

**Ordinance 0-7-11**

**ORDINANCE REPEALING CHAPTER 98 OF THE FRANKLIN TOWNSHIP CODE AND REPLACING CHAPTER 98 WITH A NEW ARTICLE.**

**WHEREAS**, the Township of Franklin is empowered to establish a police department and to provide for its oversight and staffing by virtue of the authority delegated by the Legislature pursuant to N.J.S.A. 40A:14-118; and

**WHEREAS**, said statute provides discretion and flexibility to the Governing Body to determine whether to employ a Chief of Police or a Police Director and to establish an Appropriate Authority for the management of the police department; and

**WHEREAS**, the Superior Court-Appellate Division of this State has interpreted N.J.S.A. 40A:14-118 in PBA North Brunswick Local 160 v. Township of North Brunswick, 318 N.J.Super. 544 (App. Div. 1999) as giving municipal government the discretion to choose or not choose to appoint a Chief of Police to manage the Police Department; and

**WHEREAS**, the Township Committee believes that it is in the best interest of the taxpayers of Franklin Township to provide flexibility to the Governing Body in the appointment of the appropriate authority to manage the operations of the police department so established; and

**NOW THEREFORE BE IT ORDAINED** that chapter 98 of the Franklin Township code be and is hereby repealed and replaced by the following article:

**§ 98-1 Qualifications**

A.

All applicants for appointment to the Police Department shall be qualified for appointment as required by law.

**[§ 98-2 Establishment.** The office of Police Director, which individual shall be charged with the duties of supervising and establishing the policies for the operation of the Police Department and such other duties and responsibilities as created by this article, is hereby established. The Police Director shall constitute the appropriate authority in accordance with N.J.S.A. 40A:14-118.

**§ 98-3 Appointment; removal from office.**

A.

The Police Director shall be appointed by the Mayor with the advice and consent of the Township Committee and shall serve a term of office at the pleasure of the Township Committee.

B.

Removal from office.

(1)

The Police Director may be removed from office by the vote of a majority of the Township Committee

**§ 98-4 Salary.**

The salary of the Police Director shall be as set forth in a Salary Ordinance adopted by the Township Committee as such ordinance may be amended from time to time.

**§ 98-5 Supervisory responsibility; appointment.**

A.

The Director of Police shall be charged with the duties of supervising and establishing the policies for the operation of the Police Department and shall be directly responsible to the Mayor of the Township for the efficiency and operation of the Police Department.

B.

The Director of Police shall be appointed by the Mayor with the advice and consent of the Committee and shall serve a term of office at the pleasure of the Township Committee.

#### **§ 98-6 Powers and duties.**

Under the general direction of the Mayor and Township Committee, the Director of Police for the Township of Franklin shall have full control over the Police Department and see to the proper enforcement of the rules and regulations adopted by the Township Committee. Nothing herein shall empower the Director of Police to perform those duties which are reserved to law enforcement personnel.

#### **§ 98-7 Monthly reports to Mayor and the Committee.**

The Director of Police shall submit monthly reports to the Township Administrator, Mayor and the Committee concerning the operation of the Police Department during the preceding month in such form as shall be prescribed by the Mayor and the Committee. The Director shall make such other reports as may be requested by the Mayor and the Committee.

#### **§ 98-8 Graphic Table of Organization.**

A. A graphic Table of Organization shall be maintained by the Director of Police to show the divisional structure of the Police Department.

B. The function and duties of each position in the Table of Organization shall be defined by policies established by the Director of Police.

#### **§ 98-9 Policies of the Director.**

Pursuant to N.J.S.A. 40A:14-118, the Director of Police shall issue any operations orders, general orders or standard operating procedures or policies as the Director deems necessary for the efficiency and operation of the Police Department.

#### **§ 98-10 Emergency directives.**

Nothing contained herein shall infringe upon or limit the duty and authority of the Chief of Police if one be appointed to act to provide for the health, safety and welfare of the municipality in an emergency through special emergency directives pursuant to the provisions of N.J.S.A. 40A:14-118 and 40A:14-146.9.

#### **§ 98-11 Police Department rules and regulations and Police Manual.**

A.

