

PART I

**ADMINISTRATIVE
LEGISLATION**



GENERAL PROVISIONS

Chapter 1

GENERAL PROVISIONS

ARTICLE I

Adoption of Code by Borough Council

- § 1-1. Adoption of Code.
- § 1-2. Code supersedes prior ordinances.
- § 1-3. When effective.
- § 1-4. Inclusion of ordinance in Code.
- § 1-5. Copy of Code on file.
- § 1-6. Publication; filing.
- § 1-7. Amendments to Code.
- § 1-8. Inclusion of new legislation prior to adoption of Code.
- § 1-9. Code book to be kept up-to-date.
- § 1-10. Sale of Code book.
- § 1-11. Altering or tampering with Code; penalties for violations.
- § 1-12. Severability.
- § 1-13. Repeal of ordinances.
- § 1-14. Ordinances saved from repeal.
- § 1-15. Changes in previously adopted ordinances.

ARTICLE II

Ordinances Adopted During Codification

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest: Art. I, 4-18-83 as Ord. No. 562. Amendments noted where applicable.]

ARTICLE I
Adoption of Code by Borough Council
[Adopted 4-18-83 as Ord. No. 562]

Be it ordained by the Mayor and Council of the Borough of Demarest, in the County of Bergen, State of New Jersey, as follows:

§ 1-1. Adoption of Code.

Pursuant to N.J.S.A. 40:49-4, the ordinances of the Borough of Demarest of a general and permanent nature adopted by the Mayor and Council as revised, codified and consolidated into chapters and sections by General Code Publishers Corp., and consisting of Chapters 1 through 177, are hereby approved, adopted, ordained and enacted as the Code of the Borough of Demarest, hereinafter known and referred to as the "Code."

§ 1-2. Code supersedes prior ordinances.

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

§ 1-3. When effective.

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

§ 1-4. Inclusion of ordinance in Code.

This ordinance shall, upon adoption, be included in the Code as Chapter 1, General Provisions, Article I.

§ 1-5. Copy of Code on file.

A copy of the Code in loose-leaf form has been filed in the office of the Borough Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance; and, if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the Borough of Demarest by impressing thereon the Seal of the borough as provided by law, and such certified copy shall remain on file in the office of the Clerk of the borough to be made available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-6. Publication; filing.

The Clerk of the Borough of Demarest, pursuant to law, shall cause to be published, in the manner required, a copy of this Adopting Ordinance in a newspaper of general circulation in the borough. Sufficient copies of the code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this Adopting Ordinance, coupled with the availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Amendments to Code.

Any and all additions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intent of the Borough Council to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code of the Borough of Demarest shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing the said Code, as amendments and supplements thereto.

§ 1-8. Inclusion of new legislation prior to adoption of Code.

All ordinances of a general and permanent nature adopted subsequent to the date given in § 1-14A and prior to the effective date of this ordinance given in § 1-3 are hereby deemed to be a part of the Code and shall, upon being printed, be included therein. Attested copies of all such legislation shall be temporarily placed in the Code until printed supplements are included.

§ 1-9. Code book to be kept up-to-date.

It shall be the duty of the Clerk or someone authorized and directed by him, to keep up-to-date the certified copy of the book containing the Code required to be filed in his office for the use of the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-10. Sale of Code book.

Copies of the Code book containing the Code may be purchased from the Clerk upon the payment of a fee to be set by resolution of the Mayor and Council, which may also arrange, by resolution, for procedures for the periodic supplementation thereof.

§ 1-11. Altering or tampering with Code; penalties for violations.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Borough of Demarest to be misrepresented thereby. Anyone violating this section of this ordinance shall be subject, upon conviction, to a fine of not more than five

hundred dollars (\$500.) or imprisonment for not more than ninety (90) days, or both, in the discretion of the Judge imposing the same.

§ 1-12. Severability.

- A. Severability of Code provisions. Each section of the Code, and every part of each section, is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.
- B. Severability of ordinance provisions. Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-13. Repeal of ordinances.

All ordinances or parts of ordinances of a general and permanent nature, adopted and in force on the date of the adoption of this ordinance and not contained in the Code, are hereby repealed as of the effective date of this Adoption Ordinance, except as hereinafter provided.

§ 1-14. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-13 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to June 1, 1980.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance, or any action or proceeding brought for the enforcement of such right or liability.

- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision, or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending, or any judgment rendered, prior to the effective date of this ordinance, brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place, or any portion thereof.
- G. Any ordinance or resolution appropriating money, transferring funds, authorizing banks or deposit or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the borough's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract or obligation.
- I. The levy or imposition of taxes, assessments or charges.
- J. The dedication of property or approval of preliminary or final subdivision plats.
- K. Any ordinance pertaining to the salaries or compensation of borough officers and employees.
- L. Any ordinance pertaining to the Zoning Map.
- M. Any ordinance or resolution relating to vehicles and traffic.
- N. Any legislation relating to the establishment and procedures of the Fire Department.
- O. Any legislation concerning hunting.

- P. Ordinance No. 302, adopted 12-16-1964, concerning claims.
- Q. A zoning amendment adopted 1-29-1979 as Ord. No. 473.

§ 1-15. Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances for adoption and revision as part of the Code pursuant to N.J.S.A. 40:49-4, certain grammatical changes and other minor changes were made in one (1) or more of said ordinances. It is the intention of the Mayor and Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.
- B. In addition, the following changes, amendments or revisions are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section-numbering references are to the ordinances as they have been renumbered and appear in the Code.)¹
- C. Penalties. The violation of any ordinance heretofore or hereinafter adopted by the Mayor and Council of the Borough of Demarest shall be punishable, upon conviction, by a fine not to exceed one thousand dollars (\$1,000.) or imprisonment in the county jail for not more than ninety (90) days or by a period of community service not exceeding ninety (90) days, or all of the above, in the discretion of the Judge imposing the same. **[Amended 7-15-1991 by Ord. No. 703]**

¹ Editor's Note: Pursuant to § 1-15B, the following changes, amendments and revisions were made to the Code: The following sections were amended, added or revised: §§ 12-3, 12-4, 12-5, 23-2, 23-4, 27-45, 44-1, 62-2, 62-6, 62-7, 62-8, 62-9, 72-2, 132-8, 150-8A, 156-7 and 156-8. The following sections were deleted: Original Sections 1.4, 2.3, 3.2 and 4.9 of Ord. No. 479, adopted 6-18-1979. A complete description of these changes is on file in the office of the Borough Clerk.

DEMAREST CODE

ARTICLE II
Ordinances Adopted During Codification

[During the process of codification, certain complete new ordinances were approved by the Borough Council for inclusion in the Code of the Borough of Demarest. Such new ordinances are noted in the histories of individual chapters as "Adopted ...during codification; see Ch. 1, General Provisions, Art. II." In accordance with recognized codification procedures, these new ordinances will be adopted separately and are presently proposed before the Borough Council of the Borough of Demarest for that purpose. Upon final adoption of such ordinance, a complete enumeration of all chapters and Articles in the Code comprising such ordinance will be printed in this Article along with specific dates of adoption.]

Chapter 7

CLAIMS APPROVAL AND PAYMENT

- § 7-1. Submission of bill of demand.
- § 7-2. Signature of designated officer or employee required on claim.
- § 7-3. Approval of claim by Mayor.
- § 7-4. Approval or disapproval by governing body.
- § 7-5. Recording of claims by Clerk.
- § 7-6. List of claims made available prior to formal action; record of approved claims.
- § 7-7. Approval and date indicated on claims.
- § 7-8. Preparation of checks for payment.
- § 7-9. Preparation and approval of payroll.
- § 7-10. Establishment of payroll account; use.
- § 7-11. Reimbursement for traveling expenses.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 12-16-64 as Ord. No. 302; amended in its entirety 12-19-77 by Ord. No. 449. Subsequent amendments noted where applicable.]

§ 7-1. Submission of bill of demand.

Any person claiming payment from the municipality shall present a detailed bill of demand to the Municipal Treasurer, duly certified or, in the alternative, supported by an affidavit of the claimant.

§ 7-2. Signature of designated officer or employee required on claim.

It shall be the duty of the Municipal Treasurer to see that the signature of the officer or employee who has been duly designated by the local unit to certify that the materials have been received by or the services rendered to the local unit appears on every claim.

§ 7-3. Approval of claim by Mayor.

Where the Mayor does not approve claims prior to the time they are presented to the governing body for approval, it shall be his duty to incorporate in the official minutes, by signing the approving resolution or by approving the schedule of claims approved by the governing body, that he has examined the same and has officially approved the same for payment.

§ 7-4. Approval or disapproval by governing body.

Claims shall be considered by the governing body, which shall approve the same, except that said governing body may reject any claim presented to it, stating the reason for such rejection. Any disapproved claim shall be referred back to the Municipal Treasurer with such instructions as the governing body may give at the time of disapproval.

§ 7-5. Recording of claims by Clerk.

It shall be the duty of the Municipal Clerk to record all claims in the official minutes, indicating that the governing body has by formal action approved the same, with appropriate record as to any claims disapproved or rejected.

§ 7-6. List of claims made available prior to formal action; record of approved claims.

- A. A list of all claims shall be presented for approval at the next regular meeting, said schedule or list to be made

available to every member of said governing body at least three (3) days before the claims are subject to formal action by that body.

- B. After approval, claims shall be listed in a book or record to be designated as "Claims Approved by Governing Body on (insert date)." This listing shall be amplified by appropriate detail in the minutes to permit ready identification.

§ 7-7. Approval and date indicated on claims.

It shall be the duty of the Mayor or such other officer designated by resolution of the governing body to indicate on said claims that they have been approved for payment, with the date of approval thereof noted on the claim.

§ 7-8. Preparation of checks for payment.

After the Mayor has certified that the claims have been approved, the Clerk shall turn the same over to the Treasurer or other chief financial officer, who shall forthwith prepare the necessary checks for the payment thereof, which said checks shall be signed by the Mayor and the Municipal Clerk and thereafter countersigned by the Treasurer or other chief financial officer or any persons duly authorized by the Mayor and Council to act on their behalf. After preparing checks for the payment of claims, the Treasurer shall record them in proper books of account and thereafter mail or otherwise distribute the checks to the claimants.

§ 7-9. Preparation and approval of payroll.

In the case of payrolls, the appropriate department heads or such officer or employee as may be designated by resolution of the governing body shall prepare the necessary payrolls for all employees, which payrolls shall be duly certified by the person authorized to certify that the services have been rendered and the amount specified is in fact due and owing to the employee or employees. Said payroll shall then be approved by the depart-

ment head responsible therefor and presented to the governing body for approval and, after approval, shall be paid in due course.

§ 7-10. Establishment of payroll account; use.

This chapter shall provide for the establishment of a payroll account, and the governing body may thereafter by resolution prescribe the manner in which payroll checks shall be drawn, who shall sign the same and the dates on which payment shall be made.

§ 7-11. Reimbursement for traveling expenses.

In the case of reimbursement for actual and necessary traveling expenses, itemized claims supported by receipts, where available, should be presented in order to obtain reimbursement for expenses incurred by local officials where authorized to travel by the municipality.

COURT, MUNICIPAL

Chapter 12

COURT, MUNICIPAL

ARTICLE I
General Provisions

- § 12-1. Establishment.
- § 12-2. Appointment of Judge.
- § 12-3. Oath required.
- § 12-4. Location of Court.
- § 12-5. Compensation of Judge.
- § 12-6. Power and authority of Judge.

ARTICLE II
Public Defender

- § 12-7. Appointment; term.
- § 12-8. Qualifications.
- § 12-9. Duties.
- § 12-10. Compensation; surcharge.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest: Art. I, 12-22-1948 as Ord. No. 164; Art. II, 9-18-1995 as Ord. No. 768. Sections 12-3, 12-4 and 12-5 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]



§ 12-1

DEMAREST CODE

§ 12-4

ARTICLE I

General Provisions

[Adopted 12-22-1948 as Ord. No. 164]

§ 12-1. Establishment.

A Municipal Court, to be known as the "Municipal Court of the Borough of Demarest," is hereby established with the jurisdiction, powers and duties conferred by the statutes in such case made and provided and also with all functions, powers, duties and jurisdiction in criminal cases heretofore exercised by any Justice of the Peace, Police Justice, Police Magistrate or Recorder.

§ 12-2. Appointment of Judge.

The Court shall have a Judge, who shall be appointed by the Mayor, with the advice and consent of the Borough Council of the Borough of Demarest, for a term of three (3) years and until his successor is appointed and qualified.

§ 12-3. Oath required. [Amended 4-18-1983 by Ord. No. 562]

The Judge, before entering upon the duties of his office, shall take the oath required by law.

§ 12-4. Location of Court. [Amended 4-18-1983 by Ord. No. 562]

The Court shall be held at the Borough Hall and, in an emergency, at such other places in the borough as the Judge may designate by written order filed in said Court.



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§ 12-5

COURT, MUNICIPAL

§ 12-8

**§ 12-5. Compensation of Judge. [Amended
4-18-1983 by Ord. No. 562]**

The Judge shall receive an annual salary as indicated in the annual Salary Ordinance.¹

§ 12-6. Power and authority of Judge.

The Judge shall have the power and authority, in his discretion, in all cases where a fine, imprisonment or other penalty is imposed, to make said fine a lesser amount, said imprisonment a lesser term or said penalty less than the maximum fixed by statute or by ordinance.

ARTICLE II

Public Defender

[Adopted 9-18-1995 as Ord. No. 768]

§ 12-7. Appointment; term.

There shall be a Public Defender of the Municipal Court, who shall be appointed by the Mayor, with the advice and consent of the Borough Council. The Municipal Public Defender shall serve for a term of one year from the date of appointment and until his successors are appointed and qualified.

§ 12-8. Qualifications.

The person appointed as Municipal Public Defender shall have the following qualifications:

- A. He shall be an attorney at law and resident of the State of New Jersey, but he need not be a resident of the Borough of Demarest.

¹ Editor's Note: A copy of the annual Salary Ordinance is on file in the office of the Borough Clerk.

§ 12-9. Duties.

The Municipal Public Defender shall defend those cases as are assigned to him by the Municipal Court Judge, and the Municipal Public Defender shall perform such other legal duties as may be assigned to him by the governing body or the Municipal Court Judge.

§ 12-10. Compensation; surcharge.

- A. The Municipal Public Defender shall be compensated by an annual salary which shall be fixed and paid in the manner provided by ordinance by the Borough Council and which shall be in lieu of any and all other fees, costs and allowances.
- B. The Municipal Court may assess a surcharge of \$200 on all defendants requesting the services of the Municipal Public Defender. The Court shall set the amount as necessary to pay the costs of Municipal Public Defender services, including both expert and lay investigation and testimony as well as other preparations as provided in N.J.S.A. 2B:24-1 et seq. Said assessment may be added to the fines, or, if the defendant is found not guilty, the assessment may still be levied in the discretion of the Court. The Municipal Court may waive any required application fee, in full or in part, if the Court determines, in its discretion, that the application fee represents an unreasonable burden to the person seeking representation, which determination shall be made in accordance with the guidelines established by state statute. The borough shall have a lien on any property to which the defendant shall have or acquire an interest for an amount equal to the reasonable value of the services rendered to a defendant by the Municipal Public Defender at the same rate as the office of the Public Defender bills clients at the time the services are rendered; the lien shall be effectuated in accordance with the provisions of Title 2B of New Jersey Statutes. **[Amended 12-15-1997 by Ord. No. 794]**

Chapter 14

DEFENSE AND INDEMNIFICATION

§ 14-1. Duty to defend.

§ 14-2. Exceptions.

§ 14-3. Punitive damages.

§ 14-4. Notice.

§ 14-5. Exclusive control as condition of such defense.

§ 14-6. Representation.

§ 14-7. Indemnification.

§ 14-8. Definitions.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 6-23-2003 by Ord. No. 871. Amendments noted where applicable.]

GENERAL REFERENCES

Municipal Court — See Ch. 12.

§ 14-1. Duty to defend.

Except as provided below, the Borough shall, upon a request of an employee of the Borough, provide for the defense of any action brought against such Borough employee on account of an act or omission in the scope of his or her employment or official Borough duties. For purposes of this chapter, the Borough's duty to defend shall extend to counterclaims or cross claims against an employee.

§ 14-2. Exceptions.

The Borough may refuse to provide for the defense of an action referred to in this chapter if it determines that:

- A. The act or omission was not within the scope of employment;
- B. The act or the failure to act was because of actual fraud, willful misconduct or actual malice;
- C. The action is brought by the Borough itself against the employee; or
- D. The employee acted in violation of the Municipal Ethics Law, N.J.S.A. 40A:9:22.1 et seq.

§ 14-3. Punitive damages.

Nothing in this chapter requires the Borough to pay for punitive or exemplary damage or damages resulting from the commission of a crime. The Borough may indemnify a Borough employee for exemplary or punitive damages resulting from the employee's civil violation of state or federal law if, in the opinion of the governing body, the acts committed by the employee upon which the damages are based did not constitute actual fraud, actual malice, willful misconduct or an intentional wrong.

§ 14-4. Notice.

It shall be the duty of the employee to immediately notify the Borough Clerk in writing as to any action threatened against the employee.

§ 14-5. Exclusive control as condition of such defense.

The Borough shall have exclusive control over the representation of such person defended, and such person

shall cooperate fully with the Borough, provided, however, that such person may at any time and at such person's option take control over representation by waiving all rights to indemnification and all rights to payment for costs of defense.

§ 14-6. Representation. [Amended 11-22-2004 by Ord. No. 899]

The Borough may provide for the defense pursuant to this chapter by authorizing the Borough Attorney to act on behalf of the person being defended, or by employing other counsel for this purpose, or by asserting the Borough's right under any appropriate insurance policy which requires the insurance to provide the defense. Except as provided in § 14-1, the Borough shall not reimburse the employee for any legal costs incurred that were not authorized by the Borough in writing.

§ 14-7. Indemnification.

If the Borough refuses to provide for the defense of an employee as required above, the employee shall be entitled to indemnification from the Borough, if he or she establishes that the act or omission upon which the claim or judgment was based occurred within the scope of his or her duties as an employee of the Borough, and if he or she proves that the act or omission was not the result of fraud, malice or willful misconduct.

§ 14-8. Definitions.

- A. For purposes of this chapter the following terms shall have the meanings indicated:

EMPLOYEE — An officer, employee or servant of the Borough, whether or not compensated or part-time, who is authorized to perform any act or service; provided however, that the term shall not include an independent contractor.

§ 14-8

DEMAREST CODE

§ 14-8

B. Other terms shall have the meanings set forth in the New Jersey Tort Claims Act.¹

¹ Editor's Note: See N.J.S.A. 59: 1-1 et seq.

Chapter 16

ENVIRONMENTAL COMMISSION

- § 16-1. Establishment; membership.
- § 16-2. Terms; vacancies.
- § 16-3. Powers and authority.
- § 16-4. Conferral of statutory authority.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 11-20-68 as Ord. No. 337. Amendments noted where applicable.]

GENERAL REFERENCES

Land use procedures — See Ch. 27.
Site plan review — See Ch. 144.
Soil removal — See Ch. 147.
Subdivision of land — See Ch. 153.
Zoning — See Ch. 175.

§ 16-1. Establishment; membership. [Amended 4-16-73 by Ord. No. 368; 9-17-79 by Ord. No. 483]

- A. There has heretofore been created a Conservation Commission in and for the Borough of Demarest whose existence is hereby continued but which shall, from the effective date of this amendment, be known as the "Environmental Commission of the Borough of Demarest."
- B. The Environmental Commission shall consist of seven (7) members, and the Mayor of this borough shall, within sixty (60) days following the adoption of this amendment, nominate the seventh member thereof, whose term shall expire simultaneously with the term of the member of the Commission presently serving whose term expires at the latest date.

§ 16-2. Terms; vacancies.

The terms of office of the Commissioners shall begin on the day of their appointment and continue for the respective periods of one (1), two (2) and three (3) years from the first day of January preceding their appointment, the terms of said appointees to be designated in their respective appointments. All other appointments, except to fill vacancies, shall be made to take effect upon the first day of January of each year for the full term of three (3) years. Vacancies occurring in the membership of said Commission by reason of the death, resignation or removal of any Commissioner shall be filled only for the unexpired term.

§ 16-3. Powers and authority. [Amended 4-16-73 by Ord. No. 368]

The Environmental Commission, when established, is hereby authorized to make and adopt suitable rules, regulations and by-laws for the purpose of carrying out its objects. It shall have the authority and power to employ supervisors, assistants and other persons it deems necessary and proper and to incur expenses, provided that its expenditures and obligations have been duly authorized and approved by the Mayor and Council of the Borough of Demarest.

§ 16-4. Conferral of statutory authority. [Amended 4-16-73 by Ord. No. 368]

The Environmental Commission created by this chapter shall exercise all powers now or hereafter granted to it by the statutes of New Jersey applicable hereto.

