

CITY OF DOVER ORDINANCE #2020-11

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Chapter 46 - Fire Prevention and Protection, Article II - Fire Department, Division 1 - Generally of the Dover Code be amended by inserting the text indicated in blue and deleting the text indicated in red, ~~strikeout~~ as follows:

ARTICLE II. - FIRE DEPARTMENT

DIVISION 1. - GENERALLY

Sec. 46-41. - Created; purpose.

There is hereby created a city fire department, which shall protect and prevent against the hazard of fire. Robbins Hose Company No. 1, Inc., is hereby recognized and designated as the fire company of the city in accordance with the city Charter and this Code.

(Code 1968, § 2-45; Code 1981, § 7-16; Ord. of 4-9-1990)

Sec. 46-42. - Control; board of directors.

~~(a) — City council. The city council shall have general control of the fire department and shall enact rules and regulations to govern its conduct.~~

~~(b) — Board of directors. The fire department shall have a board of directors or other governing body, which shall control and prescribe rules for the maintenance and use of all fire department apparatus in its custody, provided such rules shall not be in conflict with any provision of this Code.~~

The Fire Chief and President of the Fire Department will be the liaisons from the Fire Department to the City of Dover. Any rules and regulations will be negotiated between the Fire Department and City of Dover and approved by the Fire Department membership and City Council.

(Code 1968, § 2-46; Code 1981, § 7-17)

Sec. 46-43. - Semiannual inspections.

In the months of April and October of each year, the city manager shall inspect the fire department **with the Fire Chief and President**, make inquiries as to the standing and efficiency of the fire companies, investigate the capabilities of the officers of the fire department and the operators of fire department apparatus, and make a report to the city council, in writing, stating the results of **his their** inspection and investigation and making those recommendations which ~~he~~ **they** may deem proper.

(Code 1968, § 2-47; Code 1981, § 7-18)

~~Sec. 46-44. - Right to use of fire apparatus in emergency.~~

~~(a) — Duty of fire chief. Upon the request of the city manager or his authorized agent, the fire chief shall call to his use and assistance any apparatus in the fire department which is maintained, in whole or in part, by the city in any fire-related emergency~~

~~arising within the city.~~

~~(b) — *Return of apparatus.* The apparatus shall not be kept away from the firehouse where it is usually kept longer than is necessary to abate the emergency.~~

(Code 1968, § 2-48; Code 1981, § 7-19)

~~Sec. 46-45. - Failure to answer alarms, orders and perform duties orderly.~~

~~(a) — *Duties of companies and members.* It shall be unlawful for any active fire company in the fire department not to respond to all fire alarms unless excused by the fire chief. It shall be unlawful for any active member or officer of any fire company in the fire department to refuse to obey the orders of a superior officer or to engage in riotous or disorderly conduct while required to perform lawful duties.~~

~~(b) — *Penalties.* Violations of this section shall be punishable as provided in Appendix F—Fees and Fines or by suspension from the fire department by the fire chief, or both. Violation of this section by the fire chief shall be punishable as provided in Appendix F—Fees and Fines or by suspension from the fire department by the city council, or both.~~

(Code 1968, § 2-65; Code 1981, § 7-20; Ord. No. 2009-09, 6-22-2009)

Sec. 46-46. - Appeal of suspension.

Upon suspension from the fire department, the suspended member, officer or fire company shall have the right to appeal to the city council, which, upon giving notice and an opportunity to be heard to those persons concerned, shall confirm the suspension or reinstate the member, officer or fire company.

(Code 1968, § 2-66; Code 1981, § 7-21)

Sec. ~~46-47~~ 46-44. - Interference with discharge of duty.

It shall be unlawful for any unauthorized person to break through the established fire barriers at a fire, to refuse to move from within the fire barriers or to, in any manner, interfere with or hinder any member of the fire department in the discharge of ~~his~~ **their** duties.

(Code 1968, § 2-67; Code 1981, § 7-22)

Secs. 46-~~48~~ 45—46-70. - Reserved.

That Chapter 46 - Fire Prevention and Protection, Article II - Fire Department, Division 2 - Officers of the Dover Code be amended by inserting the text indicated in blue and deleting the text indicated in red, ~~strikeout~~ as follows:

DIVISION 2. - OFFICERS

Sec. 46-71. - Generally.

The officers of the fire department, from highest rank to lowest rank, shall respectively be fire chief, deputy fire chief, four assistant fire chiefs, and two fire captains.

(Code 1968, § 2-50; Ord. of 10-25-1976; Code 1981, § 7-31; Ord. of 6-14-1993)

Sec. 46-72. - Annual appointment by council.