The appropriate authority who shall be the Director of Police, pursuant to N.J.S.A. 40A:14-118, is hereby authorized to update, adopt and promulgate rules and regulations for the government of the Police Department and for the discipline of its members subject to ratification and adoption of said rules and regulations by the Township Committee.

B.

Said rules and regulations shall govern the conduct of and be binding upon the entire membership, sworn officers and civilian employees of the Police Department.

C.

Said rules and regulations shall be in manual form and shall be called the "Rules and Regulations of the Police Department of the Township of Franklin."

D.

Each sworn officer and each civilian employee is duty bound to be thoroughly familiar with the provisions of the Police Manual and rules and regulations of the Police Department.

#### **§ 98-12 Creation; statutory purpose.**

There is hereby created in and for the Township of Franklin, a Police Department (previously established by Ordinance 98-1 now replaced by this section) within the County of Gloucester, State of New Jersey, pursuant to the provisions of N.J.S.A. 40A:4-118. This article is intended to ratify the existence and operation of the Police Department which has historically operated within and served the Township of Franklin and to satisfy statutory requirements of the enabling legislation as amended.

#### **§ 98-13 Purposes; duties.**

The Police Department shall preserve the peace; protect life and property; detect, arrest and prosecute offenders of the laws of New Jersey and the ordinances of the Township of Franklin; direct and control traffic; provide attendance at and protection during emergencies; provide appearances in court; cooperate with all other law enforcement agencies; and provide training for the efficiency of its members and officers as well as perform all other duties and fulfill all other responsibilities normally associated with the operation of a Police Department.

#### **§ 98-14 Composition.**

Said Police Department shall consist of one Director of Police, one Chief of Police, one Deputy Chief of Police and such Captains, Lieutenants, Sergeants, Corporals, police officers, Officers in Charge and civilian employees as deemed necessary and appropriate by the Director of Police in his discretion and judgment with the approval of the Mayor and Township Committee. **The Director of Police and/or Mayor and the Township Committee may, from time to time, leave one or more of the above positions vacant, as they see fit.** The express purpose for renaming these offices is to establish a statutory line of authority from all police employees to a higher elected authority. No personnel may be appointed to the Franklin Police Department until they have satisfied all statutory requirements and have complied with the selection process and standards established by the rules and regulations adopted by the Appropriate Authority to govern said Police Department.

#### **§ 98-15 Line of authority.**

A.

Appropriate authority. The Franklin Police Department shall come under the jurisdiction of the appropriate authority, which is hereby created pursuant to N.J.S.A. 40A:14-118. Said appropriate authority shall be the Director of Police. The appropriate authority shall be directly responsible to the Governing Body of the Municipality. The Director of Police, in addition to those powers and duties enumerated in § 98-2 of this chapter, shall be responsible for the operation of the Police Department pursuant to policies established by said Director and as ratified by the Township Committee pursuant to §98-112 above.

B.

Hearing authority.

(1)

In the event of any disciplinary proceeding against any member of the Police Department of the Township of Franklin, the appropriate authority or his/her designee shall be the sole hearing officer and person in charge of all such proceedings.

(2)

Nothing herein shall prevent the Director of Police from designating a hearing officer for the purpose of conducting the hearing, receiving evidence, preparing a record and submitting findings and a proposed recommendation of penalty to the appointing authority established under law.

C.

Charging authority. The Director of Police or the Chief of Police or his designee may initiate disciplinary charges against any member of the Police Department pursuant to the powers vested in said office by N.J.S.A. 40A:14-118.

#### **§ 98-16 Disciplinary hearings.**

A.

Any employee seeking to appeal disciplinary charges shall do so in writing submitted to the Office of the Director of Police. Said appeal shall be filed, in writing, within five business days, not including Saturday, Sunday and legal holidays, from the date said disciplinary charges were served upon the employee.

B.

The Director of Police, Chief or designee as the case may be shall schedule a hearing no sooner than 10 calendar days nor later than 30 calendar days from the date of service of the charges upon the employee.

C.

Any preliminary notice of disciplinary action served upon any employee shall contain the date, time and location of the hearing on the charges.