§ 20-1

FIRE DEPARTMENT

§ 20-2

Chapter 20

FIRE DEPARTMENT

§ 20-1. Establishment.

§ 20-2. Qualifications for membership.

§ 20-3. Attendance and duty; annual report.

§ 20-4. Application and procedure for membership.

§ 20-5. Exemption certificates.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 2-22-83 as Ord. No. 553. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention — See Ch. 98.

§ 20-1. Establishment.

There is hereby authorized and established the Borough of Demarest Fire Department, to be known as the "Demarest Borough Fire Department," to be composed of one (1) company and such additional companies as the Mayor and Council of the Borough of Demarest may authorize and approve.

§ 20-2. Qualifications for membership. [Amended 3-21-83 by Ord. No. 561]

No person shall hereafter become a member of the Fire Department of the Borough of Demarest or any unit thereof unless said person is above the age of eighteen (18), is a citizen of the United States, is of good moral character and is a resident of Bergen County for upwards of one (1) year. The member shall be

physically fit to perform the duties of a fireperson, evidenced by a certificate to that effect by a practicing physician of the State of New Jersey after physical examination for that purpose.

§ 20-3. Attendance and duty; annual report.

Every member of the Fire Department shall, in each and every year, perform at least sixty percent (60%) of his duty, to be composed of actual attendance and duty at fires, drills, and other related firemanic functions. A record shall be kept of such attendance and duty by the Chief of the Fire Department and reported to the Mayor and Council of the Borough of Demarest.

§ 20-4. Application and procedure for membership.

All persons seeking to join the Fire Department shall make applications to the company or unit which they desire to join, and, upon their acceptance to membership, they shall become members in good standing of the Fire Department after approval of same by the Chief of said Department and confirmation by the Mayor and Council of the Borough of Demarest.

§ 20-5. Exemption certificates.

Exemption certificates may be issued for members of the Fire Department who shall have served seven (7) years of active duty, under municipal control, as required by law of April 29, 1935, as amended May 26, 1936.¹

¹ Editor's Note: See N.J.S.A. 40:47-52 et seq.

Chapter 23

HEALTH, BOARD OF

§ 23-1. Establishment.

§ 23-2. Membership; terms; vacancies.

§ 23-3. Election of officers; adoption of rules and regulations.

§ 23-4. Appointments; special Sanitary Inspectors.

§ 23-5. Contracting of debts.

[**HISTORY:** Adopted by the Mayor and Council of the Borough of Demarest 7-8-03 as Ord. No. 2. Sections 23-2 and 23-4 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Board of Health legislation — See Part III of the Code of the Borough of Demarest.

§ 23-1. Establishment.

There shall be in and for the Borough of Demarest a Board of Health in accordance with the provisions of the act of the Legislature of New Jersey entitled "An Act to Establish in This State a Board of Health and a Bureau of Vital Statistics and to Define Their Respective Powers and Duties," approved March 31, 1887, and the several acts amendatory thereof and supplemental thereto.

§ 23-2. Membership; terms; vacancies.¹

The Board of Health shall consist of five (5) members. All members of said Board hereafter appointed shall be appointed by

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

the Council and shall hold office for the term of three (3) years. All vacancies occurring in said Board of Health by reason of death, resignation or otherwise shall be filled by the Council for the remainder of the unexpired term.

§ 23-3. Election of officers; adoption of rules and regulations.

The Board of Health shall elect a President and Secretary from among its own members and shall adopt rules and regulations for its own government.

§ 23-4. Appointments; special Sanitary Inspectors.²

The Board of Health shall appoint a Registrar of Vital Statistics, a Deputy Registrar and Sanitary Inspectors and may also appoint such other officers or assistants as said Board may deem necessary. All appointees of said Board of Health shall be governed by the rules of said Board, and they may be removed for cause. The police officers of the borough shall be special Sanitary Inspectors, and they shall promptly report to the Board of Health every violation of the health ordinances of the borough³ which may come within their knowledge or observation.

§ 23-5. Contracting of debts.

The Board of Health shall not contract any debt or debts of any kind whatever beyond the amount of the appropriation made from time to time for its use by the Borough Council.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

³ Editor's Note: For ordinances adopted by the Board of Health consult Part III of this Code.

LAND USE PROCEDURES

Chapter 27

LAND USE PROCEDURES

ARTICLE I
Planning Board

- § 27-1. Establishment; membership.
- § 27-2. Terms.
- § 27-3. Vacancies.
- § 27-4. Organization.
- § 27-5. Planning Board Attorney.
- § 27-6. Experts and staff.
- § 27-7. General powers and duties.
- § 27-8. Time limitations.
- § 27-9. Applications; procedure for filing.
- § 27-10. Citizens Advisory Committee.
- § 27-11. Environmental Commission.

ARTICLE II
Board of Adjustment

- § 27-12. Establishment; membership; terms; vacancies.
- § 27-13. Organization.
- § 27-14. Board of Adjustment Attorney.
- § 27-15. Experts and staff.
- § 27-16. Rules and regulations.
- § 27-17. General powers and duties.

DEMAREST CODE

- § 27-18. Appeals and applications.
- § 27-19. Power to reverse or modify decisions.
- § 27-20. Expiration of variances.
- § 27-21. Powers granted by law.
- § 27-22. Additional powers.
- § 27-23. Time limitations.

ARTICLE III

Provisions Applicable to Both Planning Board
and Board of Adjustment

- § 27-24. Conflicts of interest.
- § 27-25. Meetings.
- § 27-26. Minutes.
- § 27-27. Hearings.
- § 27-28. Notice requirements for hearing.
- § 27-29. List of property owners furnished.
- § 27-30. Decisions.
- § 27-31. Publication of decision.
- § 27-32. Payment of taxes.
- § 27-33. Appeals to governing body.

ARTICLE IV

Violations and Penalties

- § 27-34. Penalties.
- § 27-35. Continuing violations.

§ 27-36. Cumulative remedies.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 12-6-82 as Ord. No. 547.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Environmental Commission — See Ch. 16.
Uniform construction codes — See Ch. 84.
Flood hazard control — See Ch. 100.
Official Map — See Ch. 118.
Subdivision and site plan review — See Ch. 153.
Zoning — See Ch. 175.

ARTICLE I
Planning Board**§ 27-1. Establishment; membership.**

A. There is hereby established pursuant to the Municipal Land Use Law, as amended and supplemented,² a Planning Board of nine (9) members, consisting of the following four (4) classes:

- (1) Class I: the Mayor.
- (2) Class II: one (1) of the officials of the municipality other than a member of the governing body to be appointed by the Mayor, provided that if there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be deemed to be the Class II Planning Board member if there are both a member of the Zoning Board of Adjustment and a member of the Board of Education among the Class IV or alternate members.
- (3) Class III: a member of the governing body to be appointed by it.

¹ Editor's Note: This ordinance also superseded former Ch. 27, Land Use Procedures, adopted 12-20-76 as Ord. No. 429, as amended.

² Editor's Note: See N.J.S.A. 40:55D-1 et seq.

- (4) Class IV: six (6) other citizens of the municipality to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, except that one (1) member may be a member of the Zoning Board of Adjustment and one (1) may be a member of the Board of Education. A member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:55A-1 shall be a Class IV Planning Board member unless there are among the Class IV or alternate members of the Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education, in which case the member of the Environmental Commission shall be deemed to be the Class II member of the Planning Board.
- B. Alternate members. There shall be two (2) alternate members to the Planning Board, who shall be appointed by the appointing authority for Class IV members and who shall meet the qualifications of Class IV members. The term of office of each of the alternate members shall be for two (2) years, except that the initial term of such alternate members shall be one (1) year and two (2) years, as designated by the appointing authority. The Mayor shall designate one (1) alternate member as "Alternate No. 1" and the other alternate member as "Alternate No. 2." Alternate members may participate in discussions of the proceedings but may not vote, except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.
- C. Nothing in this chapter shall be construed to affect the term of any of the present Planning Board members, all of whom shall continue in office until completion of the term for which they were appointed.

§ 27-2. Terms.

The term of the member composing Class I shall correspond with his official tenure. The term of the members composing Class II and Class III shall be for one (1) year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission. The term of a Class II or a Class IV member who is also a member of the Environmental Commission shall be for three (3) years or terminate at the completion of his term of office as a member of the Environmental Commission, whichever comes first. The term of a Class IV member who is also a member of the Board of Adjustment or the Board of Education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first. The term of all Class IV members first appointed pursuant to this chapter shall be so determined that, to the greatest practicable extent, the expiration of such term shall be evenly distributed over the first four (4) years after their appointment as determined by resolution of the governing body; provided, however, that no term of any member shall exceed four (4) years, and further provided that nothing herein shall affect the term of any present member of the Planning Board, all of whom shall continue in office until the completion of the term for which they were appointed. Thereafter, all Class IV members shall be appointed for terms of four (4) years except as otherwise herein provided. All terms shall run from January 1 of the year in which the appointment was made.

§ 27-3. Vacancies.

If a vacancy of any class shall occur otherwise than by expiration of term, it shall be filled by appointment as above provided for the unexpired term.

§ 27-4. Organization.

The Planning Board shall elect a Chairman and Vice Chairman from the members of Class IV and select a Secretary, who may

be either a member of the Planning Board or a municipal employee designated by it.

§ 27-5. Planning Board Attorney.

There is hereby created the office of Planning Board Attorney. The Planning Board may annually appoint, fix the compensation of or agree upon the rate of compensation of the Planning Board Attorney, who shall be an attorney other than the Municipal Attorney. The Planning Board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

§ 27-6. Experts and staff.

The Planning Board may employ or contract for the services of experts and other staff and services as it may deem necessary. The Planning Board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

§ 27-7. General powers and duties.

The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply. It shall also have the following powers and duties:

- A. To make and adopt and from time to time amend a Master Plan for the physical development of the municipality, including any areas outside its boundaries, which in the Board's judgment bear essential relation to the planning of the municipality, in accordance with the provisions of N.J.S.A. 40:55D-28.
- B. To administer the provisions of the Land Subdivision and Site Plan Review Ordinance of the Borough of Demarest³

³ Editor's Note: See Ch. 153, Subdivision and Site Plan Review.

in accordance with the provisions of said ordinance and the Municipal Land Use Law, as amended and supplemented.

- C. To participate in the preparation and review of programs or plans required by state or federal law or regulations.
- D. To assemble data on a continuing basis as part of a continuous planning process.
- E. To annually prepare a program of municipal capital improvement projects projected over a term of six (6) years, and amendments thereto, and recommend same to the governing body.
- F. To consider and make report and recommendations to the governing body within thirty-five (35) days after referral as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26a, and also pass upon other matters specifically referred to the Planning Board by the governing body, pursuant to the provisions of N.J.S.A. 40:55D-26b.
- G. When reviewing applications for approval of subdivision plats or site plans, to grant variances to the same extent and subject to the same restrictions as the Zoning Board of Adjustment, pursuant to N.J.S.A. 40:55D-60. Whenever relief is requested pursuant to this subsection, notice of hearing on the application for development shall include reference to the request for variance or direction for issuance of a permit, as the case may be.
- H. To perform such other advisory duties as are assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body or other agencies or officers.

§ 27-8. Time limitations.

- A. Minor subdivision approval. Minor subdivision approvals shall be granted or denied within forty-five (45) days of the date of submission of a complete application to the Plan-

ning Board or within such further time as may be consented to by the applicant.

- B. Preliminary major subdivision approval. Upon submission of a complete application for a subdivision of ten (10) or fewer lots, the Planning Board shall grant or deny preliminary approval within forty-five (45) days of the date of such submission or within such further time as may be consented to by the applicant. Upon submission of a complete application for a subdivision of more than ten (10) lots, the Planning Board shall grant or deny preliminary approval within ninety-five (95) days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the Planning Board shall be deemed to have granted preliminary approval for the subdivision.
- C. Preliminary site plan approval. Upon submission of a complete application for preliminary site plan approval, the Planning Board shall grant or deny preliminary approval within forty-five (45) days of the date of such submission or within such further time as may be consented to by the applicant. If the application is for a site plan which involves more than ten (10) acres of land and more than ten (10) dwelling units, notwithstanding the previous sentence, the Planning Board shall grant or deny preliminary approval within ninety-five (95) days of the date of submission or within such further time as may be consented to by the applicant.
- D. Final minor subdivision approval and final site plan approval. Application for final major subdivision approval or final site plan approval shall be granted or denied within forty-five (45) days of submission of a complete application or within such further time as may be consented to by the applicant.

§ 27-9. Applications; procedure for filing.

Applications for development within the jurisdiction of the Planning Board pursuant to the Municipal Land Use Law, as amended and supplemented, shall be filed with the Secretary of

the Planning Board. The applicant shall file at least fourteen (14) days before the date of the monthly meeting of the Board, as appropriate, six (6) copies of a sketch plat; six (6) copies of applications for minor subdivision approval; six (6) copies of applications for major subdivision approval or six (6) copies of an application for site plan review or planned development. At the time of filing the application but in no event less than ten (10) days prior to the date set for hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provisions of this chapter or any rule of the Planning Board. The applicant shall obtain all necessary forms from the Secretary of the Planning Board. The Secretary of the Planning Board shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the Board.

§ 27-10. Citizens Advisory Committee.

The Mayor may appoint one (1) or more persons as a Citizens Advisory Committee to assist or collaborate with the Planning Board in its duties, but such person or persons shall have no power to vote or take other action required of the Board. Such person or persons shall serve at the pleasure of the Mayor.

§ 27-11. Environmental Commission.

Whenever the Environmental Commission has prepared and submitted to the Planning Board an index of the natural resources of the municipality, the Planning Board shall make available to the Environmental Commission an informational copy of every application for development and related documents to the Planning Board. Failure of the Planning Board to make such informational copy available to the Environmental Commission shall not invalidate any hearing or proceeding.

**ARTICLE II
Board of Adjustment**

§ 27-12. Establishment; membership; terms; vacancies.

A. A Board of Adjustment is hereby established pursuant to N.J.S.A. 40:55D-69 et seq., consisting of seven (7) resi-

dents of the Borough of Demarest appointed by the Mayor and subject to confirmation by the Council to serve for terms of four (4) years from January 1 of the year of their appointment. The terms of the members first appointed shall be so determined that to the greatest practicable extent the expiration of such terms shall be distributed evenly over the first four (4) years after their appointment, provided that the initial term of no member shall exceed four (4) years. Thereafter, the term of each member shall be for four (4) years. Nothing in this chapter shall, however, be construed to affect the term of any present members of the Board of Adjustment, all of whom shall continue in office until the completion of the term for which they were appointed.

- B. No member of the Board of Adjustment may hold any elective office or position under the municipality. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only. The vacancy shall be filled by appointment by the Mayor subject to confirmation by the Council.
- C. There are hereby established two (2) alternate members for the Borough of Demarest Board of Adjustment.
- D. The term of office of each of the alternate members shall be for two (2) years, except that the initial terms of such alternate members shall be one (1) year and two (2) years, as designed by the appointing authority. Alternate members shall be designated at the time of appointment by the authority appointing them as "Alternate No. 1" and "Alternate No. 2." Alternate members shall be appointed by the same authority as regular members.
- E. Alternate members may participate in discussions of the proceedings but may not vote, except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

§ 27-13. Organization.

The Board of Adjustment shall elect a Chairman and Vice Chairman from its members and shall also select a Secretary, who may be either a member of the Board of Adjustment or a municipal employee designated by it.

§ 27-14. Board of Adjustment Attorney.

There is hereby created the office of Board of Adjustment Attorney. The Board of Adjustment may annually appoint, fix the compensation of or agree upon the rate of compensation of the Board of Adjustment Attorney, who shall be an attorney other than the Municipal Attorney. The Board shall not authorize expenditures which exceed, exclusive of gifts, the amount appropriated by the governing body for its use.

§ 27-15. Experts and staff.

The Board of Adjustment may employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary. The Board of Adjustment shall not authorize expenditures which exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

§ 27-16. Rules and regulations.

The Board of Adjustment shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply.

§ 27-17. General powers and duties.

- A. The powers of the Board of Adjustment shall be in accordance with N.J.S.A. 40:55D-69 et seq., and amendments

and supplements thereto, and with the provisions of this chapter.

- B. It is further the intent of this chapter to confer upon the Board of Adjustment as full and complete powers as may lawfully be conferred upon such Board, including, not by way of limitation, the authority, in connection with any case, action or proceedings before the Board of Adjustment, to interpret and construe the provisions of this chapter, or any term, clause, sentence or word hereof, and the Zoning Map, in accordance with the general rules of construction, applicable to legislative enactments.
- C. The Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, grant variances from the terms of the Zoning Ordinance in accordance with the general rules hereby laid down that equity shall be done in cases where the strict construction of the provisions of this chapter would work undue hardship. The powers and duties of the Board of Adjustment having been delegated to and imposed upon it by statute, the Board shall in all cases follow the provisions applicable to it in the Municipal Land Use Law, as amended or supplemented, in such case made and provided, and it shall from time to time furnish to any person requesting the same a copy of its rules and information as to how appeals or applications may properly be filed with the Board of Adjustment for its decision thereon.

§ 27-18. Appeals and applications.

- A. Appeals to the Board of Adjustment may be taken by an interested party affected by any decision of an administrative officer of the municipality based on or made in the enforcement of the Zoning Ordinance or Official Map. Each appeal shall be taken within twenty (20) days prescribed by statute by filing a notice of appeal with the officer from whom the appeal was taken, together with three (3) copies of said notice with the Secretary of the Board of Adjustment. Said notice of appeal shall specify the grounds

for said appeal. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

- B. Applications addressed to the original jurisdiction of the Board of Adjustment without prior application to an administrative officer shall be filed with the Secretary of the Zoning Board of Adjustment. Four (4) copies of the application shall be filed. At the time of filing the appeal or application, but in no event less than ten (10) days prior to the date set for hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provisions of this chapter or any rule of the Board of Adjustment. The applicant shall obtain all necessary forms from the Secretary of the Zoning Board of Adjustment. The Secretary of the Board of Adjustment shall inform the applicant of the steps to be taken to initiate proceedings and of the regular meeting dates of the Board.
- C. An appeal to the Board of Adjustment shall stay all proceedings in furtherance of the action in respect of which the decision appealed from was made, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or the Superior Court of New Jersey on application or notice to the officer from whom the appeal is taken and on due cause shown.

§ 27-19. Power to reverse or modify decisions.

In exercising the above-mentioned power, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such other requirement, decision or determination as ought to be made, and to that end have all the powers of the administrative officer from whom the appeal was taken.

§ 27-20. Expiration of variances.

Any variance granted by the Board of Adjustment or Planning Board permitting the erection or alteration of any structure or structures or permitting a specified use of any premises shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance, or unless such permitted use has actually been commenced, within one (1) year from the date of publication of the notice of the judgment or determination of the Board of Adjustment or Planning Board; except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Board of Adjustment to the governing body, or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding.

§ 27-21. Powers granted by law.

The Board of Adjustment shall have such powers as are granted by law to:

- A. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of the Zoning Ordinance.
- B. Hear and decide requests for interpretation of the Map of Zoning Ordinance or for decisions upon other special questions upon which such Board is authorized by the Zoning Ordinance to pass.
- C. Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions, or by reason of other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation pursuant to N.J.S.A. 40:55D-62 to N.J.S.A. 40:55D-68 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the developer of such property, grant, upon an application or an

appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship, including a variance for a conditional use; provided, however, that no variance shall be granted under this subsection to allow a structure or use in a district restricted against such structure or use, and provided further that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board shall review a request for a variance pursuant to N.J.S.A. 40:55D-60.

- D. In particular cases and for special reasons, grant a variance to allow departure from regulations pursuant to N.J.S.A. 40:55D-62 to N.J.S.A. 40:55D-68, including but not limited to allowing a structure or use in a district restricted against such structure or use, but only by affirmative vote of at least five (5) members.

§ 27-22. Additional powers.

The Zoning Board of Adjustment shall, in addition to the powers specified in § 27-21, have the power by law to:

- A. Direct issuance of a permit pursuant to N.J.S.A. 40:55D-34 for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved on the Official Map.
- B. Direct issuance of a permit pursuant to N.J.S.A. 40:55D-36 for a building or structure not related to a street.

§ 27-23. Time limitations.

The Board of Adjustment shall render its decision not later than one hundred twenty (120) days after the date an appeal is taken from the decision of an administrative officer, or the submission of a complete application for development to the Board pursuant to the provisions of N.J.S.A. 40:55D-72b. Failure of the Board to render a decision within such one-hundred-twenty-day period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.

ARTICLE III
Provisions Applicable to Both Planning Board
and Board of Adjustment

§ 27-24. Conflicts of interest.

