

Introduction: 12/13/18

Public Hearing: 12/27/18

TOWNSHIP OF MAHWAH Effective: 1/24/19  
ORDINANCE NO. 1853

**AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE  
TOWNSHIP OF MAHWAH, SECTION 2-11.3, "FIRE SERVICES."**

**WHEREAS**, the Township of Mahwah desires to amend and supplement the provisions of Chapter II "Department of Emergency Services" of the Mahwah Revised General Ordinances, Sections 2-11.3 through 2-11.4 to require all volunteer firefighters to undergo a criminal history background check;

**WHEREAS**, N.J.S.A. 40:48-1.4 requires a local municipality to enact an ordinance providing that an authorized municipal officer may request a criminal history background check;

**NOW THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Mahwah as follows:

**Section 1.** Chapter 2-11.3, "Fire Division," Chapter 2-11.4, "Authorized Force; Fire Division," and Chapter 2-11.5, "Fire Division Discipline," are amended as follows (additions underlined, deletions struck through):

2-11.3 Fire Division.

Within the Department of Emergency Services there shall be a Fire Division, the head of which shall be the Fire Chief. The Division, subject to the direction and supervision of the Fire Chief, shall:

- a. Have exclusive jurisdiction over the control, fighting and extinguishment of conflagration which occurs within the Township limits.
- b. Make, administer and enforce rules and regulations for control, disposition and discipline of the division and its officers and employees and, within the limits available, appropriations for establishment and maintenance of stations and the disposition, use and care of its equipment and apparatus.
- c. Designate and fix the location of fire alarm and telegraph and signal stations in the Township and operate, repair and maintain a Township fire alarm and signal system.
- d. Investigate the cause, circumstances and origin of fires and report to the Township Police Department and to the County Prosecutor every case of suspicion of arson.
- e. Be authorized to inspect and test any automatic or other fire alarm system or fire extinguishing equipment.
- f. Be authorized to enter upon without fee or hindrance all premises, grounds, structures, buildings, vessels, and passages whenever necessary to the performance of its duties.
- g. Operate a training program to maintain and improve the fire fighting efficiency of the members of the department.

- h. Maintain a Bureau of Fire Prevention and Fire Safety Inspection and administer fire prevention ordinances of the Township, except as may be therein specifically provided in such ordinances.  
(Ord. #874; 1976 Code §3-83)

#### 2-11.4 Criminal History Background Checks of Fire Division Prospective Members

- a. For purposes of this article, a "criminal history record background check" means a determination of whether a person has a criminal record by cross-referencing that person's name and fingerprints with those on file with the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation.
- b. The Township requires that all prospective volunteer members of the Fire Division shall submit to being fingerprinted in accordance with applicable state, federal, county and local laws, rules and regulations, as a condition of membership with the Fire Division.
- c. All prospective volunteer members shall authorize the Township, through its duly authorized representative, to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation.
- d. In order to obtain criminal history record information pursuant to this article and N.J.S.A. 40:48-1.4, the Township shall submit the fingerprint data for prospective volunteer members of the Fire Division to the State Bureau of Identification in the Division of State Police. The State Bureau of Identification shall receive all criminal history record information from the Federal Bureau of Investigation and shall disseminate that information to the Township.
- e. The Township shall conduct a criminal history record background check of a prospective volunteer member of the Fire Division only upon receipt of the written authorization and consent to the criminal history background check from the prospective member. A form for the authorization and consent to said background check shall be provided to each prospective member along with the application for volunteer membership with the Fire Division. Failure to submit a fully signed and witnessed written authorization and consent form shall be grounds to reject an application.
- f. The Township shall bear the costs associated with conducting criminal history record background checks.
- g. An individual may be disqualified from serving as a volunteer member of the Fire Division if that prospective member's criminal history background check reveals a record of conviction of any of the following crimes and/or offenses:
  - i. In New Jersey, any crime or disorderly persons offense or petty disorderly persons offense:
    - (a) Involving danger to the person, including, but not limited to those crimes, disorderly persons offenses and