#### **§ 98-19 Suspension, removal, fine or reduction in rank.**

No member or officer in the Police Department shall be suspended, removed, fined or reduced in rank for any cause other than for incapacity, misconduct or disobedience as provided in the New Jersey statutes and the Police Department's rules and regulations (N.J.S.A. 40A:14-147).

#### **§ 98-18 Appointment to Department.**

No person shall be appointed to the Police Department who is not qualified as provided in the New Jersey statutes. The appropriate authority may also require that an applicant for appointment to the Police Department successfully complete a physical, mental and psychological examination (N.J.S.A. 40A:14-122 and N.J.S.A. 40A:14-127).

#### **§ 98-19 Special law enforcement officers.**

The Mayor and Committee of the Township of Franklin may appoint from time to time special law enforcement officers in accordance with New Jersey statutes for terms not exceeding one year. They shall possess and exercise all the powers and duties provided by said statutes during their term in office but shall not be continued as regular members of the Police Department and shall not be entitled to tenure. The Director of Police or Chief of Police, if one be appointed may authorize special law enforcement officers when on duty to exercise the same powers and authority as regular members of the Police Department, including the carrying of firearms and power of arrest (N.J.S.A. 40A:14-146.8 et seq.).

#### **§ 98-20 Cooperation with other municipalities.**

The Township shall hereby cooperate with all other municipalities which adopt a similar reciprocal ordinance providing for inter-municipal police assistance in times of emergency.

#### **§ 98-21 Conditions for assistance.**

This inter-municipal assistance will be provided if and when the Township of Franklin has an emergency within its boundaries requiring additional police assistance to protect life and property or to assist in suppressing a riot or disorder and whenever another municipality, which has enacted a similar reciprocal ordinance, may experience a similar emergency requiring additional police assistance.

#### **§ 98-22 Request for assistance.**

A.

The Director of Police of the Township of Franklin or the highest ranking officer on duty at the time is hereby authorized to request assistance from the Chief/Director of Police or highest ranking officer on duty of the police departments of other municipalities for inter-municipal police assistance during and/or after an emergency situation.

B.

The Director of Police of the Township of Franklin or the highest ranking officer on duty at the time shall provide assistance to another municipality or municipalities making a valid request to supply such personnel and equipment to the extent possible without endangering person or property within the Township of Franklin.

#### **§ 98-23 Powers and rights while providing assistance.**

Members of the Franklin Police Department supplying emergency assistance to another municipality shall have the same powers and authority as have the members of the Police Department of the municipality in which said assistance is being rendered. Additionally, said members shall also have, while so acting, said rights and immunities as they may otherwise enjoy in the performance of their normal duties within the Township of Franklin.

#### **§ 98-24 Costs.**

The Township of Franklin shall, upon providing assistance to another municipality which has enacted a similar inter-municipal assistance ordinance, assume the cost and expense of providing said personnel and equipment to the requesting municipality; excepting such instances when the requesting municipality receives state or federal aid as reimbursement or if private concerns are involved and the requesting municipality receives reimbursement. Therefore, in this event, the costs incurred by the Township shall be submitted to the municipality which requested assistance for reimbursement.

#### **§ 98-25 Chief/Director of Police to be senior ranking officer.**

At such times that an emergency may occur and inter-municipal police aid is requested, the Chief or the next highest ranking officer of the municipality wherein said emergency situation exists shall be the senior ranking officer of all members of any police department rendering assistance within the boundaries of said municipality.

#### **§98-26 Injury or death in performance of duties.**

In the event that any member of a police force summoned pursuant to an agreement to render assistance suffers injury or death in the performance of his or her duties, he/she or his/her designee or legal representative shall be entitled to such salary, pension rights, workmen's compensation or other benefits as would have accrued if such injury or death had occurred in the performance of his or her normal duties.

#### **§ 98-27 Copies on file.**

A copy of this article shall be transmitted to the Municipal Clerk of each municipality in Gloucester County no later than five business days following its adoption. The Clerk of the Township of Franklin shall maintain a record of all such similar ordinances adopted by other municipalities.