No member of the Planning Board or Board of Adjustment shall act on any matter in which he has either directly or indirectly a personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the municipal agency on the hearing of such matter nor participate in any discussion or decision relating thereto.

§ 27-25. Meetings.

- A. Meetings of both the Planning Board and Board of Adjustment shall be scheduled no less often than once a month, and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications for development to process.
- B. Special meetings may be provided for at the call of the Chairman or on the request of any two (2) Board members, which shall be held on notice to its members and public in accordance with all applicable legal requirements.
- C. No action shall be taken at any meeting without a quorum's being present.
- D. All action shall be taken by a majority vote of the members of the municipal agency present at the meeting except as otherwise provided by any provision of the Municipal Land Use Law.⁴
- E. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Law.⁵

⁴ Editor's Note: See N.J.S.A. 40:55D-1 et seq.

⁵ Editor's Note: See N.J.S.A. 10:4-6 et seq.

- F. A member of a municipal agency who was absent for one (1) or more of the meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his absence from one (1) or more of the meetings; provided, however, that such member has available to him the transcript or recording of all of the hearing from which he was absent and certifies in writing to the Board that he has read such transcript or listened to such recording.

§ 27-26. Minutes.

Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and the reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the Municipal Clerk. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party may be charged a fee for reproduction of the minutes for his use as provided for in the rules of the Board.

§ 27-27. Hearings.

- A. Rules. The Planning Board and Board of Adjustment shall make rules governing the conduct of hearings before such bodies, which rules shall not be inconsistent with the provisions of the Municipal Land Use Law⁶ or of this chapter.
- B. Oaths. The officer presiding at the hearing or such person as he may designate shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the County and Municipal Investigations Law (N.J.S.A. 2A:67A-1 et seq.) shall apply.

⁶ Editor's Note: See N.J.S.A. 40:55D-1 et seq.

- C. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitation as to time and number of witnesses.
- D. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
- E. Records. Each municipal agency shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The municipal agency shall not be required to permit any interested party to listen to its recording, but the municipal agency shall furnish a transcript, or duplicate recording in lieu thereof, on request, to an interested party at his expense. The municipal agency in furnishing a transcript shall not charge more than the maximum permitted by N.J.S.A. 2A:11-15. Each transcript shall be certified in writing by the transcriber to be accurate.

§ 27-28. Notice requirements for hearing.

Whenever a hearing is required on an application for development pursuant to the Municipal Land Use Law, as amended and supplemented, or pursuant to the determination of the municipal agency in question, the application shall give notice thereof as follows:

- A. Public notice shall be given by publication in the official newspaper of the municipality at least ten (10) days prior to the date of the hearing.
- B. Notice shall be given to the owners of all real property as shown on the current tax duplicate or duplicates located within two hundred (200) feet in all directions of the property which is the subject of such hearing, and whether lo-

cated within or without the municipality in which applicant's land is located. Such notice shall be given by serving a copy thereof on the owner as shown on said current tax duplicate or his agent in charge of the property or by mailing a copy thereof by certified mail to the property owner at his address as shown on said current tax duplicate. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.

- C. Notice of all hearings on applications for development involving property located within two hundred (200) feet of an adjoining municipality shall be given by personal service by certified mail to the Clerk of such municipality, which notice shall be in addition to the notice required to be given pursuant to the Municipal Land Use Law to the owners of land in such adjoining municipality which is located within two hundred (200) feet of the subject premises.
- D. Notice shall be given by personal service or certified mail to the Bergen County Planning Board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the Official County Map or on the County Master Plan, adjoining other county land or situate within two hundred (200) feet of a municipal boundary.
- E. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a state highway.
- F. Notice shall be given by personal service or certified mail to the Director of the Division of State and Regional Planning in the Department of Community Affairs of a hearing on an application for development of property which exceeds one hundred fifty (150) acres or five hundred (500) dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Muni-

pal Clerk pursuant to the Municipal Land Use Law, as amended and supplemented.

- G. All notices hereinabove specified shall be given at least ten (10) days prior to the date fixed for hearing, and the applicant shall file an affidavit of proof of service with the municipal agency holding the hearing on the application for development.
- H. Any notice made by certified mail as hereinabove required shall be deemed to be complete upon mailing in accordance with the provisions of N.J.S.A. 40:55D-14.
- I. Form of notice. All notices required to be given pursuant to the terms of this chapter shall state the date, time and place of the hearing, the nature of the matters to be considered and identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the Municipal Tax Assessor's office and the location and times at which any maps and documents for which approval is sought are available as required by law.
- J. Notice requirements shall be deemed satisfied by notice to the condominium association, in the case of any unit owner whose unit has a unit above or below it, or horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice to a condominium association, horizontal property regime, community trust or homeowner's association, because of its ownership of common elements or areas located within two hundred (200) feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners or home owners on account of such common elements or areas.

§ 27-29. List of property owners furnished.

Upon the written request of an applicant, the Tax Assessor shall, within seven (7) days, make and certify a list from the cur-

rent tax duplicates of names and addresses of owners to whom the applicant is required to give notice pursuant to § 27-28 of this chapter. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner not on the list shall not invalidate any hearing or proceeding. A sum not to exceed twenty-five cents (\$.25) per name or ten dollars (\$10.), whichever is greater, may be charged for such list.

§ 27-30. Decisions.

- A. Each decision on any application for development shall be set forth in writing as a resolution of the Board, which shall include findings of fact and legal conclusions based thereon.
- B. A copy of the decision shall be mailed by the Board within ten (10) days of the date of decision to the applicant or, if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed to all persons who have requested it and who paid the fee prescribed by the Board for such service. A copy of the decision shall also be filed in the office of the Municipal Clerk, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the municipality.
- C. Failure of a motion to approve an application for development to receive the number of votes required for approval shall be deemed an action denying the application.
- D. The municipal agency may provide such written decision and findings and conclusions either on the date of the meeting at which the municipal agency takes to grant or deny approval or, if the meeting at which such action is taken occurs within the final forty-five (45) days of the applicable time period for rendering a decision on the application for development, within forty-five (45) days of such meeting by the adoption of a resolution of memorialization setting forth the decision and the findings and conclusions of the municipal agency thereon. An action resulting from the failure of a motion to approve an application shall be

memorialized by resolution as provided above, notwithstanding the time at which such action occurs within the applicable time period for rendering a decision on the application.

E. The adoption of a resolution of memorialization pursuant to this section shall not be construed to alter the applicable time period for rendering a decision on the application for development. Such resolution shall be adopted by a vote of a majority of the members of the municipal agency who voted for the action previously taken, and no other member shall vote thereon. The vote on such resolution shall be deemed to be a memorialization of an action of the municipal agency, and not to be an action of the municipal agency, except that the failure to adopt such resolution within the forty-five-day period shall result in the approval of the application for development, notwithstanding any prior action taken thereon.

F. Whenever a resolution of memorialization is adopted in accordance with this section, the date of such adoption shall constitute the date of the decision for purposes of the mailings, filings and publications required by law.

§ 27-31. Publication of decision.

A brief notice of every final decision shall be published in the official newspaper of the municipality. Such publication shall be arranged by the Secretary of the Planning Board or Board of Adjustment, as the case may be, without separate charge to the applicant. Said notice shall be sent to the official newspaper for publication within ten (10) days of the date of any such decision.

§ 27-32. Payment of taxes.

Pursuant to the provisions of N.J.S.A. 40:55D-39 and N.J.S.A. 40:55D-65, every application for development submitted to the Planning Board or to the Board of Adjustment shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject

of such application; or, if it is shown that taxes or assessments are delinquent on said property, any approvals or other relief granted by either Board shall be conditioned upon either prompt payment of such taxes or assessments or the making of adequate provision for the payment thereof in such manner that the municipality will be adequately protected.

§ 27-33. Appeals to governing body. [Amended 12-16-2002 by Ord. No. 865]

- A. Any interested party may appeal to the governing body of the Borough of Demarest any final decision of the Board of Adjustment approving an application for development pursuant to subsection (d) of section (57) of P.L. 1975, c. 291 (N.J.S.A. 40:55D-70). Such appeal shall be made within 10 days of the date of publication of such final decision pursuant to Subsection (i) of Section (6) of P.L. 1975, c. 291 (N.J.S.A. 40:55D-10). The appeal to the governing body shall be made by serving the Municipal Clerk in person or by certified mail with a notice of appeal, specifying the grounds thereof and the name and address of the appellant and the name and address of his attorney, if represented. Such appeal shall be decided by the governing body only upon the record established before the Board of Adjustment.
- B. Notice of the meeting to review the record below shall be given by the governing body of the Borough of Demarest by personal service or certified mail to the appellant, to those entitled to notice of a decision pursuant to Subsection (h) of Section (6) of P.L. 1975, c. 291 (N.J.S.A. 40:55D-10) and to the Board of Adjustment at least 10 days prior to the date of the meeting. The parties may submit oral and written argument on the record at such meeting, and the governing body of the Borough of Demarest shall provide for verbatim recording and transcripts of such

meeting pursuant to Subsection (f) of Section (6) of P.L. 1975, c. 291 (N.J.S.A. 40:55D-10).

- C. The appellant shall, within five days of service of the notice of appeal pursuant to Subsection A hereof, arrange for a transcript pursuant to subsection (f) of Section (6) of P.L. 1975, c. 291 (N.J.S.A. 40:55D-10) for use by the governing body of the Borough of Demarest and pay a deposit of \$50 or the estimated cost of such transcript, whichever is less, or, within 35 days of service of the notice of appeal, submit a transcript as otherwise arranged to the Municipal Clerk; otherwise, the appeal may be dismissed for failure to prosecute. The governing body of the Borough of Demarest shall conclude a review of the record below not later than 95 days from the date of publication of notice of the decision below pursuant to Subsection (i) of Section (6) of P.L. 1975, c. 291 (N.J.S.A. 40:55D-10), unless the applicant consents in writing to an extension of such period. Failure of the governing body of the Borough of Demarest to hold a hearing and conclude a review of the record below and to render a decision within such specified period shall constitute a decision affirming the action of the Board of Adjustment.
- D. The governing body of the Borough of Demarest may reverse, remand, or affirm with or without the imposition of conditions the final decision of the Board of Adjustment approving a variance pursuant to Subsection (d) of Section (57) of P.L. 1975, c. 291 (N.J.S.A. 40:55D-70). The review shall be made on the record made before the Board of Adjustment.
- E. The affirmative vote of a majority of the full authorized membership of the governing body of the Borough of Demarest shall be necessary to reverse or remand to the Board of Adjustment or to impose conditions on or alter conditions to any final action of the Board of Adjustment. Otherwise, the final action of the Board of

Adjustment shall be deemed to be affirmed; a tie vote of the governing body of the Borough of Demarest shall constitute affirmance of the decision of the Board of Adjustment.

F. An appeal to the governing body of the Borough of Demarest shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made, unless the Board of Adjustment certifies to the governing body of the Borough of Demarest, after the notice of appeal shall have been filed with the Board of Adjustment, that by reason of facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by order of the Superior Court on application upon notice to the Board of Adjustment and on good cause shown.

G. The governing body of the Borough of Demarest shall mail a copy of the decision to the appellant or, if represented, then to his attorney, without separate charge, and for a reasonable charge to any interested party who has requested it, not later than 10 days after the date of the decision. A brief notice of the decision shall be published in the official newspaper of the Borough of Demarest, if there be one, or in a newspaper of general circulation in the Borough of Demarest. Such publication shall be arranged by the applicant unless a particular municipal officer is so designated by ordinance, provided that nothing contained herein shall be construed as preventing the applicant from arranging such publication if he so desires. The governing body of the Borough of Demarest may make a reasonable charge for its publication. The period of time in which an appeal to a court of competent jurisdiction may be made shall run from the first publication, whether arranged by Borough of Demarest or the applicant.

H. Nothing in this section shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction, according to law.

ARTICLE IV
Violations and Penalties

§ 27-34. Penalties.

Any owner, lessee or other person, or persons, who permits, takes part or assists in any violation of any provision of this chapter shall, upon conviction, for each and every violation thereof, be subject to a fine of not more than \$200 or be subject to imprisonment for a period not exceeding 90 days, or both, in the discretion of the Magistrate before whom such conviction shall be had.

§ 27-35. Continuing violations.

When such violation shall continue for more than one day, each day of the continuation of said offense shall be considered as a separate violation of this chapter.

§ 27-36. Cumulative remedies.

No provision of this article shall be construed to prevent the Borough of Demarest from taking injunctive proceedings in the Superior Court of New Jersey, or to any other court, for the proper enforcement of this chapter and the prevention of continuance of violations of the same.

§ 30-1

MOVING PERMITS

§ 30-2

Chapter 30

MOVING PERMITS

§ 30-1. Definitions.

§ 30-2. Application.

§ 30-3. Issuance of permit.

§ 30-4. Responsibility of owner.

§ 30-5. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 7-16-84 as Ord. No. 580. Amendments noted where applicable.]

§ 30-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

MOVER — All persons, firms, corporations and associations which shall transport or remove personal property, whether for hire or otherwise and whether or not regularly engaged in such business.

PERSON — Includes individuals, companies, firms, societies, partnerships, corporations and associations.

§ 30-2. Application.

- A. Every person owning or claiming to own any property located in or on any premises in the Borough of Demarest, except in a warehouse of any person engaged in the business of storing goods for hire, and who desires to transport or remove the same or cause the same to be transported or removed so that the whole or a substantial part

thereof shall be removed or transported from such premises in or on which it is located shall, in person or by an agent duly appointed for such purpose, first make written application to the Tax Collector of the Borough of Demarest, which application shall contain the following information:

- (1) The name and address of the mover who is to transport or remove such property.
- (2) The name and address of the person owning or claiming to own such property.
- (3) The address of the premises from which and the city and state to which such property is to be transported or removed.

B. Such application shall be made during regular business hours of the Tax Collector; provided, however, that in a case of bona fide emergency, such application may be made at any time.

§ 30-3. Issuance of permit.

A moving permit shall be issued by the Tax Collector forthwith. The permit shall be made up in triplicate; the original shall be delivered to the applicant; the first copy shall be delivered to the Police Department of the Borough of Demarest; and the second copy shall be retained by the Tax Collector and filed by her in her office as a public record.

§ 30-4. Responsibility of owner.

The provisions of this chapter shall in no case be construed to require the mover to obtain such permit nor to have the same in his possession, but the duty to obtain such permit shall be upon the person owning or claiming to own the property to be transported or removed.

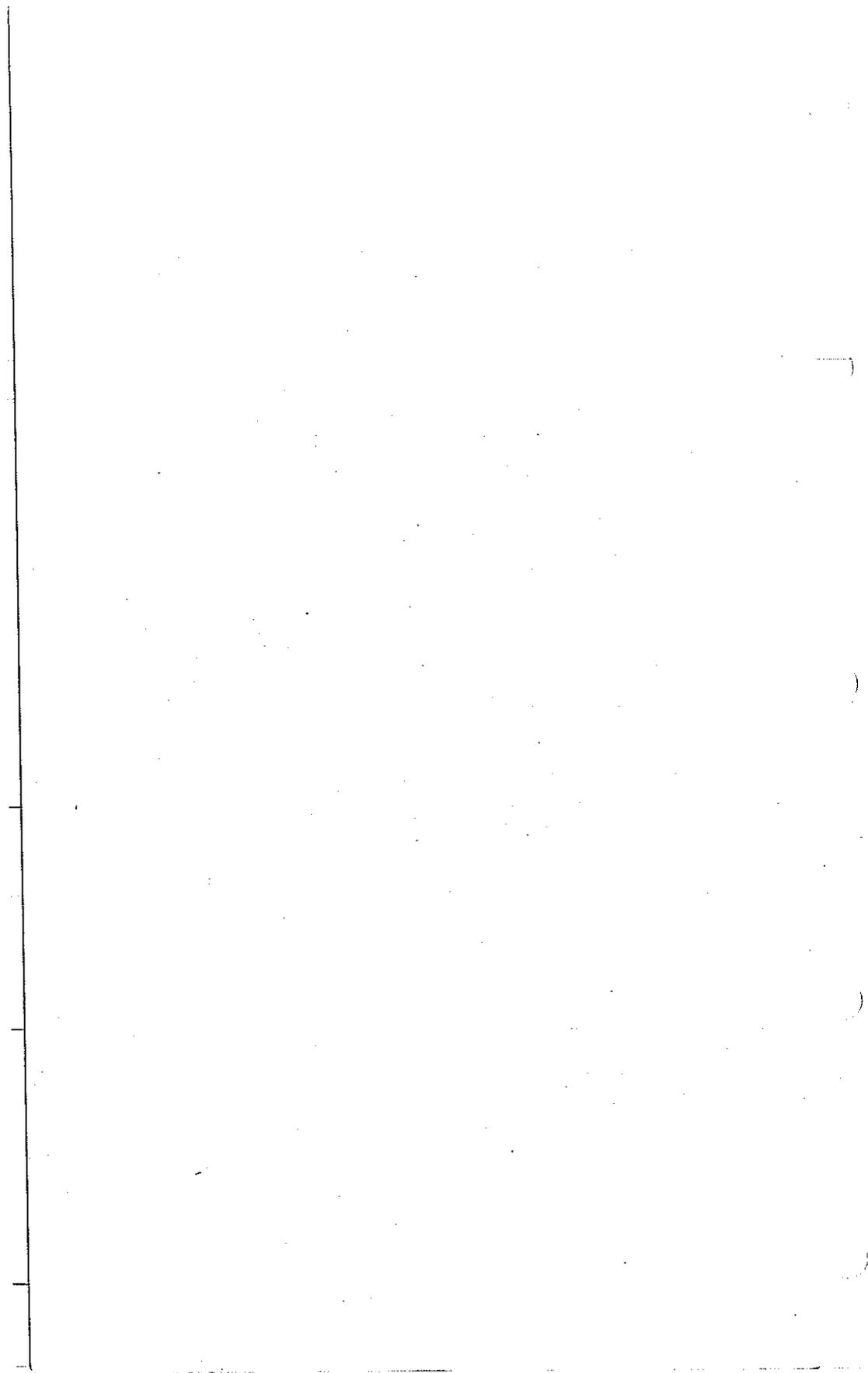
§ 30-5

MOVING PERMITS

§ 30-5

§ 30-5. Violations and penalties.

Any person violating any of the provisions of this chapter shall, upon conviction thereof, forfeit and pay a fine not less than the sum of ten dollars (\$10.).



OFFICERS AND EMPLOYEES

Chapter 32

OFFICERS AND EMPLOYEES

ARTICLE I

Deputy Borough Clerk

§ 32-1. Creation of office; term.

§ 32-2. Duties.

§ 32-3. Compensation.

ARTICLE II

Borough Prosecutor

§ 32-4. Appointment; duties.

§ 32-5. Qualifications; compensation.

ARTICLE III

Chief Financial Officer

§ 32-6. Creation of position.

§ 32-7. Responsibilities.

§ 32-8. Appointment.

§ 32-9. Compensation.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest: Art. I, 10-16-1972 as Ord. No. 361; Art. II, 6-18-1973 as Ord. No. 371; Art. III, 2-21-1989 as Ord. No. 664. Amendments noted where applicable.]

GENERAL REFERENCES

Personnel policies — See Ch. 37.
Residency requirements — See Ch. 50.

ARTICLE I
Deputy Borough Clerk
[Adopted 10-16-72 as Ord. No. 361]

§ 32-1. Creation of office; term.

Pursuant to N.J.S.A. 40A:9-135, there is hereby created the office of Deputy Borough Clerk of the Borough of Demarest, to be appointed by the Mayor and Council of the borough at such time or times as such appointment is deemed advisable or necessary by the Mayor and Council. The term or terms of office of the Deputy Borough Clerk of the Borough of Demarest, whose office is herein created, shall be at the pleasure of the Mayor and Council.

§ 32-2. Duties.

The duties of any Deputy Borough Clerk to be appointed as herein provided shall be to aid and assist the Borough Clerk under the direction and supervision of the Borough Clerk, to do and perform such functions and duties as may be assigned by the Borough Clerk, the Mayor and Council or the Chairman of any committee of the Borough Council and to have all the powers and perform all the functions and duties of the Borough Clerk for such times and for such periods as the Borough Clerk shall be absent or otherwise unable to perform.

§ 32-3. Compensation.

The salary of the Deputy Borough Clerk shall be such as shall from time to time be fixed by resolution of the Borough Council or by the Salary Ordinance of the Borough of Demarest.¹

¹ Editor's Note: A copy of the annual Salary Ordinance is on file in the office of the Borough Clerk.

ARTICLE II
Borough Prosecutor
[Adopted 6-18-73 as Ord. No. 371]

§ 32-4. Appointment; duties.

