

ORDINANCE 25-2002

ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 34 OF THE BOROUGH CODE ENTITLED "POLICE DEPARTMENT"

WHEREAS, the Chief of Police has recommended that Chapter 34 of the Borough Code entitled "Police Department" be amended to conform with current statutory and case law requirements; and

WHEREAS, the Borough Council has determined to amend Chapter 34.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey, that Chapter 34 of the Borough Code entitled "Police Department" is hereby amended as follows:

SECTION 1: Chapter 34, POLICE DEPARTMENT

ARTICLE I, General Provisions

§ 34-1. Department established; composition.

The Police Department of the Borough of Madison is hereby established and shall consist of a Chief of Police, and may have one Deputy Chief, and shall have one Captain, not more than four Lieutenants, not more than eight Sergeants, not more than twenty-four patrolmen, provided the full number of police officers shall not exceed thirty-six including the Chief of Police, and not more than two special police as the Borough council may from time to time appoint as requested by the Chief of Police.

§ 34-2. Appointment.

A. The officers and members of the Police Department shall be appointed by the Borough Council to hold office as provided by law and shall receive such salary as the Borough Council may determine.

B. In addition, the Borough Council may employ clerical personnel and other employees to assist the Police Department and its officers in preserving peace and good order in the Borough of Madison.

C. In addition to the police officers provided for in § 34-1, the Borough Council by resolution may appoint, on a temporary basis, one or more probationary patrolmen to fill any temporary

vacancy in the Borough of Madison Police Department, which vacancy is caused by the terminal leave of any police officer or officers for unused vacation time and/or any other reason authorized by Subsection C or D of § 30-18 of the Code of the Borough of Madison.

§ 34-3. Designation of appropriate authority.

The Borough Administrator shall serve as the appropriate authority, as the same is defined in N.J.S.A. 40A:14-118, to whom the Police Chief shall be directly responsible for the efficiency and routine day-to-day operations of the Police Department.

§ 34-4. Rules and regulations.

The Borough Council shall establish by resolution and may from time to time amend and repeal by resolution such rules and regulations, with the advice of the Chief of Police and as concurred in by the Borough Administrator, as it may deem necessary for the government and efficient working of the entire Department.

§ 34-5. Qualifications.

A. Each applicant for membership in the Police Department shall be a United States citizen and shall comply with all of the laws of the State of New Jersey pertaining thereto. On or after January 01, 2003, each applicant must also have at least an associate's degree or sixty college credits or military service or previous police service, or be presently enrolled in a New Jersey Certified Police Academy.

B. Is sound in body and of good health sufficient to satisfy the Board of Trustees of the Police Retirement System of New Jersey that he/she is eligible for membership in the retirement system.

C. Is able to read, write and speak the English language well and intelligently.

D. Is of good moral character. No person shall be appointed who has been convicted of an indictable offense or who has been convicted of any crime or offense involving moral turpitude.

E. Is 21 years of age or over and under the age of 35 years, except as provided in § 34-14B herein.

F. No person shall be given nor shall he/she accept a permanent appointment in the borough as a police officer unless such person has successfully completed a police training course at a school approved and authorized by the Police Training Commission in the Department of Law and Public Safety, pursuant to the Police Training Act, N.J.S.A. 52:17B-66 et seq.

G. A qualified person for the Madison Borough Police Department shall be given a probationary or temporary appointment as a police officer in the borough for a total period not exceeding one year for the purpose of enabling the person seeking permanent appointment to take a police training course as prescribed in the Police Training Act, N.J.S.A. 52:17B-66. et seq. However, the time period set forth above may exceed one year for those persons enrolled prior to the one-year limit in a police training course scheduled to end subsequent to the one-year limit, and for those persons who, prior to the one-year limit have been scheduled to attend a police training course which commences subsequent to the one-year limit. An extension may be granted, in the discretion of the Chief of Police up to six months.

H. Upon successful completion of the police training course as set forth in Subsection F herein, the probationary or temporary appointment of the person shall continue for twelve months. The purpose of the additional twelve-month probationary or temporary appointment is to permit the borough to determine whether the person satisfactorily performs his/her duties as a borough police officer. The additional twelve-month probationary or temporary appointment period shall commence on the date of graduation from the police training course set forth above, or date of hire.