#### **§ 98-29 Establishment.**

The office of Police Chief, which individual shall be the head of the police force and be directly responsible to the Director of Police who is the appropriate authority for the efficiency and routine day-to-day responsibilities of the Police Department pursuant to policies established by the Director of Police, is hereby established.

**§ 98-30 Appointment; removal from office.**

A.

The Police Chief shall be appointed by the Mayor with the advice and consent of the Township Committee.

B.

The Police Chief may be removed from office in accordance with the laws of the State of New Jersey and by rules and regulations promulgated thereunder.

**§ 98-31 Salary.**

The salary of the Police Chief shall be as is set forth in the salary Ordinance. The salary of the Police Chief shall, nonetheless, be subject to the requirements of N.J.S.A. 40A:14-179.

**§ 98-32 Supervisory responsibility.**

The Police Chief, as the head of the police force, shall be directly responsible to the Director of Police for the efficiency and routine day-to-day operations of said police force pursuant to N.J.S.A. 40A:14-118.

**§ 98-33 Powers and duties.**

The Chief of Police shall have and exercise the following authority and perform the following duties:

A.

Administer and enforce rules and regulations and any special emergency directives for the disposition and discipline of the police force and its officers and personnel.

B.

Have, exercise and discharge the functions, powers and duties of the police force.

C.

Prescribe the duties and assignments of all subordinates and other personnel.

D.

Delegate such of his authority as he may deem necessary for the efficient operation of the force to be exercised under his discretion and supervision.

E.

Report at least monthly to the Director of Police in such form as shall be prescribed by the Director of Police on the operation of the force during the preceding month, which report shall include but not be limited to reports detailing the status of all internal affairs investigations and reports detailing the deployment of personnel and all assignments of personnel and make such other reports as may be requested by the Director of Police.

**§ 98-34 Line of authority.**

[Added 2-12-2008 by Ord. No. O-1-2008]

The line of authority of the Township of Franklin Police Department shall consist of no more than one Director of Police, one Chief of Police, if one be appointed followed by no more than one Captain, no more than two Lieutenants, no more than five Sergeants, no more than six Corporals and no more than twenty Patrol Officers.

#### **§ 98-35 Police Captain.**

[Added 2-12-2008 by Ord. No. O-1-2008]

The position of Captain shall be second in command to the Chief of Police within the Police Department. The Captains' powers, functions and duties shall be as currently prescribed by Article IV, Subsection D, of the Franklin Township Police Department Rules and Regulations Manual.

*Editor's Note: See Art. [III](#), Police Manual, of this chapter.*

#### **§ 98-36 Police Lieutenant.**

[Added 2-12-2008 by Ord. No. O-1-2008]

The position of Lieutenant shall be third in command to the Chief of Police and Captain. The Lieutenants' powers, functions and duties shall be as currently prescribed by Article IV, Subsection E, of the Franklin Township Police Department Rules and Regulations Manual.

#### **§ 98-37 Police Sergeant.**

[Added 2-12-2008 by Ord. No. O-1-2008]

The position of Sergeant shall be fourth in command to the Chief of Police, Captain and Lieutenant. The Sergeants' powers, functions and duties shall be as currently prescribed by Article IV, Subsection F, of the Franklin Township Police Department Rules and Regulations Manual.

#### **§ 98-38 Police Corporal.**

[Added 2-12-2008 by Ord. No. O-1-2008]

The position of Corporal shall be fifth in command to the Chief of Police, Captain, Lieutenant and Sergeant. The Corporals' powers, functions and duties shall be as currently prescribed by Article IV, Subsection H, of the Franklin Township Police Department Rules and Regulations Manual.

#### **§ 98-39 Patrol Officer.**

[Added 2-12-2008 by Ord. No. O-1-2008]

The position of Patrol Officer shall be sixth in command to the Chief of Police, Captain, Lieutenant, Sergeant and Corporal. The Patrol Officers' powers, functions and duties shall be as currently prescribed by Article V, Subsection B, of the Franklin Township Police Department Rules and Regulations Manual.

