

NOTICE OF PENDING ORDINANCE AND SUMMARY
BOROUGH OF WALLINGTON
COUNTY OF BERGEN
ORDINANCE NO. 2022-010

The following ordinance was introduced at a regular meeting of the Mayor and Council of the Borough of Wallington on Thursday, June 09, 2022 and was passed on first reading. It was ordered to be published according to law and to remain on file in the Office of the Borough Clerk. The ordinance will be considered for final passage at the Regular Meeting of the Mayor and Council at the Borough Hall, 24 Union Boulevard, Wallington, New Jersey on Thursday July 21, 2022 at 6:30 P.M., or as soon thereafter as it can be reached. All persons interested will be given an opportunity to be heard concerning it.

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 49 OF THE CODE OF THE BOROUGH OF WALLINGTON TO REVISE THE NUMBER OF FIRE COMPANIES AND MAKE OTHER CHANGES TO CHAPTER 49.

1. Article I of Chapter 49 of the Code of the Borough of Wallington is amended and supplemented to read as follows:

Article I
COMPOSITION, QUALIFICATIONS AND DUTIES

§ 49-1 **Composition of Department.**

A. The Fire Department of the Borough of Wallington shall be composed of three volunteer fire companies; one rescue squad and one emergency squad, each of which companies and squad shall be a duly incorporated nonprofit organization under the laws of the State of New Jersey.

B. There shall not be more than 30 members in each of the volunteer fire companies, not more than 50 Members in the Rescue Company and not more than 50 members in the emergency squad.

§ 49-2 **Membership procedures.**

A. By January 1 of each year, each fire company shall submit a notice to the Borough Clerk which shall include the fire company's name and address, the names of its officers and members, and the dates of its regular organization meetings. Said notice shall then be posted forthwith.

B. Each fire company shall supply the Clerk with application forms, and the

Clerk shall distribute them on written request or on personal request made during normal business hours. Said forms shall state that applications may be filed either by personal delivery or by sending them by mail to the secretary or other designated officer of the company or squad, whose mailing address shall either appear on the application form or be available from the Clerk.

C. The secretary or other officer designated to receive applications shall date each application with the time of receipt and shall number the application according to its order of receipt relative to other applications. The secretary shall promptly send a letter or postcard to each applicant, stating the number of the application and the date and time it was received.

D. Each fire company shall establish a membership committee, consisting of not more than 15 members, which shall be solely responsible for evaluating and ruling upon applications for membership. It shall, within 60 days of receipt of an application by the fire company or squad, make a report to the company or squad as to whether or not the applicant qualifies for membership. Its decision shall be binding on the company or squad, and no vote of the membership shall be conducted on the issue of whether an applicant shall be admitted to membership.

E. Applicants reported by the investigating committee to be qualified for membership shall be admitted in the order in which their applications were received as set forth above as soon as vacancies exist. If at any time the number of applicants found to be qualified exceeds the number of current vacancies, a waiting list shall be established according to the order in which the applications were received, and appointments shall be made therefrom in that same order.

F. If the membership committee determines that an applicant does not meet the minimum requirements for membership, the secretary shall promptly advise the applicant, in writing, of the rejection and the qualifications, described with particularity, which have not been substantially met.

G. The membership of the Rescue Squad shall be at the discretion of the Rescue Squad. No person may be a member of the Rescue Company unless also a member of a Fire Company. Membership in the Rescue Squad shall be open to all Members of the Fire Department having successfully completed Firefighter One Certification.

Qualifications; probationary period.

A. Membership in the Fire Department shall be open to all persons who are able to perform the duties of volunteer firemen or emergency squad members, respectively, without discrimination on the basis of an applicant's race, creed, color, sex, age, national origin, ancestry, marital status or physical handicap. Each fire company and squad shall establish objective qualifications for membership which shall relate directly and solely to the physical and technical ability and character fitness of an applicant to perform the vocational duties of a volunteer fireman or emergency squad member. Such qualifications shall include but not be limited to the following:

B. Any candidate for firefighter who is a citizen of the United States between the ages of 18 and 57 (in accordance with the requirements of the New Jersey State Firemen's Association), both inclusive, upon presentation of proof of having passed a physical examination, the cost of which shall be borne by the applicant, shall be eligible for membership, provided that the candidate is and has been a resident of the Borough for at least one year prior to appointment. However, the one-year residency requirements shall not apply in the case of a qualified fireman in another New Jersey municipality at the time of his removal from such other municipality to the Borough; nor shall said residency requirement apply to a former resident of the Borough who had been a member in good standing of any Wallington volunteer fire company or emergency squad during the period of such former residence in the Borough who again takes up residence in the Borough.