The fire chief, the deputy fire chief, the assistant fire chiefs and the fire captains shall be appointed ~~each at the first regular city council meeting in~~ December by the city council. The appointments shall be made from the duly elected nominees of each fire company as provided in section 46-77. If, however, the city council deems the nominees or any one of them unsatisfactory, it may refuse to appoint those nominees and instead may order a special election in accordance with the provisions of this article to choose another nominee or slate of nominees.

(Code 1968, § 2-54; Ord. of 10-25-1976; Code 1981, § 7-32; Ord. of 6-14-1993)

Sec. 46-73. - Qualifications.

- (a) *Nomination.* No person shall be considered a candidate for nominee election as fire chief, deputy fire chief, fire captain or assistant fire chief unless ~~he~~ ~~they~~ shall have been regularly nominated for that office and ~~his~~ ~~their~~ name shall appear upon the official ballot for that office at the nominee election.

- (b) *Prerequisites; exception.* The fire chief, deputy fire chief, assistant fire chiefs, and fire captains shall ~~be at least 25 years of age, residents of the Robbins Hose Company Fire District, as defined by the county firefighter's association, and shall be active members for at least three years, in good standing, in the fire department. The three-year membership is waived, however, if the nominee's fire company has not been in existence for that long a period~~ follow the Constitution and By Laws of the Robbins Hose Company.

(Code 1968, § 2-55; Ord. of 10-25-1976; Code 1981, § 7-33; Ord. of 6-14-1993)

Sec. 46-74. - Terms.

- (a) *Calendar year.* The fire department officers shall serve from ~~January 1 immediately following their appointment until the following December 31~~ the Tuesday after the first City Council meeting in December until the following Tuesday after the first City Council meeting in December, except that an appointee to fill a vacancy shall assume the post upon qualification.

- (b) *End of service.* If a successor has not been elected and qualified for office at the expiration of an officer's term, then the incumbent shall serve until his successor is duly elected and qualified.

(Code 1968, § 2-56; Code 1981, § 7-34)

Sec. 46-75. - Date of election of nominees.

The election of nominees for fire department officers shall be held each year on the third Monday in November.

(Code 1968, § 2-57; Code 1981, § 7-35)

Sec. 46-76. - Notice of election of nominees.

The ~~city clerk~~ Fire Department Secretary shall notify the various fire companies of the election of nominees for fire department officers at least one week before the nominee election is to be held, stating the time and place of the election. A copy of the notice shall at once be placed on the bulletin boards of the respective firehouses by the secretaries of the fire companies.

(Code 1968, § 2-58; Code 1981, § 7-36)

Sec. 46-77. - Election and voting regulations for nominees.

Each fire company shall conform to the following regulations for the conduct of nominee elections for fire department officers:

- (1) *Membership list.* At least ~~two days~~ one week before the nominee election, ~~each fire company shall send the fire department secretary and fire recorder shall post~~ a list of its active members in good standing ~~to the city council~~. These lists shall be certified by the president and secretary of each fire company, shall be under seal and shall be used by the judges of the nominee election to determine qualified voters.
- (2) *Where and how election held.* The nominee election shall take place at a firehouse designated by the ~~city council~~ fire department president and shall be conducted by three judges appointed by the ~~city council~~ fire department president for that purpose.
- (3) *Eligible voters.* The nominee election judges shall not permit anyone to vote whose name is not on one of the lists mentioned in subsection (1) of this section. If a member's name appears on the lists, but it is proven to the satisfaction of the judges that ~~he does~~ they do not meet the requirements of active membership, then that person shall cast a challenged ballot. The term "active membership," for the purposes of this section, shall mean a member who has responded to at least 125 of the alarms, by way of attendance, during the year immediately preceding the certification of the voting list ~~and is in the category of active and life membership within the fire department~~. This requirement is waived for any member who was on active duty in the military service during any portion of that year and who is otherwise in good standing with his individual fire company.
- (4) *Secret ballot.* The nominee election shall be by secret ballot and each voter shall have only one vote for each of the open nominee positions.
- (5) *When polls open.* Polls shall open at 7:00 p.m. and shall close at ~~9:00~~ 8:00 p.m.
- (6) *Absentee voting.* ~~Absentee voting shall be permitted in accordance with the procedure adopted for absentee voting at regular municipal elections contained in chapter 34, article III~~ Follows the Constitution and By Laws of the Robbins Hose Company.

(Code 1968, § 2-59; Code 1981, § 7-37; Ord. of 10-12-1982; Ord. of 8-14-2000; Ord. No. [2017-07, 6-26-2017](#))

Sec. 46-78. - Certification of results of nominee election.

Immediately after the close of the nominee election polls, the election judges shall tally and certify the results of the nominee election. The ballot box, together with the ballots, judges' certification and tally sheet, shall be sealed and delivered within 24 hours, to the city clerk. ~~The city manager, or in his absence, the city clerk,~~ The city clerk shall submit the results of the election, together with the accompanying materials, to the city council at its next regular meeting following the election.