In addition to any and all other legal officers as may from time to time be appointed by the governing body of the Borough of Demarest, there shall be appointed by the Mayor, with the advice and consent of the Borough Council, a Borough Prosecutor, who shall attend the regular sessions of the Municipal Court of the Borough of Demarest. The Borough Prosecutor shall prosecute all cases on behalf of the Police Department of the Borough of Demarest and on behalf of all borough officials of the Borough of Demarest who have brought complaints to be heard in the Municipal Court of the borough.

§ 32-5. Qualifications; compensation.

The Borough Prosecutor of the Borough of Demarest shall be an attorney at law of the State of New Jersey and licensed as such and shall be paid such compensation as the governing body of the Borough of Demarest may, from time to time, establish by appropriate ordinance.

ARTICLE III
Chief Financial Officer
[Adopted 2-21-1989 as Ord. No. 664]

§ 32-6. Creation of position.

Pursuant to P.L. 1988, c. 110,¹ there is hereby created and established the position of Chief Financial Officer of and for the Borough of Demarest.

¹ Editor's Note: See N.J.S.A. 40A:9-140.1 et seq.

§ 32-7

DEMAREST CODE

§ 32-9

§ 32-7. Responsibilities.

Said Chief Financial Officer shall carry out the responsibilities set forth under N.J.S.A. 52:27BB-26 et seq.

§ 32-8. Appointment.

The Chief Financial Officer shall be appointed by the Mayor with the advise and consent of the Council.

§ 32-9. Compensation.

The salary of the Chief Financial Officer shall be established by Salary Ordinance.²

² Editor's Note: A copy of the annual Salary Ordinance is on file in the office of the Borough Secretary.

Chapter 37

PERSONNEL POLICIES

§ 37-1. Policy statement.

§ 37-2. Criteria for employment or promotion.

§ 37-3. Condition or status not a bar to employment or promotion.

§ 37-4. Equality of pay and opportunity.

§ 37-5. Compliance with affirmative action policy.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 4-21-80 as Ord. No. 498. Amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees — See Ch. 32.
Residency requirements — See Ch. 50.

§ 37-1. Policy statement.

A. It shall be the policy of this borough that equal opportunity of employment and advancement in employment shall be based on merit and ability to perform without regard to race, color, national origin, religion, sex, political affiliation or age.

B. No arbitrary, unreasonable or artificial barrier shall impede the employment or promotion of any person for any position.

§ 37-2. Criteria for employment or promotion.

A. No criteria or standard for employment or promotion in employment shall be established unless such criteria or

standard shall specifically relate to the job or position to be filled, either by employment or promotion thereto.

- B. Criteria may be established requiring a minimum educational or job experience attainment for certain jobs or positions where such criteria are job- or position-related.
- C. Any application, test, examination or demonstration of ability for a particular position or job, whether in writing or oral, shall specifically relate to the position or job to be filled.

§ 37-3. Condition or status not a bar to employment or promotion.

- A. Marital status or condition of pregnancy shall not be cause to deny employment, promotion or discharge from employment. A pregnant employee who desires a leave of absence and then a return to work shall be offered comparable employment at comparable pay on a first-available basis.
- B. The arrest record of an employee or applicant shall not be a bar to employment or continued employment. Conviction of an applicant or employee may be a bar to employment or continued employment if the act or conduct resulting in conviction relates to the specific position or job.
- C. Physical requirements that relate to the position or job may be adopted, but such requirements shall not be applied to the requirement of any position or job to which they do not relate.

§ 37-4. Equality of pay and opportunity.

- A. There shall be no discrimination between employees on the basis of sex as to rates of pay or promotional opportunity where equal work requires equal skill, effort and responsibility for work performed under similar working conditions.

- B. There shall be no discrimination because of the age of any applicant for employment or any employee as to rate of pay, promotional opportunities or working conditions, and no limitation shall be placed upon any person because of age.
- C. No person shall be deprived of employment or refused promotion or be discriminated against in any manner in his or her employment or employment opportunity by reason of race, color, religion, sex, marital status, age or political affiliation or for any reason. Ability to perform and merit shall be the sole criteria for employment or advancement in employment.

§ 37-5. Compliance with affirmative action policy.

- A. To comply with the requirements of the several laws concerning affirmative action in connection with federal and state grants, the administration of an equal employment opportunity program shall be directed by the Borough Clerk.
- B. The Borough Clerk shall have the responsibility and authority to assure that no discrimination concerning the provisions of any federal or state act shall occur in any program undertaken by the Borough of Demarest and funded in any manner by the United States or the State of New Jersey or any political subdivision thereof.
- C. The Clerk shall require, when necessary under the terms of this chapter or of any pertinent law or regulation or executive order, the filing of an affirmative action program by the borough or by any contractor or subcontractor doing any work for which governmental funds are received.



POLICE DEPARTMENT

Chapter 40

POLICE DEPARTMENT

ARTICLE I
General Provisions

- § 40-1. Establishment; powers and duties; rules and regulations.
- § 40-2. Police manual.
- § 40-3. Definitions.

ARTICLE II
**Establishment of Divisions;
Responsibilities of Personnel**

- § 40-4. Office of Chief of Police; Patrol and Investigation Divisions; Detective Bureau.
- § 40-5. Department positions; rank and seniority.
- § 40-6. Authority and responsibilities of command and supervisory personnel.
- § 40-7. Responsibilities and duties of patrolmen.
- § 40-8. Desk duty.

ARTICLE III
General Rules and Regulations

- § 40-9. Professional conduct and responsibilities.
- § 40-10. General conduct while on duty.
- § 40-11. Uniforms, equipment and appearance.
- § 40-12. Maintenance and use of Department property and equipment.

DEMAREST CODE

- § 40-13. Communications and correspondence.
- § 40-14. Investigations.
- § 40-15. Arrests.
- § 40-16. Custody, transportation and detention of prisoners.
- § 40-17. Care and use of firearms.
- § 40-18. Regulations concerning public activities.
- § 40-19. Regulations concerning political activities.
- § 40-20. Court appearances and testifying in judicial and investigative actions.

ARTICLE IV
Personnel Regulations

- § 40-21. Qualifications of policemen.
- § 40-22. Oath of office.
- § 40-23. Probationary period.
- § 40-24. Valid driver's license required.
- § 40-25. Permission required to engage in outside employment.
- § 40-26. Conditions requiring surrender of Department property.
- § 40-27. Compensation for damages when injured while off duty.
- § 40-28. Duty hours; days off; leaves of absence; vacations.
- § 40-29. Sickness and injury leave.
- § 40-30. Leave for death in family.
- § 40-31. Military leave.

§ 40-1

POLICE DEPARTMENT

§ 40-1

§ 40-32. Notification and report procedures regarding death or injury.

§ 40-33. Grievance procedure.

§ 40-34. Resignation.

ARTICLE V
Disciplinary Regulations

§ 40-35. Disciplinary action.

§ 40-36. Penalties.

§ 40-37. Department disciplinary authority and responsibilities.

§ 40-38. Complaints by citizens against Department personnel; investigation and report.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 2-17-81 as Ord. No. 513. Amendments noted where applicable.]

GENERAL REFERENCES

Fees for records — See Ch. 44.
Alarm systems — See Ch. 60.
Bicycles — See Ch. 72.
Loitering — See Ch. 116.
Peddling and soliciting — See Ch. 132.
Vehicles and traffic — See Ch. 166.

ARTICLE I
General Provisions

§ 40-1. Establishment; powers and duties; rules and regulations.

A. Legal authorization. Pursuant to N.J.S.A. 40A:14-118, the Borough of Demarest hereby creates and establishes a

Police Department and force. [Amended 5-16-88 by Ord. No. 650]

B. Powers and duties. The powers and duties of the Police Department as established herein are established by authority shall be as follows:

- (1) Preserve the public peace.
- (2) Prevent crime.
- (3) Detect and arrest offenders.
- (4) Protect the rights of persons and property.
- (5) Guard the public safety.
- (6) Preserve order at elections and all public meetings and assemblages.
- (7) Remove nuisances existing in public streets, roads, places and highways and arrest all street mendicants and beggars.
- (8) Regulate the movement of teams and vehicles in streets, roads, places and highways.
- (9) Enforce and prevent the violation of all laws and ordinances of the borough.
- (10) Uphold and enforce the provisions of motor vehicle and traffic regulations, Title 39 of the Revised Statutes of New Jersey.

C. Rules and regulations established. The Mayor and Council hereby establishes the Department rules and regulations under cover to be known as the "Police Manual for the Borough of Demarest."

D. Right to amend or revoke. For the good of the service, in accordance with N.J.S.A. 40A:14-118, the right is reserved by the governing body to amend or to revoke any of the rules, regulations or procedures, or add thereto, as the circumstances require.

- E. Previous orders. All rules, regulations, procedures and orders previously issued are hereby revoked.
- F. Rules and regulations; police manual. The rules for the governing of the Police Department of the Borough of Demarest, as incorporated in a police manual entitled the "Police Manual for the Borough of Demarest," are hereby incorporated into this chapter. Copies of said manual shall be maintained in the office of the Borough Clerk as well as with the Chief of Police.¹

§ 40-2. Police manual.

- A. Distribution of manual. One (1) copy of the police manual shall be distributed to each police officer and to certain civilian employees of the Police Department. Also, for reference purposes, copies shall be distributed to the office of the Borough Clerk, the Borough Administrator and the Mayor.
- B. Responsibility for maintenance. All members and employees who are assigned a manual shall be responsible for its maintenance and care. All manuals shall be kept current, and supplementary pages concerning additions, revisions or amendments shall be promptly inserted.
- C. Familiarization. Each police officer and each civilian employee is duty-bound to familiarize himself with the provisions of the police manual. Failure to comply shall be considered neglect of duty.
- D. Ignorance of contents of manual. In the event neglect of duty is charged against a member for failure to observe the rules and regulations, Department procedures or orders, ignorance of any provision of this manual or any Depart-

¹ Editor's Note: Original Section 1:2, which dealt with the numbering system used in the police manual and which immediately followed this section, was deleted as being nonapplicable to this chapter as included in the Code book.

ment procedure or order will not be accepted as an excuse.

- E. Violations and penalties. Penalties for violation of any provision of this chapter and the police manual shall be provided in Article V hereof.

§ 40-3. Definitions.

- A. Terms defined. The terminology listed in this section has been defined to provide uniformity in usage and to clarify meanings when these terms are used:

ANNUAL VACATION — Vacation period granted to all members annually.

APPROPRIATE AUTHORITY — Pursuant to N.J.S.A. 40A:14-118, the Police Committee Chairman is hereby designated for purposes of this chapter as the "appropriate authority." [Added 5-16-88 by Ord. No. 650]

BUREAU — A unit immediately subordinate to a division.

CHAIN OF COMMAND — The unbroken line of authority extending from the Chief of Police through a single subordinate at each level of command down to the level of execution and vice versa.

COMMANDING OFFICER — Any rank of Lieutenant and above.

DAYS OFF — Those days, determined by the Chief of Police, on which a given member is excused from duty.

DEPARTMENT — The Demarest Police Department.

DETAIL — A temporary assignment of personnel for a specialized activity.

DETECTIVE — A police officer assigned to conduct criminal investigations while in civilian clothing.

DIVISION — A functional unit having jurisdiction-wide coverage, whose commanding officer reports directly to the Chief of Police.

§ 40-3

POLICE DEPARTMENT

§ 40-3

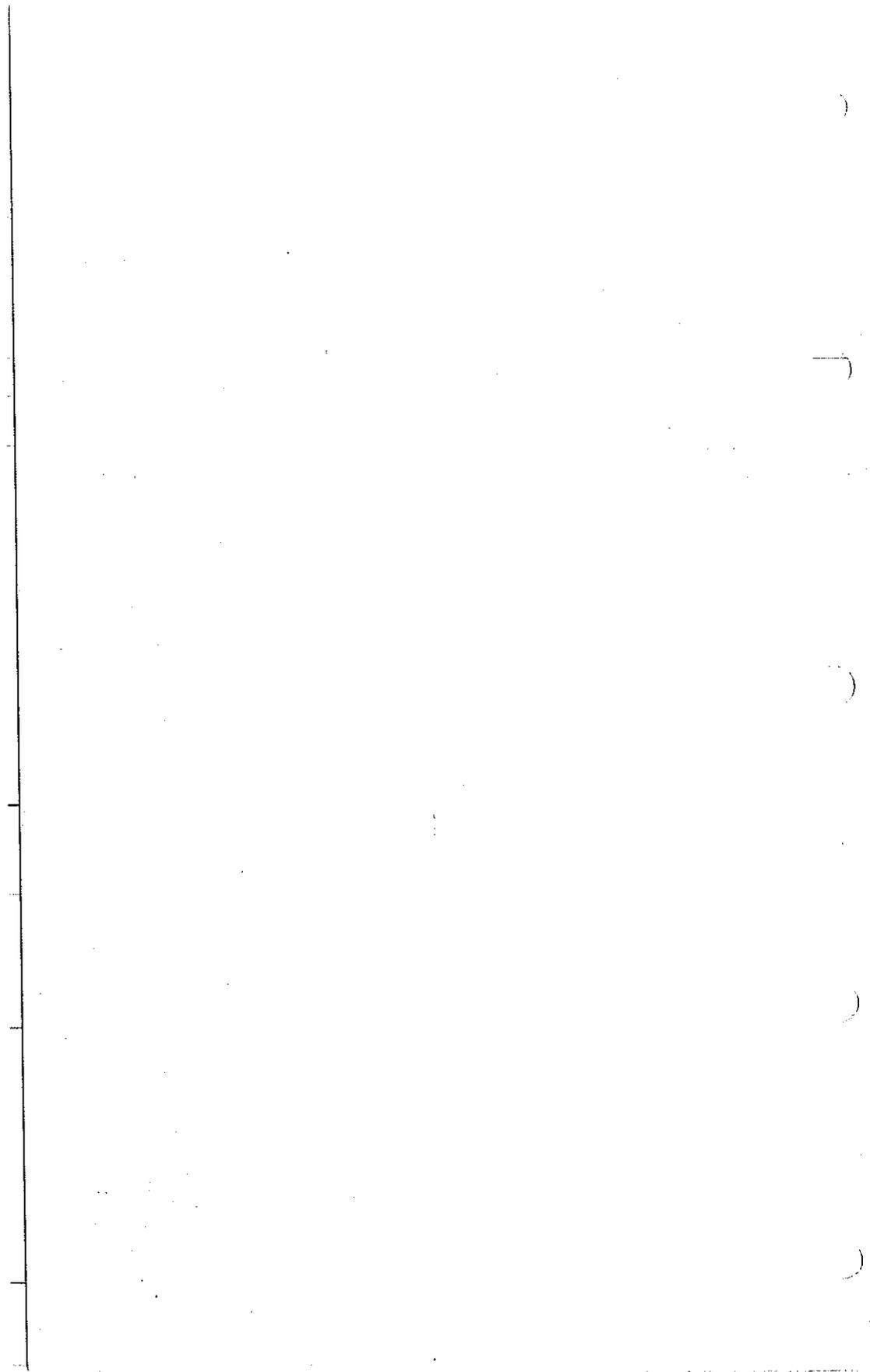
EMPLOYEE — Civilian employee of the Department.

GENERAL ORDERS — Written directives issued by the Chief of Police. "General orders" remain in full force and

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4006.1

4 - 25 - 89



effect until amended, superseded or canceled by the Chief of Police. Department "general orders" establish policy, procedure or regulations governing matters which affect the entire Department or two (2) or more subordinate units. They are the most authoritative directive issued on the Department and may be used to amend, supersede or cancel any other order.

HEADQUARTERS — The police building that houses the headquarters staff and the members of this Department.

INCOMPETENCE — Incapable of satisfactory performance of police duties.

INSUBORDINATION — Failure or deliberate refusal of any member or employee to obey a lawful order given by a superior officer, ridiculing a superior officer or his order and disrespectful, mutinous, insolent or abusive language directed toward a supervising officer, whether in or out of his presence.

LAWFUL ORDER — Any written or oral directive issued by a superior officer to any subordinate or group of subordinates in the course of police duty which is not in violation of any law, ordinance or any Department rule or regulation.

MEMBER — Any duly appointed police officer of the Department.

MEMORANDA — Information bulletins which are primarily designed to inform and secondarily to direct issues at Departmental and divisional level. Such "memoranda" are not official orders but express the thinking of the issuing authority on the subject under consideration.

MILITARY LEAVE — The period of time during which an officer is excused from duty by reason of serving in the Armed Forces of the United States in an active capacity as provided by law.

NEGLECT OF DUTY — Failure to give suitable attention to the performance of duty. Examples include but are not limited to the following: failure to take appropriate action on the occasion of a crime, disorder or other act or condi-

tion deserving police attention; absence without leave; failure to report to duty at the time and place designated; unnecessary absence from the beat during a tour of duty; failure to perform duties or comply with provisions prescribed in the police manual; or failure to conform to the Department operating procedures.

OFF DUTY — The status of a member during the period he is free from the performance of specified duties. Also may be known as "rest period," "day off" or an "annual leave."

OFFICIAL CHANNELS — Through the hands of the superior officers in the chain of command.

ON DUTY — The status of a member during the period of the day when he is actively engaged in the performance of his duties. Technically, a police officer is subject to call at all times.

ORDER — Any written or oral directive issued by a superior officer to any subordinate or group of subordinates in the course of police duty.

PERSONNEL ORDERS — Appointment, assignment or any other status change of personnel within the Department accomplished by Department personnel order issued by the Chief of Police.

POLICE MANUAL — Reference guide specifying the rules and regulations governing the conduct of personnel and the operation of the Department, as well as specifying Department policies and procedures. Department orders will be incorporated into the "police manual" after a provisional period of operation. This manual is issued by authority of the Chief of Police and carries the weight of a general order.

PROCEDURE — The official method of dealing with any given situation prescribed by Chief's order or procedural guide.

RULES AND REGULATIONS — Department legislation consisting of detailed directives binding members and em-

ployees of all ranks in terms of authority, responsibility and conduct.

SECTION — A functional unit subordinate to a bureau or under the immediate direction of the Chief of Police. It may be commanded by any rank, depending on its size and the nature and importance of its function.

SENIORITY — "Seniority" in the Department is established first by rank and second by time served in this Department; whether on a regular, assigned or temporary basis. In situations requiring decision or control where the officers are of equal rank, the senior will make the decision and exercise control unless otherwise directed by a higher ranking command or supervisory officer.

SHIFT — An eight-hour tour of duty.

SHIFT COMMANDER — A supervisory officer of a shift in the Patrol Division.

SICK LEAVE — The period of time during which an officer is excused from active duty by reason of illness or injury.

SPECIAL DUTY — Police service, the nature of which requires that the member be excused from the performance of his regular duties.

SPECIAL ORDERS — Written directives issued by the Chief of Police which specify instruction governing particular situations. "Special orders" are automatically canceled when their objectives are achieved.

SUPERIOR OFFICER — A person holding a rank higher than patrolman.

SUPERVISORY OFFICER — Member of the Department assigned to a position requiring the exercise of immediate supervision over the activities of other members and employees.

TOUR OF DUTY — The number of days of work on a given shift during which an individual member is on duty.

TRAINING BULLETIN — Bulletins published and designed to keep officers of the Department abreast of current police techniques and procedures. The bulletins and their presentation act as a continuous training program and as a stimulus for further study. The information contained therein constitutes official Department policy on the subject matter under consideration in the absence of other instruction to the contrary.

B. Word usage.

- (1) Use of the masculine gender herein shall also include, where applicable, the female gender.
- (2) As used herein, the words "may" and "should" shall mean that the action indicated is permitted.
- (3) The words "shall" and "will," as used herein, shall indicate that the action required is mandatory.
- (4) Words used in the present tense include the future.

ARTICLE II

**Establishment of Divisions; Responsibilities
of Personnel**

§ 40-4. Office of Chief of Police; Patrol and Investigation Divisions; Detective Bureau.

- A. Office of the Chief.** The Chief of Police is responsible for the general direction, control and supervision of the Police Department as authorized and provided for by statute, ordinance and these rules.
- B. Patrol Division.** The Patrol Division is responsible for the performance of the following functions.
- (1) Preventive patrol activities.
 - (2) Protection of life and property, preservation of the peace, enforcement of the law and suppression of crime.

- (3) Investigation of police incidents and minor crimes and preliminary investigation of serious crimes.
- (4) Traffic law enforcement, traffic control and traffic accident investigation.
- (5) Assignment control and supervision of special policemen and school crossing guards.
- (6) Processing, indexing and filing of reports and case files, and miscellaneous record services to the public and the Department.
- (7) Reception of all complaints, reports of crime and requests for police services from the public and dispatching of personnel to investigate these cases.
- (8) Operation of all radio and communications equipment.
- (9) Arranging for basic in-service and specialized training for Department personnel and maintaining training records.
- (10) Providing maintenance programs and procedures for vehicles, communications and other equipment.