C. Each new member or transferee admitted to membership in a Borough fire company or emergency squad shall be on probation for a period of one year from the date of such membership. During such one-year probationary period, all such new members and transferees must successfully complete a course in basic firematics at an accredited fire-training school. During such period and at the conclusion thereof, each probationary member shall be evaluated solely by the officers of the fire company or squad who supervise the performance of the probationer's duties. Said officers may cause the dismissal of any member during the probationary period only for failure to perform the established duties of a probationary member in a reasonably satisfactory manner or other good cause and may do so by notifying the probationary member, in writing, of a rejection and the particular reasons therefor. At the end of the probationary period, said supervising officers shall determine whether or not the applicant has satisfactorily performed the duties of probationary member. If the probationer has, they shall promptly recommend to the membership admittance to full membership, and their recommendation shall be binding on the company and he

shall be so admitted forthwith. If the probationer has not, they shall promptly notify the probationary member, in writing, of the rejection and the particular reasons therefor. No vote of the membership shall be conducted on the issue of whether any probationary member shall continue as a probationary member or shall be admitted to full membership. The individual company or squad may, however, in its discretion, provide intracompany means for appealing rejections from applications for membership or dismissals from membership.

§ 49-4 **Election of officers; vacancies; terms.**

A. Department officers. Department officers shall be a Chief, Deputy Chief and Assistant Chief.

(1) To be eligible as a candidate for departmental office, the member shall have:

(a) Been an active fireman for a period of at least seven years;

(b) Served as a Captain on the fire company level;

(c) Successfully completed all available firefighting courses at an accredited firefighting school; and

(d) Within a period of two years prior to election to office, completed a course in officer training given at an accredited firefighting school.

(2) Each of the three departmental officers shall be from a different fire company. As of the effective date of this section, the officers serving as Chief, Deputy Chief and Assistant Chief shall assume the above corresponding duties and shall remain in office until the first of January of the next calendar year. On that date, the Deputy Chief shall assume the office of Chief and the Assistant Chief shall assume the office of Deputy Chief. The company unrepresented by a departmental officer shall then nominate the Deputy Chief. Each year subsequent to the first of January 2022, a Deputy Chief shall be nominated by the company unrepresented by a departmental officer. The Deputy Chief shall progress to the position of Assistant Chief, and the Assistant Chief shall become Chief.

(3) In the event of a resignation, removal or suspension of any officer, the subordinate officers shall advance to the next highest position and, when necessary, a new Assistant Chief shall be nominated by the unrepresented company. All officers advanced or newly elected shall serve out the unexpired term and shall then be eligible for the normal progression.

B. Election of the Assistant Chief.

(1) Each October the Assistant Chief shall be elected by Members of the company which the then current Chief and Deputy Chief are not Members.

(2) There shall be one nominee for the office of Assistant Chief. The members of the fire company from which the nominee is chosen shall be the nominating body. Election shall be by a majority of the ballots cast. Immediately after the election, the result shall be certified by the Fire Commissioner. The Secretary of each fire company shall provide the Fire Commissioner with a list of its members in good standing at least five days prior to the election. In the event that a candidate does not receive approval of the majority of the ballots cast, his respective company shall, within 10 days, submit another candidate for the position. Within seven days of such submission, a new election shall be held. In no event, however, shall a candidate's name be placed before the electorate more than twice in any one year.

(3) The position of Assistant Chief, Deputy Chief, and Chief shall be rotated among the three fire companies as provided in Subsection B(2). The election of the Assistant Chief shall be voted upon only by the members of the fire company which is entitled through the rotating system to propose the office of Assistant Chief.

C. Company officers. Company officers for the fire companies and the rescue company shall consist of a Captain, a Lieutenant and a Secretary, who shall be elected by the members of their respective companies. To be eligible as a candidate for company office, the member shall have been an active fireman for at least three years. In order to be eligible as a Captain, a member must have served a term as Lieutenant. To be eligible as a candidate for Lieutenant, a member shall have successfully completed an officer-training course within six months of his nomination. No Company Officer shall simultaneously hold office as a Company Officer in more than one Company.