§ 34-6. Removal and suspension.

A. Each regular police officer shall hold his/her office and continue in employment during good behavior and efficiency, and no person shall be removed from office or employment for any other causes than incapacity, misconduct, neglect of duty, conduct unbecoming a police officer, disobedience of the rules and regulations established or hereafter established for the Department or absence from duty without just cause for five days or more.

B. Any member of the Department may be suspended, removed, fined or reduced from his/her office or employment for just cause upon due notice and service of written charges and a hearing.

C. Any officer who is suspended with pay shall not be entitled to work secondary employment during such suspension without written approval of the Chief of Police.

D. Any member of the Police Department found guilty after such hearing described in subsection B hereof may appeal such decision as allowed by law.

§ 34-7. Chief of Police.

A. The Chief of Police shall be the executive head of the Police Department. The Chief of Police shall, in his/her absence assign the next highest ranking officer in charge of the department. The

officer in charge, in the event of a planned absence of the Chief of Police, shall be required to perform all of the duties and he/she shall maintain all of the responsibilities of the Chief of Police as delineated by both local ordinance and state statute. In the event of the unplanned incapacitation of the Chief of Police, the officer in charge, as previously designated by the Police Chief, shall perform the above functions until such time as the Chief is capable to assume his/her duties.

The control and discipline of the Police Department and of its members shall be

vested in the Chief of Police or his/her designee and he/she shall have the power to enforce all the rules and regulations herein provided and any general and special orders or instructions which he/she may from time to time promulgate, provided that such rules, regulations, general or special orders or instructions do not conflict with the rules and regulations, orders or instructions issued by resolution of the Borough Council. He/She shall enforce these rules and regulations, orders or instructions, whether promulgated by him/her or by the Borough Council, and may punish their violation as he/she deems necessary pursuant to law.

The Chief of Police, with the assistance of the other members of the Department

who are detailed for the purpose, shall keep the Council Liaison advised of all matters of importance relating to the Department.

The Chief of Police shall recommend to the Council from time to time the

purchase of new equipment or the repair or rearrangement of such old equipment as will increase the efficiency of the Department. He/She shall have full charge and control of all the apparatus and equipment of the Department and its assignment and will make recommendations that in his/her opinion will increase the efficiency of the Department.

E. The Chief of Police shall, at his/her discretion, assign members of the Madison Borough Police Department to work assigned to these work functions, and the officers assigned within these functions may be changed from time to time as necessary to efficiently carry out the duties of the Department as mandated by § 34-8.

§ 34-8. Special law enforcement officers (Special Police Officers).

A. Upon recommendation from the Chief of Police, the Borough Council may appoint special law enforcement officers for terms not exceeding one year and may revoke such appointments without cause or hearing. Special law enforcement officers shall carry out their duties and responsibilities under the direct supervision of the Chief of Police, and their powers, rights and duties shall be specifically defined by the Chief of Police. The powers, rights and duties shall immediately cease at the expiration of the term for which they were appointed or upon revocation of their appointment. Special officers shall not carry revolvers or other weapons at

any time except as otherwise directed by the Chief of Police. The resolution approving appointment of special law enforcement officers shall designate the rate of pay, if any.

B. No person may be appointed as a special law enforcement officer unless the person:

- (1) Is a resident of the State of New Jersey during the term of appointment.
- (2) Is able to read, write and speak the English language well and intelligently and has a high school diploma or its equivalent.
- (3) Is sound in body and of good health.
- (4) Is of good moral character.
- (5) Has not been convicted of any offense involving dishonesty or which would make him/her unfit to perform the duties of his/her office.
- (6) Has successfully undergone the same psychological testing that is required of all full-time police officers of the Borough of Madison.
- (7) Is not at the time of appointment serving as a full-time police officer or as a special law enforcement officer in any other municipality.

C. Every applicant for the position of special law enforcement officer appointed pursuant to this section shall have fingerprints taken, which fingerprints shall be filed with the Division of State Police and the Federal Bureau of Investigation.

D. Before any special law enforcement officer is appointed, the Chief of Police shall ascertain the eligibility and qualifications of the applicant and report these determinations in writing to the Borough Council.