C. Investigation Division. The Investigation Division is responsible for the performance of the following functions:

- (1) Follow-up investigations of serious crimes and vice crimes.
- (2) Preparation of cases for prosecution.
- (3) Recovery of stolen property.
- (4) Performance of all identification functions.
- (5) Prevention and control of juvenile delinquency.
- (6) Processing of juvenile offenders.
- (7) Maintaining liaison with the juvenile courts.

D. General. Duties and responsibilities are not limited to those listed herein. Other duties and responsibilities may be assigned as necessary to accomplish the objective of the Department.

E. Detective Bureau.

- (1) Creation and establishment. A Detective Bureau is hereby created and established in the Police Department of the Borough of Demarest, which shall operate and function under the supervision of the Chief of Police.
- (2) Appointments. The Chief of Police, as he deems it necessary, may assign and detail any officer or member of the Police Department, not to exceed three (3) in number, to duty in the Detective Bureau or transfer any police officer serving the Detective Bureau from said Detective Bureau to duty in the uniformed division of the Police Department.
- (3) Ranks; salary. The ranks in the Detective Bureau may consist of the following: Detective Captains, Detective Lieutenants, Detective Sergeants and Detectives. The police officers assigned to duty in the Detective Bureau holding any of the aforementioned ranks shall receive the same salary and other benefits as are received by police officers of similar rank serving in the uniformed division of the Police Department as provided by the Salary Ordinance of the Borough of Demarest. A police officer serving with the rank of Detective in the Detective Bureau shall receive the salary designated for a patrolman with three (3) or more years of service in the Salary Ordinance of the Borough of Demarest.²
- (4) Commanding officer. The Detective Bureau shall operate under the immediate command of the superior officer assigned to duty in said Detective Bureau by the Chief of Police. Said superior officer in command of the Bureau shall at all times be subject to the orders and directions of the Chief of Police.
- (5) Responsibilities of commanding officer. The superior officer in command of the Detective Bureau shall be

² Editor's Note: A copy of the annual Salary Ordinance is on file in the office of the Borough Clerk.

responsible for the proper and efficient operation of the Bureau. He shall be responsible for the supervision of all Bureau activities and the assignments of all police officers assigned to duty in the Bureau. He shall submit monthly and yearly reports, in writing, of the activities of the Detective Bureau to the Chief of Police on dates specified by the Chief.

- (6) Authority and jurisdiction of superior officer. A superior officer assigned to duty in the Detective Bureau shall have such authority and jurisdiction over subordinates in said Bureau as such a ranking officer has in the uniformed division of the Police Department.
- (7) Functions and duties of Bureau. The duties of the police officers assigned to duty in the Detective Bureau shall include the following:
 - (a) The investigation and solution of all crimes committed within the Borough.
 - (b) Exerting all efforts to prevent the commission of crimes in the Borough.
 - (c) The maintenance of proper written reports and records of all investigations conducted.
 - (d) The execution of all orders for investigation and police action issued by the Chief of Police.
 - (e) Obeying all the rules of the Police Department.
- (8) Extradition cases. No police officer assigned to the Detective Bureau shall act as agent in an extradition case unless he has been so assigned by the commanding officer of the Bureau and has first had all his expenses involved in such matter approved for payment by the County of Bergen or State of New Jersey.

- (9) Work schedules. All police officers serving in the Detective Bureau shall work according to schedules prepared by the commanding officer of the Bureau and shall be subject to the orders and directions of such commanding officer.
- F. Mandatory assignments. The following assignments shall be mandatory, unless the Chief of Police, upon annual review, deems said assignment to be no longer necessary: not more than two police officers may be assigned as full-time School Resource Officers at the discretion of the Chief of Police, at no differential of pay. **[Added 12-19-2005 by Ord. No. 919]**

§ 40-5. Department positions; rank and seniority.

A. Department positions. **[Amended 12-19-2005 by Ord. No. 919]**

- (1) There is hereby created in and for the Borough of Demarest, a Police Department which shall consist of not more than the following:
- (a) One Chief of Police,
 - (b) One Deputy Chief of Police,
 - (c) One Captain,
 - (d) Two Lieutenants,
 - (e) Four Sergeants, and
 - (f) Eleven Police Officers.
- (2) The foregoing shall constitute the Table of Organization of said Police Department of the Borough of Demarest. [Reuter v. Borough of Fort Lee, 167 NJ 38(2001)]

B. Rank and seniority. When officers are of the same grade, they shall rank according to their seniority determined by time in rank. When two or more officers are appointed to the same grade on the same day, each shall rank according to his respective position on the eligibility list which determined the order of his appointment to that grade.

§ 40-6. Authority and responsibilities of command and supervisory personnel.

A. [Amended 5-16-1988 by Ord. No. 650] Chief of Police. The Chief of Police shall be directly responsible to the appropriate authority for the efficiency and routine day-to-day operation of the Police Department, and he shall, pursuant to policies established by the appropriate authority:

- (1) Administer and enforce rules and regulations and special emergency directives for the disposition and discipline of the force and its officers and personnel.
- (2) Have, exercise and discharge the functions, powers and duties of the force.
- (3) Prescribe the duties and assignments of all subordinates and other personnel.

(Cont'd on page 4015)



1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that this is crucial for ensuring the integrity of the financial data and for facilitating audits.

2. The second part of the document outlines the various methods used to collect and analyze data. It describes how different types of information are gathered and how they are processed to generate meaningful insights.

3. The third part of the document focuses on the application of these findings. It discusses how the data is used to inform decision-making and to identify areas for improvement within the organization.

4. The fourth part of the document provides a summary of the key points discussed. It highlights the main findings and the implications of the research for future studies and practice.

5. The final part of the document includes a list of references and a list of figures. The references provide a list of sources used in the research, and the figures provide a visual representation of the data presented in the text.

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- (4) Delegate such of his authority as he may deem necessary for the efficient operation of the force to be exercised under this direction and supervision.
- (5) Report at least monthly to the appropriate authority in such form as shall be prescribed by such authority on the operation of the force during the preceding month and make such other reports as may be requested by such authority.

B. Commanding officers. Subject to direction from higher command, a commanding officer has direct control over all members and employees within his command. In addition to the general and individual responsibilities of all members and employees and supervisory officers, a commanding officer is responsible for the following:

- (1) Command. The direction and control of personnel under his command to assure the proper performance of duties and adherence to established rules, regulations, policies and procedures, and the provision for continuation of command and supervision in his absence.
- (2) Loyalty and esprit de corps. The development and maintenance of esprit de corps and loyalty to the Department.
- (3) Discipline and morale. The maintenance of discipline and morale within the command and the investigation of personnel complaints not assigned elsewhere.
- (4) Interdepartment action. The promotion of harmony and cooperation with other units of the Department, and the initiation of proper action in cases not regularly assigned to his command when delay necessary to inform the proper unit might result in a failure to perform a police duty.
- (5) Organization and assignment. Organization and assignment of duties within his unit to assure proper performance of Department functions and those of his command.

- (6) Reports and records. Preparation of required correspondence, reports and maintenance of records relating to the activities of his command and assurance that information is communicated up and down the chain of command as required.
 - (7) Maintenance. Assurance that quarters, equipment, supplies and materials assigned to his command are correctly used and maintained.
- C. Shift commander. The shift commander, during his tour of duty, exercises the same authority and has the same responsibilities as his commanding officer, subject to higher authority. In the absence of the shift commander, the senior available member of the shift is in charge unless otherwise provided. In addition to the general and individual responsibilities of all members and employees, the shift commander is specifically responsible for the following:
- (1) Good order. The general good order of his command during his tour of duty, to include proper discipline, conduct, welfare, field training and efficiency.
 - (2) Roll call. Conduct of prescribed roll calls, communication of all orders or other information at roll call and inspection and correction of his command as necessary.
 - (3) Reporting. Reporting as required by a commanding officer.
 - (4) Personnel complaints. Inquiry into personnel complaints against members and employees under his command in accordance with the provisions of this chapter.

(Cont'd on page 4017)

D. Supervisory officers. In addition to the general and individual responsibilities of all members and employees, supervisory officers are specifically responsible for the following:

- (1) Supervision. Closely supervising the activities of their subordinates, making corrections where necessary and commending where appropriate.
- (2) Leadership. Providing on-the-job training as needed for efficient operation and coordination of effort when more than one (1) member or employee is involved.
- (3) Direction. Exercising direct command in a manner that assures the good order, conduct, discipline and efficiency of subordinates. Exercise of command may extend to subordinates outside their usual spheres of supervision if the police objective or reputation of the Department so requires or if no other provision is made for personnel temporarily unsupervised. This authority shall not be exercised unnecessarily. If a supervisor requires a subordinate other than his own to leave a regular assignment, the supervisor so directing will inform the subordinate's own supervisor as soon as possible.
- (4) Enforcement of rules. Enforcement of Department rules and regulations and requiring compliance with Department policies and procedures.
- (5) Inspection. Inspection of activities, personnel and equipment under their supervision and initiation of suitable action in the event of a failure, error, violation, misconduct or neglect of duty by a subordinate.
- (6) Assisting subordinates. Having a working knowledge of the duties and responsibilities of his subordinates and observing contact made with the public by his subordinates and being available for assistance or instruction as may be required. He shall respond to calls of serious emergencies, crimes in progress, assaults and others unless actively engaged in a police incident. He should observe the conduct of the assigned personnel and take active charge when necessary.

§ 40-7. Responsibilities and duties of patrolmen.

Patrolmen are responsible for performing a variety of duties related to the protection of life and property, enforcement of criminal and traffic laws, prevention of crime, preservation of the public peace and the apprehension of criminals. They will perform these duties as prescribed in department orders and as directed by their supervisors. In addition to these and the general and individual responsibilities of all members and employees, patrolmen are specifically responsible for the following:

- A. Police mission. A patrolman is responsible for the accomplishment of the police mission on his beat. He shall constantly be alert for violations of the laws and ordinances and shall make every effort to prevent breaches of the peace and offenses against persons and property. He shall be held accountable for crime, accidents, disorders and other criminal conditions on his beat.
- B. Reporting for duty. He shall report promptly at the designated hour and place, in proper uniform, for assignment and inspection. He shall listen attentively to orders and instructions of his superior officers and read such materials as are made available to him. He shall make written memoranda of such information as necessary and shall immediately proceed to his beat upon completion of these tasks.
- C. Familiarization with beat. A patrolman shall thoroughly familiarize himself with his beat. He shall be familiar with all public businesses, offices and their entrances, exits, skylights, fire escapes and other possible means of escape. While making security checks of doors, he shall familiarize himself with the locations of safes and night-lights. Changes in night-lights will be particularly noticed.
- D. Method of patrol. During his tour of duty the patrolman shall continuously patrol every part of his beat, giving attention to and frequently rechecking locations where the crime hazard is greatest. As far as possible, he shall not patrol his beat according to any fixed route or schedule but shall alternate frequently and backtrack in order to be at the location least expected.

E. Unlocked buildings.

- (1) When a door or window is found open under suspicious or unusual circumstances on any tour of duty, an officer shall make a thorough investigation and determine, if possible, whether a burglary or other crime has been committed and whether the door or window can be secured. He shall, if necessary, summon assistance to examine the premises and to secure such doors and windows and shall notify his headquarters.
- (2) Under circumstances indicating that an intruder is still inside a building, the officer discovering same should immediately summon assistance and then stand guard. When the assistance arrives, he may enter and search the building.

F. Field interviews. At night when the occasion demands it, the patrolman shall courteously but firmly question persons on the public streets as to their names, addresses, reason for being on the street and other matters relating to the circumstances. In all cases, good judgment and discretion should be used in making a decision to arrest.

G. Vice suppression. Uniformed officers shall give particular attention to places where vice violators might congregate. They shall use every lawful means to suppress the illegal activities of such persons, prosecute them and require all such establishments to be conducted in accordance with municipal ordinances and state laws and shall report all violations.

H. Traffic law enforcement. Motorized patrolmen are charged with the enforcement of all provisions of local and state traffic codes. Failure to take appropriate action in traffic violations cases is considered neglect of duty.

I. Complaint action. A patrolman shall carefully investigate all complaints on or near his beat which are assigned to him or which are brought to his attention by citizens. He shall take suitable action in those cases which come under his jurisdiction and inform interested parties of the laws or ordinances relative to the particular complaint or incident. If

the legal remedy of the complaint lies outside of the jurisdiction of the Police Department, he shall advise the complainant accordingly and refer him to the proper authority.

- J. Preliminary investigations. At the scenes of major crimes, subject to direction of higher authority, the first officer at the scene, after it has been established that the perpetrator is no longer present, will begin the preliminary investigation, except in the case of homicide or apparent homicide. In those instances, a member of the Detective Bureau will be called to the scene immediately. In all instances, members not assigned will not enter the premises or do any other thing that might interfere with the investigation or destroy evidence. In cases of homicide, the first duty of the beat officer is to guard the scene, excluding all unauthorized persons, and to detain all witnesses for interrogation.
- K. Radio failure. Motorized patrolmen shall pay strict attention to all regular radio transmissions. When they fail to hear any radio transmissions or time signals for a period not to exceed fifteen (15) minutes, they shall immediately call the dispatcher for a special test. If after three (3) attempts the officer fails to receive an acknowledgment, he shall immediately contact the desk officer by telephone. In case of radio trouble, the officer shall notify his shift commander and/or dispatcher of the nature of the trouble.

§ 40-8. Desk duty.

- A. A member of the Department assigned to desk duty shall keep a record of all calls received and dispatched; the time, location and nature of the complaint; the name and address of the complainant; and the time a police car is in or out of service, and he shall place his identification before each entry on the record.
- B. He shall answer all calls without delay and shall not allow any interference with the prompt and efficient conduct of police business.
- C. He shall be courteous, prompt and alert on all calls. Abrupt, brusque or uncivil response to calls will not be tolerated.

- D. He shall answer all telephone calls of the Department and state "Demarest police," his title and name.
- E. He shall report the failure of any officer to acknowledge receipt of a message.
- F. He shall have a thorough knowledge of the streets of the borough.
- G. He shall, when reporting for duty, inquire of the person being relieved as to any unfinished business so that there may be no possibility of a misunderstanding of the same.
- H. He shall be responsible for the 12:00 noon signal on Monday through Friday and all fire and first aid signals.
- I. A member of the Department assigned to desk duty is responsible for removing all persons from headquarters except members of the Department and persons having actual police business or police matters to attend to.
- J. In no case shall he allow anyone except members of the Department, the Mayor or members of the governing body behind the police desk, except for cleaning purposes and the repair or installation of equipment.
- K. The radio failure procedure for the desk officer will be generally the same as described in § 40-7K.

ARTICLE III General Rules and Regulations

§ 40-9. Professional conduct and responsibilities.

- A. Standard of conduct. Members and employees shall conduct their private and professional lives in such a manner as to avoid bringing the Department into disrepute.
- B. Loyalty. Loyalty to the Department and associates is an important factor in Department morale and efficiency. Members and employees shall maintain loyalty to the Department and their associates as consistent with the law and personal ethics.

- C. Cooperation. Cooperation between the ranks and units of the Department is essential to effective law enforcement. Therefore, all members are strictly charged with establishing and maintaining a high spirit of cooperation within the Department.
- D. Assistance. All members are required to take appropriate police action toward aiding a fellow peace officer exposed to danger or in a situation where danger might be impending.
- E. General responsibilities. Members shall at all times take appropriate action to:
- (1) Protect life and property.
 - (2) Preserve the peace.
 - (3) Prevent crime.
 - (4) Detect and arrest violators of the law.
 - (5) Enforce all federal, state and local laws and ordinances coming within Department jurisdiction.
- F. Duty responsibilities. Members of the Department are always subject to duty although periodically relieved of its routine performance. They shall, at all times, respond to the lawful orders of superior officers and other proper authorities as well as calls for police assistance from citizens. Proper police action must be taken whenever required. The administrative delegation of the enforcement of certain laws and ordinances to particular units of the Department does not relieve members of other units from the responsibility of taking prompt, effective police action within the scope of those laws and ordinances when the occasion so requires. Members assigned to special duties are not relieved from taking proper action outside the scope of their specialized assignment when necessary.
- G. Neglect of duty. Members and employees shall not commit any act nor shall they be guilty of any omission that constitutes neglect of duty.

- H. Performance of duty. All members and employees shall perform their duties as required or directed by law, Department rule, policy or order or by order of a superior officer. All lawful duties required by competent authority shall be performed promptly as directed, notwithstanding the general assignment of duties and responsibilities.
- I. Questions regarding assignment. Members and employees in doubt as to the nature or detail of their assignment shall seek clarification from their supervisors by going through the chain of command.
- J. Insubordination. Members or employees shall not commit acts of insubordination. The following specific acts are prohibited by this section:
- (1) Failure or deliberate refusal to obey a lawful order given by a superior officer.
 - (2) Any disrespectful, mutinous, insolent or abusive language or action toward a superior officer.
- K. Obedience to laws and regulations. Members and employees shall observe and obey all laws and ordinances, all rules and regulations and orders of the Department.
- L. Criticism of official acts or orders. Members and employees shall not criticize the official actions, instructions or orders of any Department member in a manner which is defamatory, obscene, unlawful or which tends to impair the efficient operation of the Department.
- M. Conduct toward superior and subordinate officers and associates. Members and employees shall treat superior officers, subordinates and associates with respect. They shall be courteous and civil at all times in their relationships with one another. When on duty and particularly in the presence of other members, employees or the public, officers should be referred to by rank.
- N. Manner of issuing orders. Orders from superior to subordinate shall be in clear, understandable language, civil in tone and issued in pursuit of Department business.

- O. Unlawful orders. No command or supervisory officer shall knowingly issue any order which is in violation of any law or ordinance or Department rule.
- P. Obedience to unlawful orders. Obedience to an unlawful order is never a defense of an unlawful action; therefore no member or employee is required to obey any order which is contrary to the federal or state law or local ordinance. Responsibility for refusal to obey rests with the member. He shall be strictly required to justify his action.
- Q. Obedience to unjust or improper orders. Members or employees who are given orders which they feel to be unjust or contrary to rules and regulations must first obey the order to the best of their ability, and they may proceed to appeal as provided in Subsection S hereof.
- R. Conflicting orders. Upon receipt of an order conflicting with any previous order or instruction, the member or employee affected will advise the person issuing the second order of this fact. Responsibility for countermanding the original instruction then rests with the individual issuing the second order. If so directed, the latter command shall be obeyed first. Orders will be countermanded or conflicting orders will be issued only when reasonably necessary for the good of the Department.
- S. Reports and appeals of unlawful, unjust and improper orders. A member or employee receiving an unlawful, unjust or improper order shall, at first opportunity, report in writing to the Chief of Police through official channels. This report shall contain the facts of the incident and the action taken. Appeals for relief from such orders may be made at the same time. Interdepartment action regarding such an appeal shall be conducted through the office of the Chief of Police.
- T. Soliciting gifts, gratuities, fees, rewards or loans. Members and employees shall not under any circumstances solicit any gift, gratuity, loan, reward or fee where there is any connection between the solicitation and their Department membership or employment.

- U. Acceptance of gifts, gratuities, fees or loans. Members and employees shall not accept, either directly or indirectly, any gift, gratuity, loan, fee or any other object of value arising from or offered because of police employment or any activity connected with said employment. Members and employees shall not accept any gift, gratuity, loan, fee or other object of value, the acceptance of which might tend to influence the actions of said members or employees or any other member or employee in any matter of police business or which might tend to cast an adverse reflection on the Department or any member or employee thereof. No member or employee of the Department shall receive any gift or gratuity from other members or employees junior in rank without the express permission of the Chief of Police.
- V. Rewards. Members and employees shall not accept any gift, gratuity or reward in money or other compensation for services rendered in the line of duty to the community or any person, business or agency, except lawful salary and that which may be authorized by law.
- W. Other transactions. Members and employees are prohibited from buying or selling anything of value from or to any complainant, suspect, witness, defendant, prisoner or other person involved in any case which has come to their attention or which arose out of their Department employment, except as may be specifically authorized by the Chief of Police.
- X. Disposition of unauthorized gifts or gratuities. Any unauthorized gift, gratuity, loan, fee, reward or other object coming into the possession of any member or employee shall be forwarded to the office of the Chief of Police, together with a written report explaining the circumstances.
- Y. Free admissions and passes. Members and employees shall not solicit or accept free admission to theaters and other places of amusement for themselves and others, except in the line of duty.

