th degree.
 5. Is between the ages set forth by the State of New Jersey.
 6. Lives within a five-mile radius of the company they are joining.
- h. Daytime Member. Any person who is employed within the boundaries of the Township of Mahwah and who is an active member in good standing in another municipal fire department and who satisfies the requirements set forth in the Department Rules and Regulations for daytime firefighters. Daytime firefighters shall not be voting members in any Company and shall not hold any Department office.
- i. Junior Firefighter Member. Any person at least 16 years of age and not more than 18 years of age who is a resident of the Township of Mahwah and who meets the Junior Firefighter's membership requirements as set forth in the Fire Department Rules and Regulations approved by the Township Council.

§ 2-17.3 Elections.

[Ord. #556; 1976 Code § 23-3]

- a. The Chief, First Assistant Chief and Second Assistant Chief of the Fire Department shall be elected annually by ballot by the members of the said Fire Department at an election to be held during the month of November in each year at such meeting place as may be designated and approved by the Board of Firematic Officers.
- b. The Chief and Assistant Chiefs elected shall be subject to approval of the Township Council; and, upon confirmation, the term of such officers shall commence on the first day of January after their election and continue for a term of one year or until their respective successors are elected and confirmed. The Department Chief shall not serve more than two consecutive terms.
- c. The officers of each company shall be elected annually by ballot by the members of each company at an election to be held during the month of December in each year at the meeting place of each company or at such other place as may be designated and approved by the Township Council.
- d. The firematic officers of each company shall be elected for one year commencing January 1 following their election. However, they shall not assume their office until their election has been approved by the Township Council. All officers shall hold office until their successors are elected and have qualified.
- e. Upon a firematic officer's election by the department or any company, the Chief of the Fire

Department shall promptly submit, in writing, the name of such officer-elect to the Township Council for approval. The Township shall indicate, in writing, the Township Council's approval or disapproval of the officer-elect within 30 days after receipt of the name from the department; provided, however, that if the Township Council does not approve the election of the officer-elect, it shall set forth its reason for such action in writing. Should the decision of the Township Council not be received within such time, the officer-elect shall be deemed approved by the Township Council. Upon approval by either appropriate resolution or the failure of the Township Council to make a decision within 30 days as hereinabove set forth, said officer-elect shall be eligible to take the office to which he was elected. Should the Township Council disapprove the seating of such officer-elect, the election of such officer-elect shall be set aside, and the department or company shall conduct a new election meeting within 15 days of the receipt of written disapproval in the same manner as herein provided in this subsection for elections generally.

- f. In case the Fire Department or any company shall fail to elect any firematic officers during the time set forth in this subsection, then the Township Council shall appoint such officer or officers, and the officer or officers so appointed shall hold their respective office or offices until their successor or successors have been duly elected and have qualified.

§ 2-17.4 General Requirements.

[Ord. #556; 1976 Code § 23-4]

- a. Persons who are members of the Mahwah Volunteer Fire Department as of the date of passage of this section shall be recognized as members of the Mahwah Volunteer Fire Department. However, after the final passage and adoption of this section, each applicant for membership shall have the qualifications as set forth in Subsection 2-17.6.
- b. Application blanks shall be in the form prescribed by the New Jersey State Firemen's Association and shall be completely filled out and notarized.
- c. Applicants meeting age requirements may qualify for probationary membership. However, all applicants over the maximum age set forth by the State of New Jersey may qualify for active associate membership only.
- d. Applicants admitted into the company shall be required to complete a six-month probationary period, as directed in the rules and regulations.
- e. After expiration of the sixth month the officers of the department shall, as sole judges, determine whether the probationary member has qualified for active membership. Should he not qualify he shall automatically be discharged from the department with no right of appeal.
- f. Each active member of the Mahwah Volunteer Fire Department shall perform 25% of the duties in answering fire alarms, actual attendance and duty at fires and required drills in each and every year and such other duties as the Chief and the officers of the department may assign to him.

- g. Each member of the department shall receive a badge of the Fire Department, which badge shall remain the property of the department upon the resignation, removal or suspension of a member from service.

§ 2-17.5 Headquarters and Apparatus.

[Ord. #556; 1976 Code § 23-5]

No person or persons, except the members of the Township Council, shall enter any building housing the fire apparatus and equipment of the Township or handle any Fire Department equipment, property or apparatus belonging to the Fire Department, unless authorized to do so or accompanied by or having the special permission of an officer or authorized member of the department.

§ 2-17.6 Enforcement of Fire Prevention Regulations.

[Ord. #556; 1976 Code § 23-6]

It shall be the duty of the Fire Chief and Assistant Chiefs to act as liaisons to the Mahwah Fire Prevention Bureau.