#### **§ 98-40 Detective Sergeant.**

[Added 2-12-2008 by Ord. No. O-1-2008]

The position of Detective Sergeant shall be filled as a special assignment as the need arises in the discretion of the Director of Police or Chief. The Detective Sergeants' powers, functions and duties shall be as currently prescribed by Article IV, Subsection G, of the Franklin Township Police Department Rules and Regulations Manual.

#### **§ 98-41 Detective.**

[Added 2-12-2008 by Ord. No. O-1-2008]

The position of Detective shall designated as an assignment and shall fall under the authority of the Detective Sergeant. The Detectives' powers, functions and duties shall be as currently prescribed by Article V, Subsection A, of the Franklin Township Police Department Rules and Regulations Manual.

### Third-Party Overtime

#### § 98-42 Payment for services rendered other than traffic.

##### A.

Payment for certified police officers working all details other than traffic shall be coordinated by the Director of Police or his designee. The payment shall be the appropriate hourly time and one-half rate (overtime) designated by the Police Department with an additional appropriate percentage fees for fringe benefits to include but not limited to social security, unemployment insurance, workman's comp and a five-percent administrative fee added to the subtotal for all of the expenses that are required. The aforementioned fees shall be waived for nonprofit organizations (Delsea Regional High School, Township of Franklin, Our Lady of Mercy Academy schools and other nonprofit institutions that have permanent locations in the Township of Franklin). If in the event the Chief of Police or designee determines that the use of a police motor vehicle is necessary, a fee of \$25 per day or any part thereof, for the use of said vehicle, will be charged and made payable to the Township Chief Financial Officer.

##### B.

All payments for assignments shall be paid in advance (may be waived for the aforementioned nonprofit organizations) through an off-duty police escrow account to be known as the "police overtime account," and all funds collected for services rendered shall be by and through such account. Reference is made to Township of Franklin Code concerning the "safe traffic control for construction, repair and maintenance of streets and highways and third-party police department overtime."

*Editor's Note: See Ch. [373](#), Vehicles and Traffic, Art. [II](#).*

#### § 98-43 Insurance for police officers.

The person, organization or company shall provide the Township of Franklin Police Department a certificate of insurance naming the Township of Franklin as an additional insured on a general liability insurance policy having policy limits not less than \$1,000,000 per occurrence.

#### § 98-44 Indemnification and hold harmless.

Any person, contractor or utility company shall complete an application which shall contain an agreement to indemnify and hold harmless the Township of Franklin for any claims or actions brought as a result of the use of the police officers by said party, including all attorney fees.

#### § 98-45 Violations and penalties.

##### A.

Any person, organization or company who commits a violation of this article relating to third party overtime shall, upon conviction thereof, for the first offense, pay a fine of not less than \$100 nor more than \$1,000 and/or may be imprisoned in the county jail for a term not exceeding 90 days, or both; for a second offense, upon conviction thereof, pay a fine of not less than \$300 nor more than \$1,000 and/or may be imprisoned in the county jail for a term not exceeding 90 days, or both.

##### B.

A separate offense shall be deemed committed on each day or on which each violation occurs or continues to occur.

#### 98-46 Adoption of Manual.

**[Adopted 12-12-2006 by Ord. No. O-28-2006]**

The Department of Police, Franklin Township, New Jersey Police Manual, dated 2006, shall be adopted as the rules, regulations and standard operating procedures for the efficient operation of the Township of Franklin Police Department.

*Editor's Note: The full text of the Police Manual is on file in the Township office*

ATTEST:

TOWNSHIP OF FRANKLIN

\_\_\_\_\_  
CAROLYN K. TOY, CLERK

\_\_\_\_\_  
PATRICK M. DOUGHERTY, MAYOR

**CERTIFICATION**

I, CAROLYN TOY, Clerk of the Township of Franklin, County of Gloucester, do hereby certify that the foregoing ordinance was introduced at a regular meeting of the Township of Franklin held on June 14, 2011, and thereafter duly advertised in the legal newspaper of the Township at least 10 days prior to it being considered for final passage and adoption at a subsequent meeting to be held on July 26, 2011, at which time any person interested therein will be given an opportunity to be heard.

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CAROLYN TOY, CLERK