Z. Incurring and payment of debts.

- (1) Members and employees shall not solicit other members or employees to cosign or endorse any promissory note or other loan, except for those members associated together in a business enterprise and for which the note or loan is being negotiated, which business enterprise has previously been approved by the Mayor and Council for the member or employee for engagement by the member or employee, and further except for those members or employees who are related by blood or marriage.
 - (2) No member or employee shall offer to act as a cosignatory or endorser of any promissory note or other loan for another member or employee, except for those members associated together in a business enterprise and for which the note or loan is being negotiated, which business enterprise has previously been approved by the Mayor and Council for the member or employee for engagement by the member or employee, and further except for those members or employees who are related by blood or marriage.
 - (3) Members and employees shall pay all just debts and legal liabilities incurred by them.
- AA. Soliciting for intercession. Members and employees shall not solicit anyone to intercede with the Chief of Police, Police Committee, Mayor or members of the Council in relation to promotion, assignment, disposition of pending charges or findings in a Department trial or other related matter. This shall not preclude their right to counsel.
- BB. Disreputable conduct. No member or employee of the Department shall act, behave or conduct himself in a manner which shall bring disrespect or disrepute to himself or the Department.
- CC. Withholding information. Members and employees shall not at any time withhold any information concerning criminal activity.

DD. Reporting violation of law, ordinances, rules or orders. Members and employees knowing of other members or employees violating laws, ordinances or rules of the Department or disobeying orders shall report same to the Chief of Police through official channels. If the member or employee believes the information is of such gravity that it must be brought to the immediate personal attention of the Chief of Police, official channels may be bypassed. **[Amended 12-19-2005 by Ord. No. 919]**

§ 40-10. General conduct while on duty.

A. Prohibited activity on duty. Members and employees are prohibited from engaging in the following activities while on duty:

- (1) Sleeping, loafing or idling.
- (2) Conducting private business.
- (3) Gambling, unless to further a police purpose.

B. Alcoholic beverages and drugs.

- (1) No member or employee of the Department will appear for or be on duty under the influence of liquor or drugs or be unfit for duty because of their excessive use.
- (2) Members or employees of the Department shall not drink any kind of intoxicating beverage while on duty or take any drugs not duly prescribed and necessary for health at any time.
- (3) Members or employees of the Department shall refrain from drinking intoxicating beverages for a reasonable period before going on duty.
- (4) Intoxicating beverages may not be consumed at any police station.

- (5) No member of the Department shall, at any time when in uniform, except in the performance of duty, enter any place in which intoxicating liquor is served.
 - (6) Members and employees shall not bring into or keep any intoxicating liquor or drugs on Department premises except when necessary in the performance of a police task. Liquor or drugs brought into Department premises in the furtherance of a police task shall be properly identified and stored according to Department policy.
- C. Absence from duty. Every member or employee who fails to appear for duty at the date, time and place specified without the consent of competent authority is absent without leave. Such absence within the period of one day must be reported in writing to the commanding officer. Absences without leave in excess of one day must be reported to the Chief of Police.
- D. Roll call. Unless otherwise directed, members shall report to daily roll call at the time and place specified, properly uniformed and equipped. They shall give careful attention to orders and instructions, avoiding unnecessary talking or movement.
- E. Physical fitness for duty. Members shall maintain good physical condition so that they can handle the strenuous physical contacts often required of a law enforcement officer.
- F. Loitering. Members on duty or in uniform shall not enter theaters or other public places except to perform a police task. Loitering and unnecessary conversation in such locations are forbidden.

G. Smoking while on duty. Members shall not smoke on duty while in direct contact with the public nor while in uniform in public view, except that smoking is permitted in public view at mealtimes and while patrolling in police automobiles, at which times it shall be as inconspicuous as possible.

H. Relief. Members and employees are to remain at their assignments and on duty until properly relieved by other members or employees or until dismissed by competent authority.

(Cont'd on page 4029)



- I. Suspending patrol for lunch or coffee break.
- (1) Members will be permitted to suspend patrol, subject to immediate call at all times, for the purpose of having one (1) meal during their shift. However, at no time shall such member leave his beat to go out of service for such purpose, and he shall arrange to suspend patrol only at such time as it will cause the least interference with his regular duties.
 - (2) Members are to arrange to take meals and coffee breaks at times during shift so that not more than one (1) unit is at any one (1) location at the same time.
- J. Training. Members shall attend in-service training in the theory and practice of law enforcement at the direction of the Chief of Police or commanding officer. Such attendance is considered a duty assignment.
- K. Inspections. From time to time the Chief of Police may call for full-dress inspections of the Department or any part thereof. Members directed to attend such inspections shall report in the uniform prescribed, carrying the equipment specified. Unauthorized absence from such inspection is chargeable as absence without leave.
- L. Military courtesy. When meeting in public, members shall conform to normal courtesy standards and refer to each other by rank.
- M. National colors and anthem. Uniformed members will render full military honors to the national colors and anthem at appropriate times. Members and employees in civilian dress shall render proper civilian honors to the national colors and anthem at appropriate times.
- N. Possession of keys. No member shall possess any keys to any premises not his own on or near his beat unless authorized by his commanding officer, owner or authorized agent of said premises.
- O. Address and telephone numbers. All members and employees shall record their correct residence, addresses and telephone numbers with the commanding officer. Members

and employees are required to have telephones in the place where they reside. Changes in address or telephone number shall be reported to the commanding officer within twenty-four (24) hours of the change. This shall be done in writing on the appropriate form and within the specified time, whether the member or employee is working or on leave.

§ 40-11. Uniforms, equipment and appearance.

- A. Regulation uniform required. All members shall maintain regulation uniforms. Uniforms shall be kept neat, clean and well-pressed at all times.
- B. Manner of dress on duty. Normally members will wear the duty uniform on a tour of duty; however, commanding officers may prescribe other clothing as required by the nature of the duty which a particular member is assigned. Employees will wear and maintain employee uniforms when so directed by the Chief of Police.
- C. Wearing or carrying a badge. A member, when in uniform, shall wear the regulation badge on the outside of the outermost garment over the left breast and always in sight. When not in uniform or off duty, he shall carry his badge in his pocket.
- D. Altering style of uniform. Uniforms shall be made of the material and the style prescribed in Police Department orders, and such style shall not be altered or changed in any manner whatsoever unless authorized by the Chief of Police.
- E. Equipment supplied by borough. Members of the Department shall be supplied with the following regulation equipment:
 - (1) Badge.
 - (2) Locker.
 - (3) Firearm fully loaded.

- (4) Twelve (12) extra cartridges and necessary replacements.
- (5) Summons book.

F. Carrying required equipment when in uniform.

- (1) While on duty, except when assigned to office duties, members who are required to wear the specified uniform shall always carry as full equipment the following:
 - (a) Badge.
 - (b) Police Department identification card.
 - (c) Firearm and ammunition issued or approved by the Department.
 - (d) Whistle.
 - (e) Handcuffs.
 - (f) Flashlight, as necessary.
 - (g) Pen and notebook.
 - (h) Summons book.
 - (i) Baton, to be carried at the discretion of the shift commander.
- (2) A member shall also carry specially issued equipment and forms necessary for performing his duties.

G. Equipment in civilian clothes and on duty.

- (1) While on duty, members who are required to wear civilian clothes shall carry as full equipment the following:
 - (a) Badge.
 - (b) Firearm and ammunition issued or approved by the Department.
 - (c) Handcuffs.
 - (d) Police Department identification card.

(2) The exception to the above may be where the members are assigned to station office duties.

- H. Carrying equipment off duty. When off duty, each member will carry or have in his immediate possession his badge, firearm of a caliber as authorized for off-duty use by the Department and the identification card. This rule shall not apply when members are engaged in sports and activities of such a nature as to make it impractical.
- I. Civilian clothing: manner of dress. Male members and employees permitted to wear civilian clothing during a tour of duty shall wear either a business suit or sport coat and slacks. A dress-type shirt with tie shall be worn. Commanding officers may prescribe other types of clothing when necessary to meet a particular police objective. All members and employees permitted to wear civilian clothing shall conform to standards normally adhered to by office personnel in private business firms unless otherwise directed. All articles of clothing shall be of a conservative nature.
- J. Equipment. All equipment must be clean, in good working order and conform to Department specifications.
- K. Uniform and equipment damage claim. Any claims for damage to clothing, equipment and eyeglasses caused by performance of duty shall be made in accordance with current Department directives.
- L. Personal appearance. Every member and employee of the Department while on duty must at all times be neat and clean in person, his clothes must be clean and pressed and his uniform must be in conformity with the rules and regulations. He shall, as often as necessary, examine and clean his equipment and keep it always in good serviceable condition. Male members and employees shall conform to the following additional standards of appearance:
- (1) Hair shall be neatly trimmed at all times while on duty. The hair shall at no point extend downward over the shirt collar in normal posture.

- (2) Sideburns shall be neatly trimmed. The maximum width at the bottom of the sideburns shall not exceed one and three-fourths ($1\frac{3}{4}$) inches.
- (3) A clean-shaven appearance is required, except that mustaches are permitted. Mustaches shall be neatly trimmed and shall not extend more than one-half ($\frac{1}{2}$) inch beyond the corners of the mouth nor more than one-fourth ($\frac{1}{4}$) inch below the corner of the mouth. The remainder of the face shall be clean-shaven.
- (4) Beards shall not be permitted for uniformed personnel.
- (5) Personnel with a medical condition which precludes shaving shall be required to present a written statement signed by a medical doctor verifying such condition.

§ 40-12. Maintenance and use of Department property and equipment.

Members and employees are responsible for the proper care of Department property and equipment assigned to them. Damaged or lost property may subject the responsible individual to reimbursement charges and appropriate disciplinary action.

- A. Damaged or inoperative property or equipment. Members and employees shall immediately report to their commanding officer any loss of or damage to Department property assigned to or used by them. The immediate superior will be notified of any defects or hazardous conditions existing in any Department equipment or property.
- B. Care of Department buildings. Members and employees shall not mar, mark or deface any surface in any Department building. No material shall be affixed in any way to any wall in Department buildings without specific authorization from a superior officer.
- C. Notices. Members and employees shall not mark, alter or deface any posted notice of the Department. Notices or announcements shall not be posted on bulletin boards without permission of a commanding officer.

- D. Use of Department vehicles. Members shall not use any Department vehicle without the permission of a commanding officer.
- E. Operation of motor vehicles. Members and employees, when driving vehicles of any description, private or of the Department, shall not violate the traffic laws, except only in cases of absolute emergency and then only in conformity with the law regarding same. They shall set an example for other persons in the operation of their vehicles.
- F. Emergency calls and use of red light and siren. Members driving any Department vehicle, when responding to an emergency call, shall exercise judgment and care with due regard to the safety of life and property. They shall slow down at all streets intersections to such degree that, when crossing same, they will have safe control of their cars, especially when crossing street intersections where the traffic signal lights are against them or where there are stop signs. They shall use the red light and sound the siren on such calls and take the utmost precaution.
- G. Transporting citizens. Citizens will be transported in Department vehicles only when necessary to accomplish a police purpose. Such transportation will be done in conformance with Department policy or at the direction of a commanding officer, immediate supervisor or communication center.
- H. Reporting accidents. Accidents involving municipal personnel, property and equipment must be reported in accordance with Department procedures.

§ 40-13. Communications and correspondence.

A. Restrictions. Members and employees shall:

- (1) Not use Department letter heads for private correspondence.
- (2) Only send correspondence out of the Department over the signature of the Chief of Police or as authorized by the Chief of Police.

- B. Forwarding communications to higher commands. Any member or employee receiving a written communication for transmission to a higher command shall, in every case, forward such communication. A member receiving a communication from a subordinate directed to a higher command shall endorse it, indicating approval, disapproval or acknowledgment.
- C. Private use of Department address. Members and employees shall not use the Department as a mailing address for private purposes. The Department address shall not be used for any private motor vehicle registration or driver's license.
- D. Telephones. Department telephone equipment may not be used for the transmission of personal messages involving toll charges without the express approval of a commanding officer.
- E. Radio discipline. All members of the Department operating the police radios shall strictly observe regulations for such operations as set forth in Department orders and by the Federal Communications Commission.

§ 40-14. Investigations.

- A. Command of scene. At the scene of any crime, accident or other police incident, the ranking officer present shall assume command and direction of police personnel to assure the most orderly and efficient accomplishment of the police task. When two (2) or more officers of the same rank are present and one of these is assigned to the investigative detail that will follow up the investigation, that ranking officer will be in charge. This provision coordinates the efforts of the several subordinate members who may be assigned to the incident; therefore it is incumbent upon the ranking officer assuming such control to become acquainted with the facts and ensure that appropriate action is being taken or is initiated.
- B. Responsibilities of members arriving at crime scenes. The first member to arrive at the scene of a crime or other

police incident is responsible for the following actions as they may apply to the situation:

- (1) Summoning medical assistance and administering first aid as required to prevent further injury or loss of life.
 - (2) Arrest of violator(s):
 - (3) Security of the scene.
 - (4) Conducting a preliminary investigation.
- C. Responsibilities of assigned members at crime scene. The members officially assigned to perform the preliminary or other investigation of an alleged crime or other incidents are responsible for the duties in Subsection B and the completion of the preliminary or other investigation as directed. This shall include securing statements and other information which will aid in the successful completion of the investigation; locating, collecting and preserving physical evidence; and identifying, locating and apprehending the offender.
- D. Identification as police officer. Except when impractical or where the identity is obvious, officers shall identify themselves by displaying the official badge or identification card before taking police action.
- E. Release of information at crime scene. Unauthorized persons, including members of the press, shall be excluded from crime scenes. Information which will not hinder or nullify an investigation shall be given to the press by the superior officer in charge of the investigation in accordance with Department policy.
- F. Confidential information.
- (1) Members and employees shall not reveal any confidential business of the Department. They shall not impart confidential information to anyone except those for whom it is intended or as directed by their commanding officer.
 - (2) Members shall not make known to any person any Department order which they may receive, unless so required by the nature of the order.

- (3) Contents of any Department record or report filed in the Police Department shall not be exhibited or divulged to any person other than a duly authorized police officer, except on approval of the Chief of Police or under due process of law or as permitted under Department regulations.

G. Compromising criminal cases. Members and employees shall not interfere with the proper administration of criminal justice.

- (1) Members and employees shall neither attempt to interrupt the legal process, except where a manifest injustice might otherwise occur, nor participate in or be connected with any activity which might interfere with the process of law.
- (2) Members and employees shall not attempt to have any traffic summons or notice to appear reduced, voided or stricken from the calendar.
- (3) Any member or employee having knowledge of such action and failing to inform his superior officer thereof shall be subject to disciplinary action.

§ 40-15. Arrests.

A. Arrests. In making arrests, members shall strictly observe the laws of arrest and the following provisions:

- (1) The arresting officer shall employ only such force and necessary restraint to assure the safety of other persons, other police officers and himself.
- (2) Every member shall refrain from using unnecessary force or violence in making arrests, and no member must strike a prisoner or any other person except when necessary in self-defense or to overcome actual physical resistance in making an arrest. However, he must be firm, resolute and energetic, exercising the necessary means to perform his duty properly. When it is necessary to use force, the circumstances shall be included in the arrest report on the case.

- (3) The arresting officer is responsible for the safety and protection of the arrested person while in his custody. He shall notify the supervisory officers of any injury, apparent illness or other conditions which indicate that the arrested person may need special care.
 - (4) The arresting officer is responsible for the security of the personal property in possession or under the control of the arrested person at the time of arrest.
- B. Assisting criminals. Members and employees shall not communicate any information which might assist persons guilty of criminal or quasi-criminal acts to escape arrest or punishment or which may enable them to dispose of or secrete evidence of unlawful activity or money, merchandise or other property unlawfully obtained.
- C. Complaints by members for assault against themselves. Members shall arrest perpetrators of assaults, assaults and batteries and criminal offenses directed against them. The perpetrators shall be charged accordingly. Whenever it is impossible to consummate the arrest at the time of the offense, the members shall make a complete report of the incident to his commanding officer with the request that he be allowed to make a complaint in the proper court at the next session. A warrant which may be issued as a result of filing such a complaint shall in no case be served by the aggrieved member.

§ 40-16. Custody, transportation and detention of prisoners.

- A. Custody of prisoners. Members charged with the custody of prisoners shall observe all laws and Department orders regarding this activity. Prisoners shall be kept securely, treated firmly and humanely and shall not be subject to unnecessary restraint.
- B. Transportation of prisoners. Members transporting prisoners shall do so in accordance with Department policy.

- (1) Prisoners requiring medical attention shall be delivered to the appropriate emergency hospital, and the transporting officers shall be responsible for the security of the prisoners until properly relieved unless otherwise directed by a superior officer.
- (2) Prisoners and their property shall be surrendered at the jail to custodial officers or as otherwise directed by competent authority.
- (3) Any prisoner transported to a hospital in a private ambulance shall be accompanied and guarded by an officer unless police exigencies dictate otherwise. In the latter case, a guard will be arranged for the prisoner as soon as possible.

C. Use of derogatory terms. Members or employees shall:

- (1) Neither speak disparagingly of any race or minority group nor refer to them in insolent or insulting terms of speech, whether prisoners or otherwise.
- (2) Neither use uncomplimentary terms of speech when referring to any prisoner or other person nor willfully antagonize any person with whom they come in contact.

D. Reports and bookings. No member or employee shall knowingly falsify any official report or enter or cause to be entered any inaccurate, false or improper information on records of the Department.

E. Recommending attorneys and bail bond brokers prohibited. Members and employees shall not suggest, recommend, advise or otherwise counsel the retention of any attorney or bail bond broker to any person coming to their attention as a result of police business. Any person requesting this information shall be referred to the telephone directory.

F. Acting as bailor prohibited. Members and employees cannot act as bailors for any person in custody, except relatives, and in no case where any fee, gratuity or reward is solicited or accepted.

§ 40-17. Care and use of firearms.

Departmental regulations concerning the care and use of firearms are designed to protect the lives of police officers and the lives and property of the public.

- A. Handling of firearms. Police officers shall exercise caution and the utmost care in handling firearms on and off duty.
- B. Official police firearm. The official police firearm shall be the firearm issued to each police officer by the Department. Carrying of personal firearms on duty is prohibited.
- C. Off-duty firearm. The Chief of Police may authorize a police officer to carry an off-duty firearm other than the official police firearm, provided that the police officer follows the steps prescribed herewith:
 - (1) He observes and is bound by any part of or any section of these rules and regulations which pertains to the official police firearm.
 - (2) He understands that these same rules and regulations also apply to the use of any off-duty firearm which may be authorized by the Chief of Police.
- D. On-duty holsters. The official police firearm shall be carried only in Department-issued holsters or in authorized holsters which conform to Department specifications.
- E. Nonregulation firearms prohibited. Police officers who carry and employ weapons other than those that have been inspected and approved by the Police Department shall be subject to disciplinary action.
- F. Tampering with police firearm. All repairs and adjustments to the official police firearm shall be made by the superior officer in charge of firearms training. Police officers shall not use unauthorized molded grips, special-type grips or pearl-handled grips. Also, they shall not make any change in the trigger pull mechanism or effect any other unauthorized alteration or addition. Grip adapters may be used in special cases but only after the police officer first has obtained the approval of the superior officer in charge of the firearms section.

- G. Care of firearms when off duty outside the home. A police officer shall keep his firearm in a secure place, readily available in case of emergency.
- H. Removing firearm from belt. When removing a firearm from his person, a police officer shall keep the firearm holstered. A police officer shall not remove the firearm from its holster except when he intends to clean or fire it. However, when circumstances require, a police officer may unload his firearm before storing it in a secure place, provided that he observes all the safe practices prescribed and taught by authorized Department firearms instructors for the unloading of the weapon.
- I. Discharge-of-firearm report. Whenever a firearm is discharged by a police officer either in the performance of police duty or accidentally the police officer shall:
- (1) Promptly notify the superior officer on duty in the command of the occurrence.
 - (2) Be guided by the instructions of the superior officer.
 - (3) Submit reports as required by Department order.
- J. Unauthorized discharge of firearms. Examples of instances in which firearms shall not be discharged are cases involving the following:
- (1) The commission of a misdemeanor.
 - (2) A violation of any borough ordinance.
 - (3) A violation of the Disorderly Persons Act.
 - (4) A violation of the Motor Vehicle Act.³
 - (5) A fleeing motor vehicle when the occupant is a minor offender and is not wanted by the authorities for a grave high misdemeanor.
 - (6) A person called to halt on mere suspicion and who, without resisting, simply runs or drives away to avoid arrest. Neither shall a police officer shoot at a person

³ Editor's Note: See Ch. 166, Vehicles and Traffic.

who is running or driving away to avoid arrest for a minor offense.