§ 2-17.7 Mutual Aid.

[Ord. #556; 1976 Code § 23-7]

- a. The Chief of the Fire Department and the officers thereof are hereby authorized to extend aid and assistance to neighboring communities, upon request for fire protection or emergency services, or to establish a mutual aid system in accordance with the laws of the State of New Jersey.
- b. In the event of an emergency, the Chief or head of any municipal Fire Department or force or the Mayor or chief executive officer of any municipality may request, from the Chief or head of the Fire Department or force of any other contiguous municipality, assistance to protect life and property outside the normal territorial jurisdiction of the department to which such request is directed.
- c. The Chief or head of the Fire Department or force upon whom such a request for assistance is made shall provide such personnel and equipment as requested to the extent possible without endangering persons or property within its own municipality.
- d. Volunteer Fire Departments shall be required to respond to such requests for assistance only to the extent that they have agreed to do so in an agreement with a paid Fire Department or force or a municipality.
- e. If any member or officer of such other Fire Department or force in rendering such assistance shall suffer any casualty or death, he or his designee or legal representative shall be entitled to all salary, pension rights, workmen's compensation and other benefits as if such casualty or death occurred in the performance of his duties in his own municipality or other jurisdiction in which his duties are normally carried on.

§ 2-17.8 Insurance and Compensation.

[N.J.S.A. 34:15-17 et seq.]

a. Insurance.

1. In order to provide adequate compensation for injury for members of the Fire Department, the Township Council shall provide the following insurance coverages; and the Township Clerk shall notify, by January 31 of each year, in writing, the Chief of the Department that such coverage has been effected under this subsection.

(a) Employee's liability insurance coverage, in accordance with the Workmen's Compensation Act

(b) Supplementary accident insurance coverage in order to provide additional weekly compensation for a permanent and partial disability and a lump sum amount for loss of life or permanent or partial disability.

2. The Township Council shall provide adequate liability insurance covering the operation of all department's vehicles and its authorized drivers and shall also endeavor to provide liability coverage for the use and maintenance of buildings and equipment owned or used by the department. The Township Clerk shall notify the Chief of the Department, in writing, by January 31 of each year that coverage has been effected under this subsection.

b. Compensation. The Township Council may also provide suitable compensation to members of the department for loss of clothing and other personal effects suffered in line of duty. The members will be required to attend a specified number of fires, fire drills and other duties as may be set annually by the Township Council. Such drills and duties shall be more specifically defined by the department officers and approved by the Township Council. [Ord. #556; 1976 Code § 23-8]

§ 2-17.9 Fire Control Measures and Regulations.

[Ord. #556; Ord. #651; Ord. #824; 1976 Code § 23-9; New]

a. Definitions. As used in this subsection:

AUTHORIZED EMERGENCY VEHICLE

Shall mean any vehicle which is defined as and is authorized to be used as an emergency vehicle under the laws of the State.

FIRE CHIEF

Shall mean Chief, the Assistant Chief or other officers of the Township Fire Department representing the Chief.

a. Authority at Fires and Other Emergencies. The Fire Chief or his duly authorized representatives, as may be in charge at the scene of a fire or other emergency involving the protection of life or property, is empowered to direct such operations as may be necessary to extinguish or control any suspected or reported fires, gas leaks, or other hazardous conditions

or situations or of taking any other action necessary in the reasonable performance of their duty. The Fire Chief may prohibit any person, vehicle or object from approaching the scene and may remove or cause to be removed from the scene any person, vehicle or object which may impede or interfere with the operations of the Fire Department. The Fire Chief may remove or cause to be removed any person, vehicle or object from hazardous areas. All persons ordered to leave a hazardous area shall do so immediately and shall not re-enter the area until authorized to do so by the Fire Chief.

- b. Emergency Vehicle Operation. The driver of any emergency vehicle, as defined in Subsection a of this subsection, shall not sound the siren thereon or have the front red lights on or disobey any existing traffic regulation, except when said vehicle is responding to an emergency call or when responding to, but not upon returning from a fire. Tactical strategies such as, but not restricted to, "move-ups" do not constitute an emergency call. The driver of an emergency vehicle may:
 1. Park or stand irrespective of the provisions of existing traffic regulations;
 2. Proceed past a red or stop signal or other sign, but only after slowing down as may be necessary for safe operation;
 3. Exceed the posted speed limit so long as he does not endanger life or property;
 4. Disregard regulations governing direction of movement or turning in specified directions;
 5. The exemptions herein granted to an emergency vehicle shall apply only when the driver of any such vehicle while in motion sound audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle.
 6. Any member driver involved in a motor vehicle accident must remain on scene until a police report is taken.
- d. Public Water Supply. The Fire Chief/Official shall recommend to the Mayor and Township Council the location or relocation of new or existing fire hydrants and the placement or replacement of water mains located upon public and private property as deemed necessary to provide an adequate fire flow and distribution pattern. A fire hydrant shall not be placed in or removed from service until approved by the Fire Chief/Official.