(Code 1968, § 2-60; Code 1981, § 7-38)

Sec. 46-79. - Special nominee elections.

If the city council shall order a special nominee election, to be held as provided in section 46-72, in order to replace a person the city council refused to appoint, that special nominee election shall be held at the time fixed by the ~~city council~~ Fire Department President and in the same manner as the regular nominee elections are held. At the special election, the person whom the city council refused to appoint shall not be voted for and any ballot cast for ~~him~~ them shall not be counted.

(Code 1968, § 2-62; Code 1981, § 7-39)

Sec. 46-80. - No contestants.

If there are no contestants available for any one of the fire department offices and this fact is certified by the president and secretary of each of the fire companies, then the city council shall appoint those officers without holding the nominee election.

(Code 1968, § 2-62; Code 1981, § 7-40)

Sec. 46-81. - Election to fill vacancy.

Whenever the office of fire chief, deputy fire chief, fire captain or assistant fire chief shall become vacant through the resignation, death, absence or disability of any person holding that office, the vacancy shall be filled by an election held by the qualified fire company members affected by the loss of command. The election shall be held in the same manner and form as other elections of the fire department, in accordance with the provisions of this division.

(Code 1968, § 2-63; Ord. of 10-25-1976; Code 1981, § 7-41)

Sec. 46-82. - Powers and duties of fire chief.

The fire chief shall:

- (1) *Control at fires.* Have full control of the fire department at all fires.
- (2) *Assignment of duties.* Assign to each fire company their respective duties, when necessary.
- ~~(3) *Dismissal.* Dismiss firefighters when their services are no longer required.~~
- (4 3) *Implement rules.* Implement those rules ~~which the city council may approve~~ for the regulation and management of the fire companies at fires, and for going to and returning from fires.
- (5 4) *Attend fires.* ~~Be present at all fires and, at those times, wear a suitable badge or dress whereby his office may be readily recognized.~~
- (6 5) *Summon police.* Have the authority to summon the police to maintain order and protect property during the continuance of fires.
- (7 6) *Barriers.* Cause barriers to be placed across the streets and sidewalks to prevent accidents and interference with the workings of the fire department and to admit no one within the enclosed limits, except equipped firefighters, the police and, in ~~his~~ **their** discretion, those persons immediately interested in the property.
- (8 7) *Demolish buildings.* Have the power, when it is, in ~~his~~ **their** opinion, absolutely necessary to stop the spread of a conflagration, to cause to be pulled down or blown up those buildings that shall be required to be removed.
- (9 8) *Enter private property.* Have the power to cause those members of the fire department that ~~he~~ **they** shall deem proper, with the apparatus that shall be necessary, to enter upon any private property for the purpose of extinguishing a fire. ~~He~~ **They** may cause those fences or other obstructions to be removed that ~~he~~ **they** may deem necessary.

(Code 1968, § 2-51; Code 1981, § 7-42)

Sec. 46-83. - Submission of annual report to city council.

The fire chief **and president** shall present the city council with a report at its annual meeting, which shall state the ~~number of fires occurring during the past year, their causes and the monetary losses resulting as nearly as can be ascertained, the number of active members in the fire department, the number of feet of hose and the conditions of the apparatus and hose of each fire company~~ **fire suppression and administrative activities of the department.**

(Code 1968, § 2-33; Code 1981, § 7-43)

Sec. 46-84. - Powers and duties of deputy fire chief, assistant chiefs and fire captains.

- (a) In the absence of the fire chief, the deputy fire chief, and the assistant fire chiefs, a fire captain, who shall be predetermined by the fire chief, shall assume the powers and duties and be obeyed accordingly.
- (b) In the absence of the fire chief, the deputy fire chief, and the assistant fire chiefs, the fire captain shall then assume the powers and duties and be obeyed accordingly.
- (c) It shall be the duty of the deputy fire chief, the assistant fire chiefs, and the fire captain to be present at all fires and to assist the fire chief in the discharge of the duties of his office.

(Code 1968, § 2-52; Ord. of 10-25-1976; Code 1981, § 7-44; Ord. of 6-14-1993)

~~Sec. 46-85. - Violation of election regulations.~~

~~Any fire department member who shall violate any of the election regulations of this division shall be reported to the city council for appropriate action. If, upon investigation, the fire department member is declared guilty of violating the same, he they may be suspended from membership in his their fire company.~~

(Code 1968, § 2-64; Code 1981, § 7-45)

Secs. 46-~~86~~85—46-120. - Reserved.

ADOPTED: OCTOBER 12, 2020