E. No person shall be permitted to commence his/her duties as a special law enforcement officer unless he/she has successfully completed a training course approved by the New Jersey Police Training Commission and received an appropriate certificate thereof, unless he/she is otherwise eligible and authorized to serve as a special law enforcement officer pursuant to the provisions of N.J.S.A. 40A:14-146.11.

F. At the time of appointment, each special law enforcement officer shall be designated as either a Class 1A or Class 1B officer, each of which shall possess the duties, powers and authority as follows:

- (1) Class 1A officers shall be authorized to perform routine traffic detail, spectator control and similar duties.

(2) Class 1B officers shall be authorized to perform all duties of a Class 1A officer and shall also have the power to issue summonses for disorderly persons and petty disorderly persons offenses, violations of borough ordinances and violations of Title 39 of the New Jersey Statutes.

(3) All Class 1 special law enforcement officers shall be strictly prohibited from using firearms and shall not be assigned any duties which may require the carrying or use of a firearm.

(4) All special law enforcement officers shall be under the supervision and direction of the Chief of Police and shall perform their duties only in the Borough of Madison.

(5) All special law enforcement officers shall comply with the rules and regulations applicable to the conduct and decorum of the permanent, regularly appointed police officers, as well as any rules and regulations applicable to the conduct and decorum of special law enforcement officers.

(6) All special law enforcement officers may be assigned only to assist the Police Department and may not be assigned to replace or substitute for full-time regular police officers or in any way diminish the number of full-time officers.

G. Every special enforcement officer prior to the commencement of his/her duties shall be furnished with a uniform which shall identify the officer's function. The uniform shall include, but not be limited to, a hat and appropriate badges which shall bear an identification number or name tag and the name of the Borough of Madison. The uniform shall also include an insignia issued by the New Jersey Police Training Commission which clearly indicates the officer's status as a special law enforcement officer and the type of certification issued pursuant to N.J.S.A. 40A:14-146.11. All special law enforcement officers prior to the commencement of duties shall be in uniform properly displaying the appropriate insignia.

H. The weekly hours assigned to special law enforcement officers shall not exceed the limitations set forth in N.J.S.A. 40A:14-146.16.

§ 34-9. School crossing guards.

The Council may, from time to time, appoint as school guards such persons as it shall deem to be qualified for such position. The powers and duties of school guards shall be limited to the protection of children while on public thoroughfares in the Borough of Madison in connection with the attendance of such children at the several schools in said borough, and to the direction and regulation of pedestrian and vehicular traffic at the various street intersections and crossings where they may be stationed. While on active duty, school guards shall be under the jurisdiction of and subject to the orders of the officers of the Madison Police Department.

§ 34-10. Community service officers.

A. The Borough Council, upon recommendation from the Chief of Police, may appoint community service officers to serve under the supervision of the Chief of Police. The duties of such persons shall include, at the discretion of the Chief of Police, parking violations enforcement, police dispatching and school crossing guard responsibilities.

B. Such persons shall have the powers of a law enforcement officer only to the extent of being empowered to issue summonses and complaints for nonmoving (parking) motor vehicle violations as provided by N.J.S.A. 39:5-3 and the rules governing the courts of the State of New Jersey.

C. Such persons shall not be regular members of the Police Department nor have any of the powers or authority of regular or special police officers, except as expressly granted herein regarding nonmoving motor vehicle violations.

§ 34-11. Personnel other than regular or probationary members not to acquire tenure.

No person who shall serve as a special policeman or a school guard, or who shall perform any duties of a police nature other than as a probationary patrolman, prior to appointment as a regular member of the Madison Police Department, shall be entitled to credit for any such prior periods of duty or services rendered, either with or without pay on account of any required tenure or promotion record in the Police Department; provided, however, that persons permanently appointed to said Department who shall have served as probationary patrolman shall be entitled to credit for service during their probationary periods.

§ 34-12. Oath.

Every person appointed to the Police Department, in whatever capacity, shall, prior to entering upon his/her duties, take and subscribe to an oath or affirmation as may be required and prescribed by the laws of the State of New Jersey.

§ 34-13. Police Physician; physical examinations.

A. Every member of the Madison Police Department shall be required to have at least one physical examination by a medical doctor annually. Such examination shall be conducted at such time as the Chief of Police may designate. Records of said physical examination shall be kept on file by the Chief of Police.