- K. Authorized discharge of firearms. A police officer may discharge his firearm in the performance of police duty only under the provisions prescribed by state law.
- L. Firing of weapon under other circumstances. A police officer may fire his firearm to dispose of an animal that is dangerous or that is seriously injured when other means of disposition are unavailable.
- M. General regulations for carrying firearms. Police officers shall carry their official police firearms or authorized off-duty firearms fully loaded and in serviceable, operating condition so that they may be prepared when called upon to carry out a police duty, service, function or responsibility. Police officers who may be sick, injured or on vacation leave may, but are not required to, carry a firearm. Police officers who are suspended or whose weapons have been officially taken from them for other reasons shall not carry a firearm under any condition.
- N. Carrying firearms when on duty. Police officers in uniform shall carry their firearms in holsters attached to their uniform belts or to supplementary belts beneath the blouses or overcoats when these garments are worn. Detectives and other police officers not in uniform shall carry their firearms in authorized holsters. When in plain clothes, they shall carry their firearms securely but readily accessible to use. Detectives and other police officers not in uniform shall also carry at least six (6) extra rounds of ammunition.
- O. Ammunition issue. The initial issue and the replacement of ammunition for Department firearms shall be made by the Department without expense to the police officer. The Department shall replace rounds of ammunition for Department-issued firearms that have become unserviceable and rounds that have been expended in the line of police duty. Only Department-issued ammunition shall be used.

- P. Firearms qualification. All members shall be required to qualify with their on-duty firearm and approved off-duty firearm at least once a year.

§ 40-18. Regulations concerning public activities.

- A. Conduct toward public. Members and employees shall be courteous and orderly in their dealings with the public. They shall perform their duties quietly, avoiding harsh, violent, profane or insolent language, and shall always remain calm, regardless of provocation. Upon request, they are required to supply their names and badge numbers in a courteous manner. They shall attend to requests from the public quickly and accurately, avoiding unnecessary referral to other parts of the Department.
- B. Impartial attitude. All members, even though charged with vigorous and unrelenting enforcement of the law, must remain completely impartial toward all persons coming to the attention of the Department. Violations of the law are against the people or the state and not against the individual officer. All citizens are guaranteed equal protection under law. Exhibiting partiality for or against a person because of race, creed or influence is conduct unbecoming an officer. Similarly, unwarranted interference in the private business of others when not in the interest of justice is conduct unbecoming an officer.
- C. Disparaging nationality, race or creed. Courtesy and civility toward the public is required of all members of the Department. Members shall not use words which humiliate, disparage, demean, degrade, ridicule or insult a person because of his race, creed, color, national origin or ancestry.
- D. Public statements. Members of the Department shall not make public statements concerning the working plans, policies or affairs of the Department or which may impair or disrupt the operation of the Department or which are obscene, unlawful or defamatory.

- E. Subversive organizations. No member or employee shall knowingly become a member of or connected with any subversive organization, except when necessary in the performance of duty and then only under the direction of the Chief of Police.
- F. Affiliation with certain organizations prohibited. Police officers shall not join nor shall they affiliate themselves with any organizations whose constitution embraces provisions which might in any way exact prior consideration and prevent the proper and efficient functioning of the Department. This prohibition does not apply to the active military or naval service of the United States or of the 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.⁴
- G. Affiliation with radical groups. No police officer or civilian employee, except in the discharge of police duties, shall knowingly associate with or have any dealing with any person or organization which advocates or which is instrumental in fostering hatred, prejudice or oppression against any racial or religious group.
- H. Commercial testimonials. Members and employees shall not permit their names or photographs to be used to endorse any product or service which is in any way connected with law enforcement without the permission of the Chief of Police or allow their names or photographs to be used in any commercial testimonial which alludes to their positions or employment with the Department.
- I. Public appearance requests. All requests for public speeches, demonstrations and the like will be routed to the Chief of Police for approval and processing. Members and employees directly approached for this purpose shall suggest that the party submit his request to the Chief of Police.

⁴ Editor's Note: See N.J.S.A. 38:23.4.

§ 40-19. Regulations concerning political activities.

- A. Partisan political activities prohibited. Police officers shall not actively engage in Demarest partisan political campaigns and activities. This prohibition shall not preclude attendance at political social functions.
- B. Nonpartisan political activities limited. Police officers may engage in nonpartisan political activities, except when such activities will impair or harm the operation or discipline of the Department.
- C. Election to public office. Police officers may run for public office but may not campaign nor engage in any activity connected with candidacy for such office during any tour of police duty.
- D. Soliciting prohibited. Members of the Department shall not solicit contributions for political purposes nor shall they interfere with or use the influence of their office for political reasons.

§ 40-20. Court appearances and testifying in judicial and investigative actions.

- A. Court appearance. Attendance at a court or quasi-judicial hearing as required by subpoena is an official duty assignment. Permission to omit this duty must be obtained from the prosecuting attorney handling the case or other competent court officials. When appearing in court, either the official uniform or a business suit with shirt and tie shall be worn. Members shall present a neat and clean appearance, avoiding any mannerism which might imply disrespect to the court.
- B. Testifying for the defendant. Any member or employee subpoenaed to testify for the defense in any trial or hearing or against the municipality or Department in any hearing or trial shall notify his commander upon receipt of the subpoena. The commander shall notify the Borough Attorney.

- C. Refusal to testify. Any member or employee appearing as a witness before any competent investigative body, a judicial tribunal, a hearing board or a person authorized to take testimony who invokes his constitutional privilege and refuses to testify shall be subject to disciplinary action.
- D. Testifying at Department investigations. Members or employees are required to answer questions by, or render material and relevant statements to, a competent authority in a Department personnel investigation when so directed.
- E. Truthfulness. Members and employees are required to be truthful at all times, whether under oath or not.
- F. Testifying at civil actions; court appearances. A member or employee shall not volunteer to testify in civil actions and shall not testify unless legally subpoenaed. Members and employees will accept all subpoenas legally served. If the subpoena arises out of Department employment or if the member or employee is informed that he is a party to a civil action arising out of Department employment, he shall immediately notify his commanding officer and the Borough Attorney of the service or notification and of the testimony he is prepared to give. Members and employees shall not enter into any trial except in accordance with current directive.
- G. Civil depositions and affidavits. Members and employees shall confer with their commanders before giving a deposition or affidavit on a civil case. If a commander determines that the case is of importance to the borough, he shall inform the Chief of Police before the deposition or affidavit is given.
- H. Civil cases. Members shall not serve civil process or assist in civil cases unless the specific consent of the Chief of Police is obtained. They shall avoid entering into civil disputes, particularly while performing their police duties, but shall prevent or abate a breach of the peace or crime in such cases.

ARTICLE IV
Personnel Regulations

§ 40-21. Qualifications of policemen.

Except as otherwise provided by law, no person shall be appointed as a member of the Police Department and force unless he:

- A. Is a citizen of the United States and a resident of New Jersey.
- B. Is sound in body and of good health sufficient to satisfy the Board of Trustees of the Police and Firemen's Retirement System of New Jersey as to his eligibility 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 and has not been convicted of any criminal offense involving moral turpitude.
- E. Receives the recommendation of the Chief of Police and is approved by the Mayor and Council.

§ 40-22. Oath of office.

All new police officers and civilian employees, before their assignment to duty and prior to their promotion to higher ranks, shall be required to take an oath of office as follows: "I (name of police officer or employee) do solemnly swear I will support the Constitution of the United States and the Constitution of the State of New Jersey and that I will faithfully discharge the duties of (state rank or position) for the Borough of Demarest according to the best of my ability, so help me God."

§ 40-23. Probationary period.

Appointment of a patrolman to the Police Department is for a probationary period of twelve (12) months after he has completed

training. Continuation in the service is dependent upon the conduct of the appointee and his fitness to perform his duties. At the termination of the probationary period, if the conduct or capacity of the probationer has not been satisfactory, he shall be notified in writing that he will not receive absolute appointment, and his services shall be terminated by the Police Chief without a trial.⁵

§ 40-24. Valid driver's license required.

Members and employees operating Department motor vehicles shall possess a valid New Jersey driver's license. Whenever a driver's license is revoked, suspended or lost, he shall immediately notify his commanding officer, giving full particulars.

§ 40-25. Permission required to engage in outside employment.

Prior to engaging in any outside business or employment, the member or employee shall request permission to do so from the Chief and through channels in the approved form. In the event of denial, appeal may be made to the Mayor and Council.

§ 40-26. Conditions requiring surrender of Department property.

- A. Separation from Department. Members and employees are required to surrender all Department property in their possession upon separation from the service. For failure to return a nonexpendable item, the person concerned will be required to reimburse the Department for the fair market value of the article.
- B. Suspension. Any member under suspension shall immediately surrender his badge, revolver and all other Department property to his commanding officer, pending disposition of the case. Any employee under suspension

⁵ Editor's Note: See N.J.S.A. 11:22.6.

shall immediately surrender all Department or municipal property in his possession to the commanding officer or the civilian supervisor of the unit to which he is assigned.

§ 40-27. Compensation for damages when injured while off duty.

Members and employees who have sustained injury while off duty and who have received salary from the borough while injured shall notify the Chief of Police in writing of any intent to seek, sue, solicit or accept compensation as damages for such injury. This notice shall be filed before any action is taken. It shall include the facts of the claim and the name of the respondent.

§ 40-28. Duty hours; days off; leaves of absence; vacations.

A. Hours of duty.

- (1) Members of the Department shall have regular hours assigned to them for active duty, and when not so employed, they shall be considered off duty. They shall, however, be subject to duty as needed.
- (2) The fact that they may technically be off duty shall not be held as relieving members from the responsibility of taking proper police action on any matter coming to their attention at any time.

B. Days off. Members and employees are entitled to days off which are to be taken according to a schedule arranged by the respective commanding officers.

C. Suspension of vacation, day off or leave of absence. Any vacation, day off or leave of absence may be suspended when a sudden and serious emergency arises and when, in the judgment of the Chief of Police, such action should be taken.

D. Leave of absence. No member of the Department shall be absent from duty without first making application for leave

of absence to the Chief of Police, who may grant same for a period not to exceed three (3) days. Violation of this rule will be deemed absence without leave and subject the offender to loss of pay during absence and charges.

- E. Absence from duty for continuous period of time. Except as otherwise provided by law, any permanent member or officer of such Police Department and force who shall be absent from duty without just cause or leave of absence for a continuous period of five (5) days shall cease to be a member of such Police Department and force.⁶
- F. Selection of vacation. Annual vacation periods shall be selected according to seniority.
- G. Vacation scheduling. Vacation periods shall not be scheduled between December 15 and January 2. Vacation schedules shall be arranged by commanding officers with regard to the requirements in the branches of service under this commands. Vacations shall be completed by December 15.
- H. Vacation address. A report of a vacation address is not required from a member or employee whose vacation application has been approved. Permission is thereby granted to him to leave the municipality during the approved period of vacation.
- I. Split vacation. Split vacation periods may be granted to any member or employee of the Department, provided that permission has been obtained from his commanding officer. However, once vacation periods have been selected, they shall be completed without interruption unless it becomes necessary, by reason of emergency, to suspend them.
- J. Exchange of vacation or days off. When mutually agreeable, any two (2) members or any two (2) employees may exchange their vacation periods or days off, but may do so only with the approval of their commanding officers.

⁶ Editor's Note: See N.J.S.A. 40A:14-122.

K. Extended leave of absence. The Chief of Police shall have the power to grant temporary leaves of absence, not to exceed one (1) week, to members of the Police Department when, in his judgment, the interest of the borough or Department will not suffer from such absence.

§ 40-29. Sickness and injury leave.

- A. Reporting sick or injured. Members and employees unable to report for duty because of sickness or injury shall make an immediate report to their commanding officer or desk officer in person or by telephone. If unable to report, a relative or other responsible person shall notify the commanding officer or desk officer of all pertinent facts either in person or by telephone.
- B. Address of confinement. Members and employees, when sick or injured, shall be responsible for notifying their supervisors as to their places of confinement or of any subsequent change in their places of confinement.
- C. Sick or injured on duty. Members taken sick or injured on duty shall report the facts to their command and shall remain on duty until relieved, unless excused by a superior officer. The only exception to this rule would be where the sickness or injury is disabling to the point of preventing compliance.
- D. Unauthorized absence. Members or employees who absent themselves in an improper manner shall be subject to disciplinary action's being preferred against them. Unauthorized absence occurs when members or employees:
 - (1) While on sick leave, engage in activities inconsistent with such sick leave.
 - (2) Feign illness or injury.
 - (3) Deceive the Department surgeon in any way as to their true condition.
 - (4) Are injured or become sick as the result of improper conduct.

(5) Violate any provisions concerning the reporting of sickness or injury.

E. Sick leave. Sick leave may be granted to each full-time employee who is unable, through sickness or injury, to perform the duties of his position as prescribed by contract.

§ 40-30. Leave for death in family.

Leave of absence for death in family shall be in conformance with contractual agreement.

§ 40-31. Military leave.

- A. Military reserve leave. A member or employee who is a member of the Organized Reserve of the Army of the United States, United States Naval Reserve, United States Air Force Reserve, United States Marine Corps Reserve or other affiliated organization shall be entitled to leave of absence from duty without loss of pay or time on all days during which he shall be engaged in field training. Such leave of absence shall be in addition to the regular vacation allowed such member or employee.⁷
- B. Enlistment or reenlistment in national or state military organizations. Members and employees of the Department shall not enlist, reenlist or accept a commission in any federal or state military organization without having made prior notification to the Chief of Police.
- C. Surrender of Department property. Before reporting for extended military service, police officers of the Department shall surrender all Department property held by them to their commanding officers.
- D. Draft Board determination. When a member or employee has been classified 1-A by selective service or ordered to report for examination, he shall immediately notify his commanding officer.

⁷ Editor's Note: See N.J.S.A. 38:23-1.

- E. Field training leave. Members or employees going on military leave for field training must notify the commanding officer at least 30 days before the date their training period is scheduled to begin. They must also submit copies of their official military orders at least five days prior to the date they are to report for duty.

§ 40-32. Notification and report procedures regarding death or injury.

- A. Death or serious injury. When a member is killed or seriously injured on or off duty, his immediate supervisor will, as soon as possible, verbally notify the Chief of Police or the officer acting in the Chiefs absence. This will be followed by a written report no later than the following workday. Information shall include the date, location, cause, extent of injuries and property damage. "Serious injury" in this instance means an injury which could result in death or disability.
- B. Death of member or employee. Any member or employee receiving notice of the death of any member or employee during regular business hours shall notify the Chief of Police and the commander of the deceased. At other times, the officer in charge shall be notified, and he shall relay such information to the Chief of Police.
- C. Nonserious injury. In cases where the injuries are other than of a serious nature, a written report will be submitted on the first working day following the incident, including all information required above. This report is in addition to those accident and sick reports otherwise required.
- D. Notification of family. The family of a member or employee killed or seriously injured on duty shall be notified immediately by the highest ranking member available.

§ 40-33. Grievance procedure.

Grievance procedure shall be in accordance with the contract in force.

§ 40-34. Resignation.

- A. Resignations to be in writing. All resignations of members or employees must be in writing and bear the signature of the person resigning and be in accordance with the contract in force. Members or employees shall provide a Chief of Police not less than five days' written notice.
- B. Resignation prohibited while charges pending. Members or employees are prohibited from resigning while charges are pending against them.

ARTICLE V
Disciplinary Regulations

§ 40-35. Disciplinary action. [Amended 12-19-2005 by Ord. No. 919]

No member or officer of 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:14-127).

- A. Disciplinary action. Employees, regardless of rank, shall be subject to disciplinary action, according to the nature or aggravation of the offense for:
 - (1) Committing an offense punishable under the laws or statutes of the United States, the State of New Jersey or any other state, or municipal ordinances;

- (2) Failure, either willfully or through negligence or incompetence, to perform the duties of their rank or assignment;
- (3) Violation of any rule, policy, procedure, or directive of the department; or
- (4) Failure to obey any lawful instruction, order, or command of a supervisor.

B. Repeated violations. Repeated violations of the rules of conduct shall be indicative of employees' disregard for their duty and may be cause for dismissal. This shall apply regardless of the type or severity of the offenses.

C. Disciplinary procedure. Progressive discipline serves an important role in the process by which the Department deals with minor complaints of misconduct. A progressive discipline scale such as the following shall be implemented and modified by the Chief of Police as necessary:

- (1) Counseling.
- (2) Transfer/reassignment.
- (3) Suspension without pay/forfeiture of vacation time.
- (4) Loss of promotion opportunity.

(Cont'd on page 4055)



§ 40-36. Penalties.

The following penalties may be assessed against any member or employee of the Department as disciplinary action:

- A. Oral reprimand.
- B. Written reprimand.
- C. Voluntary surrender of time off in lieu of other action.
- D. Voluntary surrender of accumulated overtime in lieu of other action.
- E. Suspension.
- F. Demotion.
- G. Removal from the service.

§ 40-37. Department disciplinary authority and responsibilities.

- A. Within the limitations set forth in N.J.S.A. 40A:14-147 to 40A:14-151, inclusive, and municipal ordinances, the Department disciplinary authority and responsibility rests with the Police Committee Chairman, except as provided in § 40-6A(1) of this chapter. [Amended 5-16-88 by Ord. No. 650]
- B. Emergency suspension. Any command or supervisory officer shall have the authority to impose emergency suspension until the next business day against a member or employee who is in violation of the rules and regulations of the Department.
- C. Follow up emergency suspensions. A member or employee receiving an emergency suspension shall be required to report to the Chief of Police within not later than twenty-four (24) hours after the imposition of the suspension at the Chief's direction. The commanding or supervising officer imposing the suspension shall also report to the Chief of Police at the same time. The Chief shall report, as

soon as possible, to the appropriate authority with his suggestions for disciplinary action. **[Amended 5-16-88 by Ord. No. 650]**

- D. Reports of disciplinary action taken or recommended. Whenever disciplinary action is taken or recommended, except for oral reprimand, a written report must be submitted immediately, in triplicate, containing the following information:
- (1) The name, rank, badge number and present assignment of the person being disciplined.
 - (2) The date and time of the misconduct and location.
 - (3) The section number of the violated rule and common name of the infraction.
 - (4) A complete statement of the facts of the misconduct.
 - (5) The punishment imposed or recommended.
 - (6) The written signature, badge number and rank of the preparing officer and his position in relation to the member being disciplined.
- E. **[Amended 5-16-88 by Ord. No. 650]** Distribution of reports of disciplinary action. Reports shall be distributed as follows by the officer imposing or recommending disciplinary action:
- (1) The original shall go to the Chief through the chain of command; the Chief shall advise the appropriate authority.
 - (2) A duplicate copy shall go to the subject's commanding officer.
 - (3) A triplicate copy shall be retained by the officer imposing or recommending the action.
- F. Endorsement and forwarding of disciplinary reports. Each level in the chain of command must endorse and forward reports bearing on disciplinary matters. Such endorsement

may be one of approval, disapproval or modification. No member or employee shall alter or cause to be altered or withdrawn any disciplinary report. Disciplinary reports in transit through the chain of command shall not be delayed but must be reviewed, endorsed and forwarded as soon as possible. Disciplinary reports shall be filed in accordance with current Department directive.

- G. Informing the person being disciplined. The member or employee being disciplined shall be informed of the charges, in writing, as provided by N.J.S.A. 40A:14-147.
- H. Appeals from penalties. Appeals from penalties imposed as disciplinary measures may be taken as provided in the Civil Service Law and N.J.S.A. 40A:14-147 to 40A:14-151, inclusive, and the borough ordinances.
- I. Misconduct observed by police personnel. Whenever any command or supervisory officer observes or is informed of the misconduct of another member or employee which indicates the need for disciplinary action, he shall take authorized and necessary action and render a complete written report of the incident and his actions to his commanding officer.