§ 2-17.10 Use of Headquarters and Building.

[Ord. #556; 1976 Code § 23-10]

The respective fire companies housed in their respective buildings shall have exclusive control over the use of the headquarters and building for all purposes, subject to the approval of the Township Council.

§ 2-17.11 Disciplinary Procedure.

[Ord. #556; 1976 Code § 23-11]

- a. Infractions. In the event that any member of the Fire Department violates this Fire Department Ordinance of the Township, a duly posted general order of the Chief of the Fire Department or any of the following rules and regulations, he will be subject to disciplinary action:
 1. Refusal to obey a direct order by an officer.
 2. Insubordination.
 3. Unsafe practices.
 4. Violation of the New Jersey motor vehicle laws when using fire apparatus.
 5. Striking an officer or other fireman during a drill, fire or other firematic function.
 6. Dereliction of duty.
 7. Action unbecoming a member of the Fire Department.
 8. Conviction of a crime in the 1st, 2nd, 3rd, or 4th degree.
 9. Any member of the suspended from another fire department shall be automatically suspended from the Mahwah Fire Department.
 10. Any prospective applicant who has been dismissed for cause from another department shall not be permitted to apply to the Mahwah Fire Department.
- b. Complaints.
 1. Anyone witnessing an infraction of this Fire Department Ordinance of the Township, the rules and regulations adopted by the Fire Department or the duly posted general orders of the Chief, by a member of the Fire Department while on fire duty, during a training session or drill, or any dereliction of duty, or for good cause at any time, may file a written, signed complaint thereof with the Chief of the Fire Department. Each member complained of shall be considered as a separate complaint.
 2. Each complaint must include the name of the member complained of, the date, time and location of the occurrence and a description of the incident. The complaint must be filed within 15 days of the date of the discovery of the incident. The postmarked date of a mailed complaint shall be considered as the filing date.
 3. Anyone having knowledge or information concerning a crime and who withholds that information will become an accessory to the fact and will be subject to disciplinary and criminal proceedings.
- c. Procedure.
 1. Notice. Upon receipt of a complaint, the Chief or, if he is disqualified, the next ranking firematic officer shall, before notifying the firematic officers of the Department and companies, as well as the President of each company, and before any action whatsoever is

taken thereon, mail a copy of the complaint to the member complained of. This shall be done by certified mail and the date of the certified receipt shall constitute the date of notice. Should the Chief initiate and file a complaint, he must notify the member complained of before any action whatsoever is taken thereon.

2. Formal Hearing. Within 10 days following the date of receipt of the complaint, the Chief shall call for a formal hearing before the Battalion Chief or Captain of each company and the President of the company involved, at which time the person making the complaint and the member being complained of may be heard. At the completion of this hearing, the officers present will render a decision as to the complaint.

- a. Should the member complained of fail to appear at this hearing, without good cause shown, the complaint shall be considered prima facie evidence of the facts contained therein.

d. Disposition of Complaints.

1. Dismissal of Complaint. If a majority of the hearing officers find a complaint not justified, they shall dismiss same. In the event of a tie vote, the complaint shall be dismissed.

2. Formal Hearing Disposition.

- (a) If a majority of the hearing officers find a complaint to be justified, they may:

- (1) Issue a written reprimand.

- (2) Suspend the member from duty for a period up to a maximum of 90 days from the date of the hearing.

- (b) The member complained of shall be notified, in writing, of the decision within three days of the hearing.

3. The Chief shall preside at all Department hearings, except when he files the complaint being considered, in which case the next ranking member of the Fire Department shall preside.

4. The member complained of shall be entitled to counsel by anyone he chooses, and this person shall be recognized as the defendant's legal counsel for the purposes of this hearing.

5. Witnesses may appear, give testimony and be questioned, and all proper evidence presented must be considered. The Chief of the Fire Department shall arrange for a transcript of the proceedings.

6. After due consideration of all the evidence submitted and/or developed during the hearing, the jury shall retire in private to deliberate and, by secret ballot, vote on the case before it. It may return one of three decisions:

- (a) Not guilty.

(b) Suspension from duty for a period up to a maximum of 90 days.

(c) Dismissal from the Fire Department.