B. Every member of the Madison Police Department must maintain himself/herself in proper physical condition and good appearance at all times. The Council of the Borough of Madison or the Chief of Police may require any member of the Police Department to be examined by a

medical doctor when, in the opinion of said Borough Council or Chief of Police, such member gives evidence that he/she is unable to perform properly the duties of his/her position. Nothing herein contained shall prevent such a member from submitting supplemental evidence of his/her condition, to be supplied by a physician of his/her own selection, in addition to that required by the Council or Chief as mentioned above.

C. Recommendations of a medical doctor for corrective measures of physical deficiencies interfering with the duties of a member of the Madison Police Department shall be followed by such member, subject to the approval of the member's personal physician.

§ 34-14. Military service.

A. Leave of absence.

(1) When any member of the Madison Police Department who has entered or hereafter shall enter the active military service of the United States or of this state, in time of war or an emergency, or for or during any period of training, or pursuant to or in connection with the operation of any system of selective service, or who has entered or hereafter in time of war shall enter the active service of the United States Merchant Marine or any similar organization authorized by the United States to serve with the military forces, he/she shall be granted a leave of absence for the period of such service and for a further period of three months after receiving his/her discharge from such service. If any such person shall be incapacitated by wound or sickness at the time of his/her discharge from such service, his/her leave of absence shall be extended until three months after his/her recovery from such wound or sickness or until the expiration of two years from the date of his/her discharge from such service, whichever shall first occur.

(2) In no case shall such person be discharged or separated from his/her office, position or employment during such period of leave of absence because of his/her entry into such service. During the period of such leave of absence, such person shall be entitled to all the rights, privileges and benefits that he/she would have had or acquired if he/she had actually served in such office, position or employment during such period of leave of absence, except, unless otherwise provided by law, the right to compensation. Such leave of absence may be granted with or without pay as provided by law. Such person shall be entitled to resume the office, position or employment held by him/her at the time of his/her entrance into such service, provided that he/she shall apply therefor before the expiration of his/her said leave of absence. Upon resumption of his/her office, position or employment, the service in such office, position or employment of the person temporarily filling the same shall immediately cease. If any person shall be appointed a member of the Police Department of the Borough of Madison to fill any vacancy, the Council thereof shall certify how such vacancy occurs or exists, and the name of the person, if any, who held such office or position immediately prior to the vacancy. No person who, after entry into such service, shall have been separated from such service by a discharge of lesser degree than an honorable discharge shall be entitled to any of the rights, privileges or benefits herein conferred.

B. Temporary replacement.

(1) When any member of the Police Department of the Borough of Madison is granted a leave of absence, as hereinabove set forth or pursuant to any law granting leave of absence to persons entering the military forces of the United States or of this state, the Council may appoint a person to serve in the place of the person who has been granted such leave of absence and during the continuance thereof. Such appointment shall constitute a temporary appointment only, and such temporarily appointed person shall have no obligation to contribute to any pension fund and shall acquire no pension or tenure rights.

(2) The Council, in making the temporary appointment, may appoint any person who is not less than 21 nor more than 35 years of age; who is a citizen of the United States; is sound in body and in good health; is able to read, write and speak the English language well and intelligently; and is of good moral character; but no person shall be so appointed who has been convicted of any crime involving moral turpitude which, in the judgment of the Council, would be prejudicial to the morale of the Department.

(3) Such temporary appointment shall terminate upon the expiration of the leave of absence granted to the appointee's predecessor in office, or upon official notification of the permanent incapacity or death of such predecessor. It may be terminated sooner if such appointment is found to be no longer necessary or in the interest of economy.

C. Appointments and age requirements. Any person who has been or shall be appointed a member of the Police Department in the Borough of Madison while serving in the military service of the United States in time of war, and who has been or shall be delayed in qualifying and becoming a member of such Police Department as a result of such service, and who has qualified and become a member of such Police Department or who shall qualify and become a member of such Police Department within six months after discharge or release from such service under conditions other than dishonorable, shall be considered, for the purpose of determining his/her years of service, rank and grade, increase in pay or any other rights or benefits, as having qualified and to have become a member of any such Department, as of the date of his/her appointment, notwithstanding the requirements of any other law concerning the appointment of members to such Police Department.

§ 34-15. Uniforms.