- petty disorderly offenses set forth in N.J.S.A. 2C:11-1 et. seq.; N.J.S.A. 2C:12-1 et. seq.; N.J.S.A. 2C:13-1 et. seq.; N.J.S.A. 2C:14-1 et. seq.; and/or, N.J.S.A. 2C:15-1 et. seq.;
- (b) Against the family, children or incompetents, including, but not limited to those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:24-1 et. seq.;
  - (c) Involving arson, burglary or theft as set forth in N.J.S.A. 2C:17-1 et. seq.; N.J.S.A. 2C: 18-1 et. seq., and/or N.J.S.A. 2C: 20-1 et. seq.;
  - (d) Involving offenses against public administration, perjury and other falsification in official matters, obstructing governmental operations, misconduct in office and/or abuse of office as set forth in N.J.S.A. 2C:27-1 et. seq.; N.J.S.A. 2C:28-1 et. seq.; N.J.S.A. 2C:29-1 et. seq.; or, N.J.S.A. 2C:30-1 et. seq.;
  - (e) Involving any controlled dangerous substance or controlled substance analog as set forth in Chapter 35 of Title 2C of the New Jersey Statutes; or,
  - (f) Involving operation of a motor vehicle while intoxicated in violation of Chapter 4 of Title 39 of the New Jersey Statutes.
- ii. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes, disorderly persons offenses or petty disorderly persons offenses described herein.
- h. Access to criminal history record background information of prospective volunteers of the Fire Division obtained under this article is restricted to authorized personnel of the Township on a need-to-know basis, as may be authorized by federal or state statute, rule or regulation, executive order, administrative code, this article and/or resolution regarding obtaining and dissemination of criminal history record background information.
  - i. Criminal history record background information shall not be disseminated to persons or organizations not authorized to receive the records for authorized purposes. Use of this record shall be limited solely to the authorized purpose for which it was given and it shall not be disseminated to any unauthorized persons. Said records are not public records under the Open Public Records Act.

2-11.45 Authorized Force: Fire Division.

The division shall consist of such officers and men as authorized for the Fire Division on the effective date of this Code unless otherwise provided pursuant to law. (Ord. #874; 1976 Code §3-84)

2-11.56 Fire Division Discipline.

The Fire Chief shall administer and enforce rules and regulations for the control, disposition and discipline of the division and its officers and employees, and for the use and care of equipment and apparatus in accordance with existing ordinances of the Township. The division shall operate a training program to maintain and improve the capability and efficiency of the members of the division. (Ord. #874; 1976 Code §3-85)

**Section 2.** All other parts, portions and provisions of Chapter II of the Township of Mahwah Code, be and the same, are hereby ratified and confirmed, except where inconsistent with the terms thereof. In the event of any such inconsistency, the terms of this Ordinance shall be deemed to govern.

**Section 3.** If any section, paragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

**Section 4.** All ordinances or parts of ordinances of the Township heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

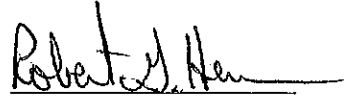
**Section 5.** This Ordinance shall take effect twenty (20) days after final passage, adoption and publication according to law.

Ordinance No. 1853

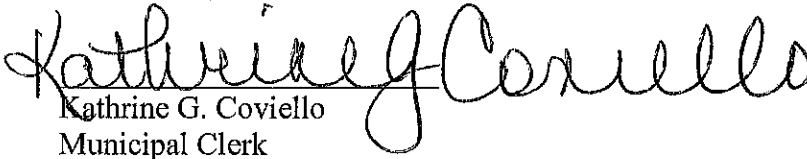
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Dated: January 4, 2019

Attest



Robert G. Hermansen  
Council President



Kathrine G. Coviello  
Municipal Clerk

I, Kathrine G. Coviello, Municipal Clerk of the Township of Mahwah, hereby certify that the within Ordinance was passed and adopted at a meeting of the Township Council held on the 27 day of December, 2018.



Kathrine G. Coviello, RMC/CMC/MMC  
Municipal Clerk