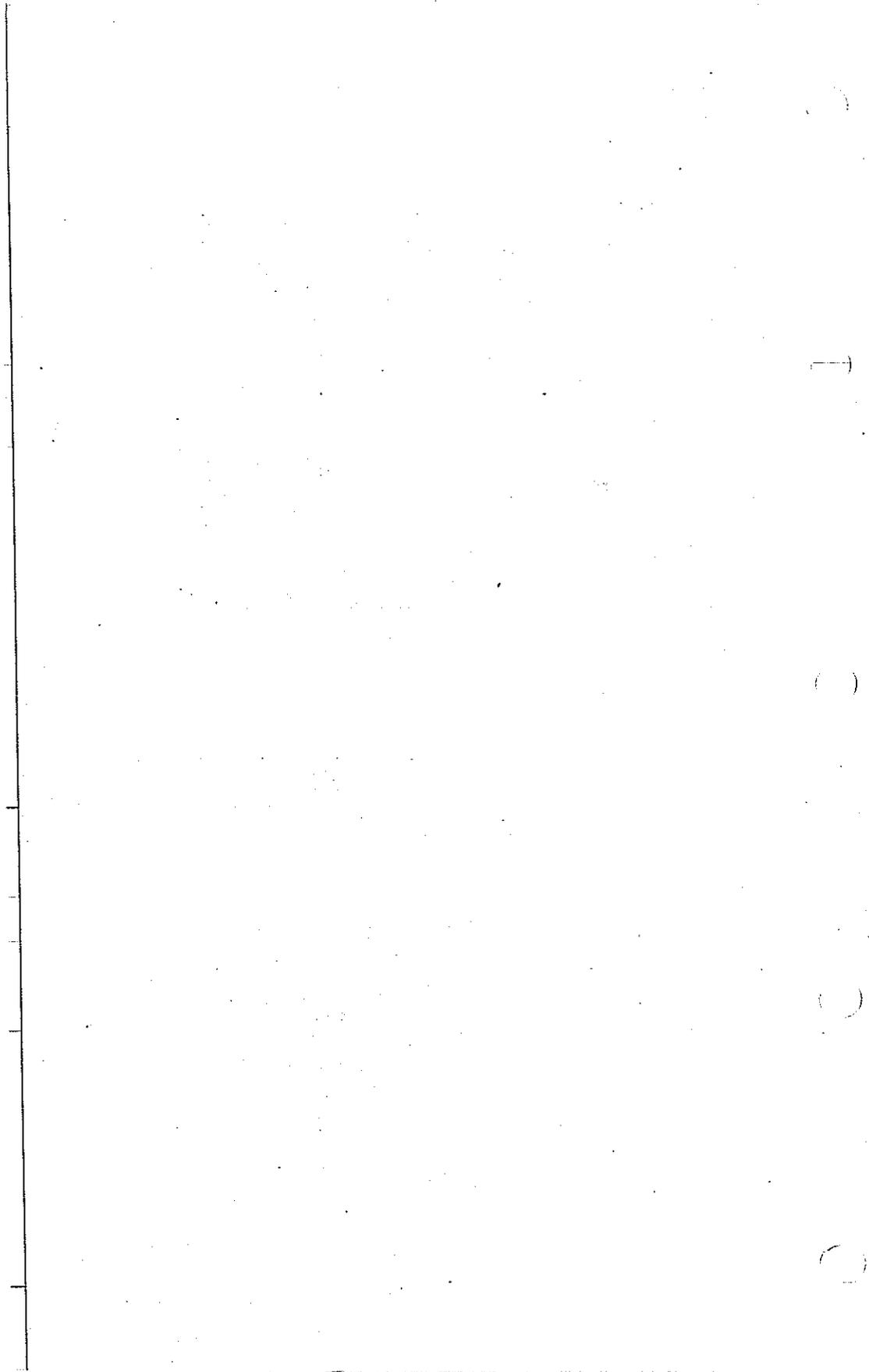
§ 40-38. Complaints by citizens against Department personnel; investigation and report.

Complaints by citizens against members or employees of the Department shall be processed in accordance with the following rules:

- A. During normal business hours, refer such complaints to the Chief.
- B. At other times, notify the shift commander, who will take one of the following actions:
 - (1) Instruct a supervisor to receive and investigate the complaint.
 - (2) Receive and investigate the complaint himself, after which a written report must be submitted to the Chief of Police.

- C. Serious complaints or allegations. If, in the opinion of the shift commander the incident is of sufficient gravity, he shall notify the appropriate commanding officer, regardless of the hour. In addition, he shall take any immediate action necessary to preserve the integrity of the Department until the arrival of the commanding officer.
- D. Investigation of alleged misconduct. The member assigned the investigation of an alleged act of misconduct on the part of a member or an employee of the Department shall conduct a thorough and accurate investigation.
- E. Reports of investigation of alleged acts of misconduct. An alleged act of misconduct must be investigated and the results of the investigation must be submitted in a written report entitled "Report of Investigation and Findings." The investigating member shall summarize the pertinent facts, including the following:
- (1) A summary of the complaint or alleged act of misconduct.
 - (2) Pertinent portions of the statements of all parties to the incident.
 - (3) A description of the incident, physical evidence and other evidence important to the case.
 - (4) The observations and conclusions of the investigating member.
- F. Findings. One of the findings listed below will be included in the report of investigation and findings of an alleged act of misconduct:
- (1) Unfounded. The investigation indicates that the act or acts complained of did not occur or failed to involve Department personnel.
 - (2) Exonerated. Acts did occur but were justified, lawful and proper.
 - (3) Not sustained. Investigation fails to discover sufficient evidence to prove or disprove clearly the allegations made in the complaint.

- (4) Sustained. Investigation disclosed evidence sufficient to prove clearly the allegations made in the complaint.
- (5) Not involved. Investigation established that the subject of the investigation in the report of investigation and findings was not involved in the alleged incident.



Chapter 44

RECORDS, FEES FOR

§ 44-1. Fees established.

§ 44-2. Requests for copies.

§ 44-3. Exemptions.

§ 44-3.1. Miscellaneous.

§ 44-3.2. Municipal Court discovery.

§ 44-4. Issuance of receipt required; disposition of moneys.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 8-19-1974 by Ord. No. 400. Amendments noted where applicable.]

§ 44-1. Fees established. [Amended 7-19-1982 by Ord. No. 537; 4-18-1983 by Ord. No. 562; 9-17-1984 by Ord. No. 585]

The following fees are hereby established and fixed for copies or reproductions of municipal documents, including the records of all departments and divisions of the government of the Borough of Demarest:

- A. Duplicate tax bill: \$5; subsequent copies for same institution/person, same tax year: \$25. **[Amended 6-20-1994 by Ord. No. 751]**
- B. The Demarest Code, per copy: \$50; supplements, per page: \$0.50.
- C. Land Use Ordinance, per copy: \$5.
- D. Subdivision and Site Plan Review Ordinance, per copy: \$5.

- E. 1983 Master Plan, per copy: \$5.
- F. Zoning Ordinance, per copy: \$3; Zoning Map, per copy: \$2.
- G. Sanitary Code, per copy: \$4.
- H. Certification of any public document, per copy: \$2.
- I. Minutes of any public body, per page: \$0.25.
- K. Photocopies of all other public records, per page: \$0.25.
- L. Police accident reports, per report: \$0.50.
- M. Police criminal and noncriminal reports, per report: \$5.
- N. Photographs.

Size (inches)	Fee (per copy)
3 x 5	\$5.00
8 x 10	\$5.00

O. Fingerprinting; per person: \$15.

§ 44-2. Requests for copies.

All requests for copies of public documents shall be made to the Borough Clerk on such forms as may from time to time be provided, except that all applications for any police records shall be made to the officer in charge of the Department on such forms as may from time to time be required.

§ 44-3. Exemptions.

No fee or charge shall be made for the copying of any report for which a formal request is made by any local, county, state or federal law enforcement agency.

§ 44-3.1. Miscellaneous. [Added 9-23-2002 by Ord. No. 863]

- A. Whenever a requestor asks for copies of a record in a medium not routinely used by the Borough, not routinely developed or maintained by the Borough, or requiring a substantial amount of manipulation or programming of information technology, the Clerk may charge the requestor a special service charge, which will differ from the flat fee set forth in N.J.S.A. 47:1A-1 et seq., and which will be equal to the actual cost of reproduction of the record in the medium requested, including labor.
- B. Whenever the nature, format, manner of collation or volume of a government record embodied in the form of printed matter to be inspected, examined or copied is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size, or involves an extraordinary expenditure of time and effort to accommodate the request, the Clerk may charge a special service charge, which will differ from the flat fee set forth in N.J.S.A. 47:1A-1 et seq., and which will be equal to the actual cost of the reproduction of that record.
- C. The requestor shall have the opportunity to review and object to the special service charge prior to it being incurred.

§ 44-3.2. Municipal Court discovery. [Added 11-22-2004 by Ord. No. 900]

- A. All requests for discovery in matters pending in the Demarest Municipal Court shall be submitted through the Municipal Prosecutor.
- B. The following fees shall be payable by the requestor to the Borough of Demarest for discovery provided:

- (1) Seventy-five cents per page for each of the first 10 pages photocopied.
 - (2) Fifty cents per page for each of the next 10 pages photocopied.
 - (3) Twenty-five cents per page for each of the pages photocopied thereafter.
 - (4) Actual postage for any discovery sent by mail.
 - (5) Twenty-five cents for the envelope for any discovery sent by mail.
 - (6) Photographs will be photocopied at the rates established herein. If requests are made for duplicate photographs, the actual cost of making the photographs shall be charged.
 - (7) Duplication of videotapes constitutes an extraordinary duplication process and will be charged at the rate of \$5 per videotape.
 - (8) On any item that cannot be photocopied on the Borough copy machine or not otherwise provided for in this schedule, the actual cost incurred in making the copy shall be charged.
- C. Where the discovery must be obtained from an entity other than the Borough of Demarest, e.g., another police department, the actual costs paid to the other entity shall be paid by the requestor.

§ 44-4. Issuance of receipt required; disposition of moneys.

The Borough Clerk or the Police Department shall issue a receipt for all fees and money received for services extended or materials furnished pursuant to this chapter, the receipt book being permanently bound and numerically numbered in such form as shall be prescribed by the Auditor of the Borough. All moneys received pursuant to this chapter shall be turned over to the Borough Treasurer within 48 hours of receipt thereof.

§ 47-1

RENT SUBSIDIES

§ 47-3

Chapter 47

RENT SUBSIDIES

§ 47-1. Declaration of intent.

§ 47-2. Consent by borough.

§ 47-3. Filing of copies.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 7-20-77 as Ord. No. 438. Amendments noted where applicable.]

GENERAL REFERENCES

Housing standards -- See Ch. 107.

§ 47-1. Declaration of intent.

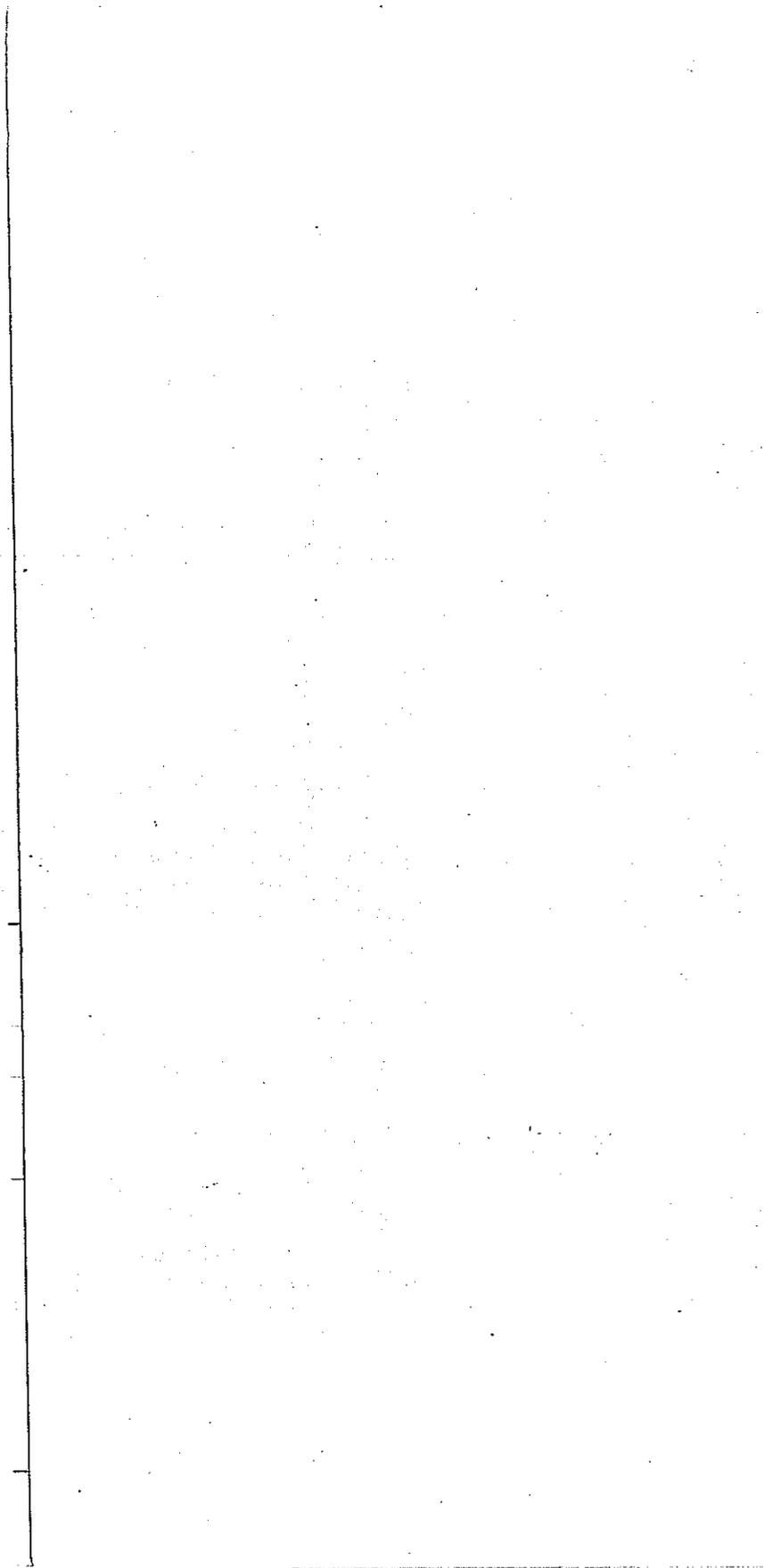
The Borough of Demarest desires to participate in the area of operations of the Housing Authority of Bergen County throughout its territorial boundary and the jurisdiction of its Mayor and Council for the purpose of qualifying for rent subsidies for senior citizens.

§ 47-2. Consent by borough.

The Borough of Demarest does hereby consent to its inclusion in the area of operation of the Housing Authority of Bergen County for the aforementioned purpose.

§ 47-3. Filing of copies.

The Borough Clerk is hereby authorized and directed to file a certified copy of this chapter with the Commissioner of the State Department of Conservation and Economic Development, and with the Secretary of the Housing Authority of Bergen County.



Chapter 50

RESIDENCY REQUIREMENTS

§ 50-1. Exemptions from requirements.

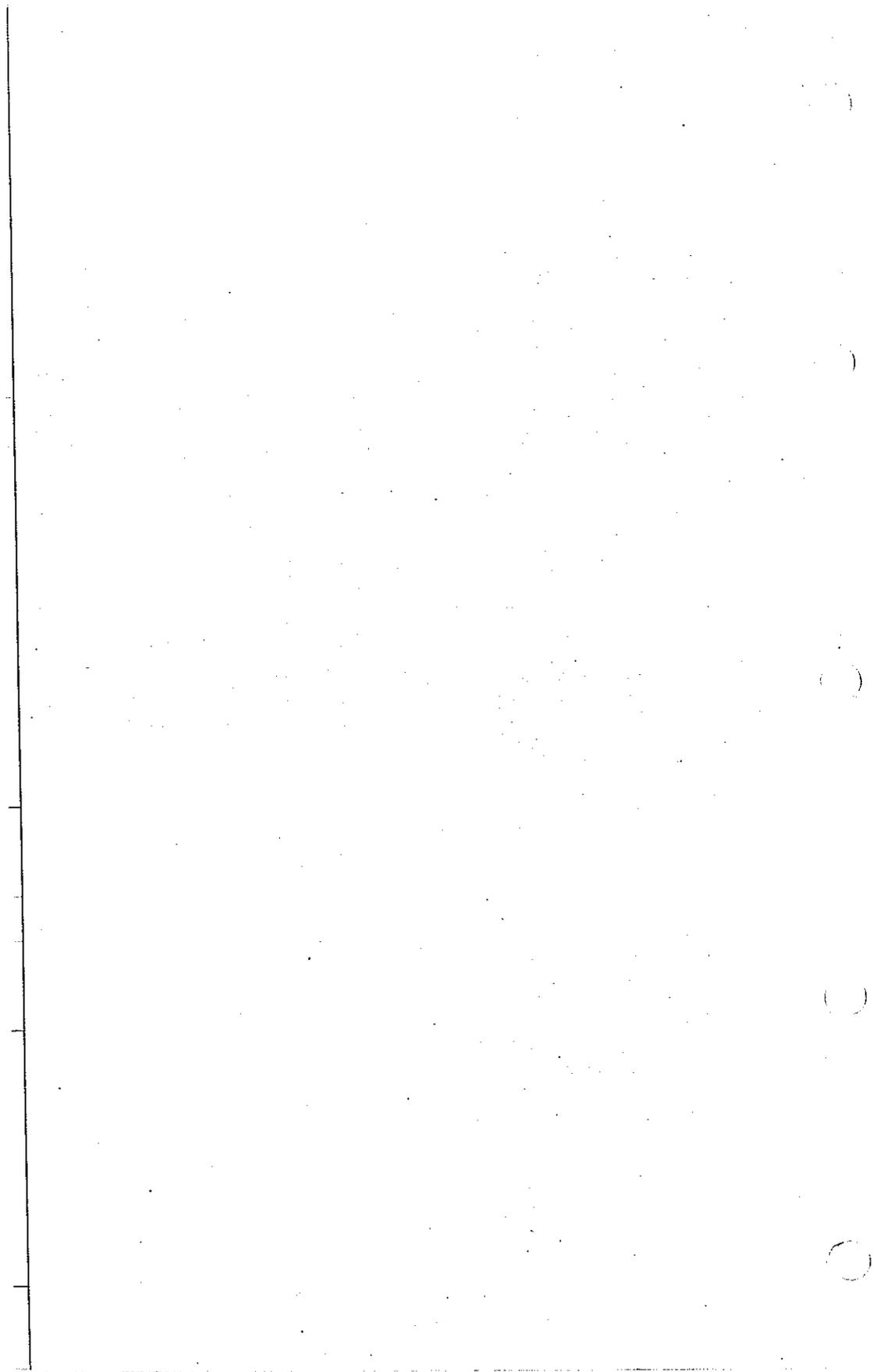
[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 5-21-73 as Ord. No. 369. Amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees — See Ch. 32.
Personnel policies — See Ch. 37.

§ 50-1. Exemptions from requirements.

The Borough Attorney, Borough Prosecutor, Borough Engineer, Borough Building Inspector and Borough Poundkeeper are hereby exempted from the requirement of being residents of this borough.



Chapter 53

SHADE TREE COMMISSION

§ 53-1. Establishment; membership.

§ 53-2. Terms; vacancies.

§ 53-3. Adoption of rules and regulations; election of officers and employment of other personnel.

§ 53-4. Statutory authority.

[HISTORY: Adopted by the Mayor and Council of the Borough of Demarest 6-22-1955 by Ord. No. 219. Amendments noted where applicable.]

GENERAL REFERENCES

Land use procedures — See Ch. 27.
Obstructions at intersections — See Ch. 125.
Parks and playgrounds — See Ch. 130.
Site plan review — See Ch. 144.
Subdivision of land — See Ch. 153.
Trees — See Ch. 163.
Zoning — See Ch. 175.

§ 53-1. Establishment; membership. [Amended 12-17-1990 by Ord. No. 694; 2-24-2003 by Ord. No. 868]

The regulation, planting, care, and control of shade trees and shrubbery upon or in the highway, parks, parkways, street rights-of-way or public places of the Borough of Demarest shall hereafter be under the authority of the Commission consisting of five members and two alternate members appointed by the Mayor, who shall be residents of the Borough of Demarest, which Commission shall be known as the "Shade Tree Commission of the Borough of Demarest."

§ 53-2. Terms; vacancies. [Amended 12-17-1990 by Ord. No. 694]

A. The terms of office of the Commissioners shall be as follows:

(1) The terms of the three Commissioners holding office on the date of the adoption of this amendatory ordinance shall expire on December 31 of 1990, 1991 and 1994, the terms for which they were appointed.

(2) The terms of office of the two Commissioners whose positions are created by this amendatory ordinance shall begin on the date of their appointment and continue for the respective period of three and four years from the first day of January preceding their appointment, the terms of said appointees to be designated in their respective appointments.

B. All other appointments, except to fill vacancies, shall be made to take effect upon the first day of January of each year commencing January 1, 1995, each appointment to be for the full term of five years. Vacancies occurring in the membership of said Commission by reason of the death, resignation or removal of any Commissioner shall be filled only for the unexpired term.

C. The Alternate No. 1 and Alternate No. 2 members of the Commission to be appointed pursuant to the terms of this chapter shall be appointed for terms of five years and four years, respectively. All subsequent appointments, except to fill vacancies, shall be for the full term of five years, to take effect on January 1. **[Added 2-24-2003 by Ord. No. 868]**

§ 53-3. Adoption of rules and regulations; election of officers and employment of other personnel.

The Shade Tree Commission, when established, is hereby authorized to make and adopt suitable rules, regulations and bylaws for the purpose of carrying out its objects and to elect a Chairman and Secretary from its members. It shall have the authority and power to employ supervisors, assistants and other persons it deems necessary and proper and to incur expenses, provided that its expenditures and obligations have been duly authorized and approved by the Mayor and Council of the Borough of Demarest.

§ 53-4. Statutory authority.

The Shade Tree Commission created by this chapter shall exercise all powers now or hereafter granted by the statutes of New Jersey applicable thereto.