A. All members of the Police Department shall be provided with uniform allowance as per the Collective Bargaining Agreement and all members shall and maintain in clean and serviceable condition such wearing apparel and equipment as is prescribed by the Police Chief.

B. If a police officer voluntarily leaves the employment in the Police Department prior to two full years of service, then such officer shall reimburse the Borough of Madison for all costs incurred by the Borough of Madison for training and uniforms.

§ 34-16. Firearms.

All firearms shall be provided by the borough, shall remain the property of the borough and shall be subject to recall by the Chief of Police.

§ 34-17. Decrease in personnel for economy reasons.

When the Council of the Borough of Madison shall, for reasons of economy, find it necessary to decrease the number of members of or employees in the Police Department, or of any grade or rank thereof, in such borough, it shall proceed in the following manner:

A. If the Council shall determine to decrease the number in any of the higher ranks or grades of the Police Department, it shall demote such member or employee, or members or employees, of such higher rank or ranks to the next rank below. It shall not remove any such member or employee from such Department for reasons of economy, except as hereinafter provided, and in any such demotion from the higher rank or grade, the member or employee to be demoted shall be the last one so appointed to such higher rank or grade. All dismissals or removals from the Department for reasons of economy shall be made from the last person or persons appointed to the Department, regardless of the rank of such person at the time of decreasing the number of employees.

B. If any officer, employee or member of said Police Department shall be demoted to a lower rank or grade for reasons of economy, such member or employee shall be carried on a special list, and when promotions are made to such higher rank or grade, the person demoted on the ground of economy shall be the first to be restored to the rank from which he/she was demoted.

§ 34-18. Criminal history background checks.

A. All criminal history background checks shall be conducted in accordance with all applicable statutes and regulations and any guidelines promulgated by the New Jersey Attorney General, New Jersey State Police or other applicable authority.

B. Criminal history background checks may be conducted by the Police Department for the following purposes:

(1) Criminal justice, law enforcement and related purposes.

(2) In connection with any application to the borough for a license, permit or approval, where consideration of a prior criminal conviction is authorized by statute, the Borough Code or other laws, regulations or ordinances.

(3) In connection with an application for employment with the borough as authorized by § 30-5.1 of the Borough Code or as requested by the Borough Administrator for other public employment related purposes.

(4) For such other purposes as authorized by law.

C. In the case of criminal history checks conducted pursuant to Subsection B(2) of this section, each person covered by the application shall submit a completed State Police request form.

D. The Chief of Police shall be responsible for implementation and administration of the provisions of this section; provided, however, that responsibility may be delegated in whole or in part to one or more subordinate officers.

ARTICLE II, Mutual Aid Agreement

§ 34-19. Agreement authorized.

Pursuant to N.J.S.A. 40A:14-156 et. seq., N.J.S.A. 40:8A-1 et seq. and as otherwise provided by law, the Mayor and Municipal Clerk may be authorized by the Borough Council to execute a mutual aid agreement with the County of Morris and the municipalities within the County of Morris for the provision of supplemental law enforcement assistance in the event of an emergency, disaster or widespread crisis, which agreement shall include but not be limited to the following terms and conditions:

A. Each party agrees that in the event of an emergency, disaster or widespread crisis within the municipal jurisdiction of any other party, the appropriate services and assistance will be provided upon request and to the extent reasonably possible without endangering persons or property within the municipality rendering such assistance.

B. All mutual aid rendered pursuant to the mutual aid agreement and the Morris County Regional Emergency Deployment (MCREDS) Plan shall be provided without charge or expense to the municipality receiving such assistance. By executing the mutual aid agreement, each party acknowledges that it shall be solely responsible for the provision of any and all salary and other benefits for its personnel, whether paid or volunteer, rendering assistance within the other municipality to the same extent as if such personnel were performing their duties within the municipality providing the assistance.

C. The mutual aid agreement shall have an initial term of one year and shall be automatically renewed for additional and successive one-year terms unless and until one of the parties thereto

elects to terminate the agreement by providing prior written notice to the other parties to the agreement.

SECTION 2: This Ordinance shall take effect as provided by law.

ADOPTED AND APPROVED

JOHN J. DUNNE, Mayor

Attest:

MARILYN SCHAEFER, Borough Clerk