

BOROUGH OF DEMAREST

COUNTY OF BERGEN

ORDINANCE 1120 -2023

**ORDINANCE AMENDING AND MODIFYING CHAPTER 40 POLICE DEPARTMENT,
§40-3 DEFINITIONS; WORD USAGE AND §40-37 DEPARTMENT DISCIPLINARY
AUTHORITY AND RESPONSIBILITIES OF THE DEMAREST BOROUGH CODE**

Section 1. Purpose & Authority. The purpose of this ordinance is to modify Chapter 40, Article I General Provisions §40-3 Definitions; Word Usage and §40-37 Department Disciplinary Authority and Responsibilities of the Demarest Borough Code pursuant to N.J.S.A. 40:48-1, and 40:49-2.

Section 2. Amendments. (amendments are highlighted, deletions strikethrough).

§40-3 Definitions; word usage

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."~~ Pursuant to N.J.S.A. 40A:14-118, a Committee Comprised of the Borough Administrator, the Police Committee Chair, and the Management Committee Chair is hereby designated for purposes of this chapter as the "appropriate authority."

[Added 5-16-1988 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.

EMPLOYEE

Civilian employee of the Department.

GENERAL ORDERS

Written directives issued by the Chief of Police. "General orders" remain in full force and effect until amended, superseded or canceled by the Chief of Police.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 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 condition 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 employees 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 V Disciplinary Regulations

§ 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~~, ~~Appropriate Authority~~ except as provided in § 40-6A(1) of this chapter.

[Amended 5-16-1988 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 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 5-16-1988 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. Distribution of reports of disciplinary action. Reports shall be distributed as follows by the officer imposing or recommending disciplinary action:

[Amended 5-16-1988 by Ord. No. 650]

(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. The Appropriate Authority is hereby designated as the hearing officer for any appeal from a penalty imposed. An appeal of the decision rendered by the Appropriate Authority may be filed with the clerk's office with a copy to the Mayor within ten (10) days of the

decision of the Appropriate Authority as hearing officer and said appeal shall then be heard before the Governing Body at a reasonable date set by the Governing Body. A penalty imposed will be deemed to be final on the date of the Appropriate Authority's decision if no appeal is filed with the Governing Body. If an appeal is filed with the Governing Body, a penalty imposed will be deemed to be final on the date of the Governing Body's decision.

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.

Section 3. Repealer. All prior ordinances that are inconsistent with this ordinance are repealed. All ordinances are hereby amended to be consistent with this ordinance and all ordinances, including this one, shall be construed consistent with the express purpose of this ordinance.

Section 4. Savings and Construction. This ordinance shall be construed consistent with the purpose stated in Section 1 hereof. Any ambiguities in this ordinance shall be construed in accordance with the purpose of this ordinance. If any part of this ordinance is invalidated by a court of competent jurisdiction, the remainder of this ordinance shall be saved to the full extent possible. This ordinance repeals provisions of the Demarest Code only where stated herein; otherwise this ordinance is amendatory and supplementary to existing provision of the Demarest Code.

Section 5. Codification. This ordinance shall be codified as amendments to the chapters set forth herein.

Section 6. Effective Date. This ordinance shall take effect immediately upon approval and publication of notice of adoption as provided by law.

Attest:

Approved:


Acting Municipal Clerk


Mayor Brian Bernstein

Introduced: 6/12/23

Adopted: 6/26/23