7. The member complained of shall be notified in writing within three days of the decision.
8. A verdict of dismissal must be approved by the Mayor and Township Council after a review of the complaint and the transcript of the formal hearing.
9. If the member complained of is found guilty at a hearing, or if a Chief is found guilty at a hearing or a hearing before the Township Council, he shall be responsible for the payment of the Township Attorney's fees and the cost of the transcript. If the member complained of is found not guilty, the Township will bear responsibility for the aforesaid costs.

e. Appeals.

1. Any member aggrieved by the actions of the firematic officers at a hearing shall have the right to an appeal. Such appeal shall be taken by filing a written appeal with the Chief of the Fire Department within seven days after notice of the decision of the officers of the hearing. The Chief shall set a time and place for a hearing within 30 days of the appeal, giving the appellant at least seven days' notice of the hearing.
 2. Any member aggrieved by the actions of the firematic officers at a formal hearing shall have the right to a de novo hearing before the Township Council. Such appeal shall be taken by filing a written appeal with the Township Clerk within seven days after the notice of the decision of the officers at the formal hearing. The Mayor shall set a time and place for the hearing within 30 days of the appeal, giving the appellant at least 15 days' notice of the hearing.
- f. Complaints by Citizens to Mayor and Township Council. Any complaint received by the Mayor and Township Council against any member of the Fire Department, except the Chief, shall be forwarded immediately to the Chief of the Fire Department and may not be made public.

g. Complaints Against the Chiefs of the Fire Department.

1. Complaints against the Chief, First Assistant Chief or Second Assistant Chief of the Fire Department which involve matters concerning the conduct of the Fire Department matters or the conduct of the Chiefs of the Fire Department as members of the department shall be filed and processed in accordance with the procedures prescribed by this section. However, the disposition of the complaint shall be resolved only by a formal hearing before the firematic officers of the departments and companies as well as the President of each company.
2. In the event that a complaint against any of the Chiefs of the Fire Department concerns a matter unrelated to the conduct of Fire Department or the conduct of the Chiefs as members of the Fire Department, the Township Council shall notify the Chief complained of before any action whatsoever is taken thereon.

3. Within 15 days following the date of receipt of the complaint, the Mayor shall call for a closed hearing before the Township Council. This hearing shall be held within 60 days of the date of the incident complained of. The Chief complained of shall be entitled to counsel by anyone he chooses, and this person shall be recognized as the defendant's legal counsel for the purposes of this hearing. Witnesses may appear, give testimony and be questioned, and all proper evidence presented must be considered by the Township Council. The Mayor shall arrange for a transcript of the proceedings.
4. Decision.
 - (a) After due consideration of all evidence submitted and/or developed during the hearing, the Township Council shall deliberate and return one of three decisions within two weeks of the hearing:
 - (1) Not guilty.
 - (2) Suspension from duty for a period up to a maximum of 90 days.
 - (3) Dismissal from the Fire Department.
 - (b) The Chief complained of shall be notified in writing within three days of the Township Council's decision.
5. In the event that a complaint against any of the Chiefs of the Fire Department shall involve facts concerning the conduct of Fire Department matters or the individual conduct of the Chiefs as members of the Fire Department and, in addition, give rise to an inference that felony may have been committed, it shall be processed in the following manner:
 - (a) The Fire Department, in accordance with the provisions of this section, shall take action on the complaint insofar as it involves the conduct of Fire Department matters or the conduct of any Chief as a member of the Fire Department.
 - (b) Insofar as any evidence or information shall exist indicating the commission of a felony, the Township Council shall forward same to the Police Chief of the Township for his action. In the event that the prosecutor, in his discretion, refrains from instituting litigation, the Township Council shall abide by the Fire Department's disposition of the complaint.

§ 2-17.12 Violations and Penalties.

[Ord. #556; Ord. #824; 1976 Code § 23-12]

Unless another penalty is expressly provided by New Jersey Statute or except as specifically provided in some other section of this code, every person convicted of a violation of a provision of this section or any supplement thereto, shall be liable to a penalty of not less than \$25 nor more than \$500 or by imprisonment not to exceed 90 days, or both such fine and imprisonment.

SECTION 3. Ordinances, resolutions, regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 4. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such a decision shall not affect the remaining portions of this Ordinance.

SECTION 5. This ordinance shall take effect twenty (20) days following final passage, approval, and publication as required by law.

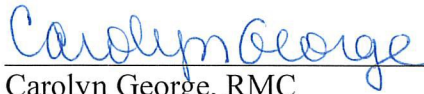
Introduced: 6/24/24
Adopted: 7/22/23
Effective Date: 8/12/24

TOWNSHIP OF MAHWAH



Robert M. Ferguson, III
Council President

ATTEST:



Carolyn George, RMC
Municipal Clerk