D. Approval. The election of all members and officers of the Department and companies shall be approved and confirmed by the Mayor and Council. All Department and company officers shall file an oath for the faithful performance of their duties. An oath of office shall be administered by the Mayor or presiding officer of the Council or by their designee.

E. Vacancies. Special elections to fill Department vacancies shall be called by the Fire Commissioner on 10 days' notice of a vacancy. Company vacancies shall be filled as provided by the individual company's bylaws.

F. Term of office. All Department and company officers shall hold office from the first of January at 12:00 noon until the first of January at 12:00 noon of the following year or until a successor is duly elected and qualified.

§ 49-5 **Duties of Chief.**

A. The Chief of the Department shall be in command at all times and be responsible for the condition of all fire apparatus, fire equipment and firefighting systems in use by the Department. In his absence, the Deputy Chief and the Assistant Chief, respectively, shall assume the duties of the Chief in that order. In the absence of the Chief, the Deputy Chief and the Assistant Chief, the first company officer arriving on the scene shall have command until the arrival of a superior officer.

B. If any part of the equipment is damaged or missing, upon return to quarters a report shall be made to the Chief at once, who in turn shall take steps to immediately repair or replace the same as follows: the Chief shall notify the Fire Commissioner, in writing, who shall promptly file a requisition and refer the matter to the Mayor and Council, as required by law. In the event of an emergency situation which requires immediate action, the Chief shall first notify the Fire Commissioner or Mayor and then resort to the above process as soon as time permits.

§ 49-6 **Removal of officers; hearing; appeals.** For failure to perform duties as outlined in this article or upon presentation to the Fire Commissioner of a petition signed by 1/2 of the members of the Department, a Department officer shall be suspended. Within 10 days of the presentation of said petition, the Fire Committee of the Borough Council shall hold a hearing after providing the officer with notice of the meeting and a copy of written charges against him. The evidence presented at such hearing shall be stenographically reported by a certified stenographic reporter. Within seven days of the hearing, the Committee shall render a decision by a majority vote for removal or reinstatement. Thereafter, an aggrieved party may appeal to the Mayor and Council. Such appeal must be filed with the Borough Clerk within 14 days of the Committee's decision. Within 10 days after the filing of the appeal, the Mayor and Council, upon giving notice to the officer and the companies, shall meet and hold a trial de novo on the record of the Fire Committee's hearing. Within seven days after such hearing is concluded, the Mayor and Council shall render a decision either affirming or denying the Committee's decision or remanding to the Fire Committee the taking of further evidence.

§ 49-7 **Duties of company officers.**

A. **Captain:** It shall be the duty of each company Captain and the Rescue Squad Captain, under the direction of the Chief, to keep a record of all alarms and fires and circumstances and damages connected with the same and of any service rendered by their respective companies. In addition, the Captain of each fire company and the Rescue Squad shall exercise such powers and assume and Discharge such duties and obligations as the Chief of the Fire Dept. may prescribe from time to time as warranted. The Captain of the Rescue Squad shall act as the President of the Rescue Squad.

B. **Lieutenant:** The Lieutenant of each fire company and the Rescue Squad shall be second in rank and command and in the absence or disability of the Captain shall assume and perform all the duties and obligations of the Captain and exercise all of the powers of the office of Captain. The Lieutenant of the Rescue Squad shall also serve as the Vice President of the Rescue Squad and perform the duties of President in the Captain's absence.

C. **Secretary:** The Secretary of each fire company and the Rescue Squad shall be responsible for maintaining all records of the Company or Squad as to membership, recording of minutes of meetings, communications, and proper notifications to the Borough. The Secretary of each fire company shall receive all Membership applications and present to the Membership for review and action.

D. **Treasurer:** The Treasurer shall be responsible for receiving and dispersing all funds of the fire or Rescue Company. The Treasurer shall keep an accurate record of all transactions and report at each Meeting Company and Rescue Squad the financial status of the Company.

E. **Engineer:** An Engineer for the Rescue Squad shall be appointed by the Captain and Lieutenant of the Rescue Squad. The Engineer shall be responsible for the proper mechanical maintenance of the Rescue Truck and keep an accurate record of preventive maintenance of the vehicle.

§ 49-8 **Duties of firefighters; removal.** It shall be the duty of each and every firefighter to respond to a call of fire and endeavor to save life and property under the direction of his superior officers. Neglect on the part of any member or officer to reasonably perform the duties required of the firefighter shall make that firefighter subject to removal from membership by his respective company, with the exception of the Department officers, whose removal shall be

governed by § 49-6. Any member whose removal is being acted upon shall be granted an opportunity to be heard before a company committee.

§ 49-9 **Promulgation of rules and regulations.** The companies and squads of the Department shall make such rules and regulations to discipline their members for infractions of rules or failure to comply with their requirements as they deem necessary. *(Said rules and regulations are on file in the office of the Fire Chief.)*

§ 49-10 **Management of Department and equipment.**

A. The management of the Fire Department and lands, buildings, property and apparatus assigned to the use of the Department and management and direction of the officers appointed or delegated to duty therein shall be in the Mayor and Council.

B. No apparatus under the control of the Fire Department shall be taken outside of the Borough limits for parades, expositions or like civic functions unless authorized by the Fire Commissioner and thereafter approved by the Mayor and Council.

C. The rescue truck shall be assigned to the Rescue Squad.

D. The Rescue Squad shall act as a support unit to the Scuba Unit of the Fire Department.

E. All costs relating to the Rescue Squad shall be paid for out of and charged to the budget of the Fire Department as determined by the Mayor and Council.

§ 49-11 **Inspections.** There shall be an annual inspection of the entire Department, members and equipment on the last Saturday in the month of April of each year and at such other times as may be fixed by resolution of the Mayor and Council.

§ 49-12 **Annual reports.**

A. In addition to the quarterly reports, the outgoing Chief shall make an annual report to the Mayor and Council, which report shall be delivered within 30 days of the first meeting of the Mayor and Council in January.

B. Within 30 days of the first meeting of the Mayor and Council in January,

the secretary of each company shall provide the Mayor and Council with a list of all officers, members, drivers and alternative drivers in good standing.

§ 49-13 **Drivers.**

A. No motor apparatus which is a part of the equipment of the Fire Department shall be driven except by such drivers as may be designated by the Captain of each fire Company or the Rescue Squad, subject to the approval of the Chief of the Department and confirmed by the Mayor and Council.

B. The Captain of each fire and the rescue squad shall appoint, with the approval of the Chief, drivers for each company, who shall hold their positions for the term of one year in the manner provided in § 49-4F for officers of the Department. In the absence of an appointed driver in an emergency situation, an alternate driver may take over until such time as an appointed driver shall arrive on the scene.

C. All drivers of equipment of the Fire Department shall hold valid New Jersey Driver's Licenses with endorsement appropriate to the equipment driven.

§ 49-14 **Fire Marshals.** The Captain of each fire company shall appoint for and from each company two Fire Marshals, subject to the approval of the Chief of the Department. The Fire Marshals shall hold office for the terms of one year in the manner provided in § 49-4F for other officers of the Department. The Fire Marshals shall direct traffic and keep unauthorized personnel from interfering with the firefighting of the Department and out of danger at the scene of a fire.

§ 49-15 **Attendance for fire duty.** All firefighters shall perform at least 60% fire duty, which duty shall consist of attendance at fires, firehouse duties, Department meetings and such other duties as may be properly assigned to them by company and departmental officers. The secretary of each company or squad will keep records of attendance and will determine what action is to be taken in the event that the attendance of a member falls below said percentage.

§ 49-16 **Retirement; inactive membership.** There shall be no automatic retirement from active service based upon age. The removal of all firemen regardless of age shall be governed by § 49-8.

§ 49-17 **Volunteer Benefits.** Notwithstanding membership in more than one fire company, the rescue squad or the emergency squad, no firefighter shall be entitled to more than one share of any benefit provided to Members of the

Fire Department.

2. Except as modified herein, the provision of Chapter 49 of the Code shall remain in force and effect.

3. This ordinance shall take effect upon final passage and publication according to law.

This Notice is published pursuant to law.

Greg Zagaja
Acting Borough Clerk
Borough of Wallington
County of Bergen