

**PROPOSED AMENDMENTS  
FIRE RESCUE DEPARTMENT ORDINANCE  
ARTICLE 23, EXHIBIT B**

Town of North Yarmouth  
Fire ~~/~~Rescue Department Ordinance

**SECTION ~~1~~ I: Title, Authority, Purpose**

~~Subsection 1.1~~ Title: This Ordinance shall be entitled “Town of North Yarmouth Fire ~~/~~ Rescue Department Ordinance” and shall be cited herein as “Ordinance”.

~~Subsection 1.2~~ Authority: This Ordinance is enacted in accordance with Title 30-A M.R.S.A. Sections 3001 and 3151 *et seq.*

~~Subsection 1.3~~ Purpose: The purpose of this ordinance is to:

- 1.3.1 eEstablish and organize a municipal fire and rescue department;
- 1.3.2 dDefine the powers and general duties of a Fire Rescue Chief’s position;
- 1.3.3 dDefine the powers and general duties of a Public Safety Coordinator position;
- 1.3.4 pProvide the maximum legal protection available to the Fire Rescue Chief, municipal ~~f~~Firefighters and ~~municipal~~ Emergency Medical Technicians ~~rescue~~ personnel;
- 1.3.5 pProvide for the best protection for the health, safety and welfare of the residents of the Town of North Yarmouth, cited herein as “Town”.

**SECTION ~~2~~ II: Definition and ~~Membership~~ Personnel**

~~Subsection 2.1~~ Municipal Fire ~~/~~Rescue Department: The Department shall be a “municipal Fire ~~/~~Rescue Department” as defined in 30-A M.R.S.A. § 3151(1), as amended. It shall be a department within the Town.

~~Subsection 2.2~~ MembersPersonnel: The Department shall be composed of individual residents of North Yarmouth and non-residents who are qualified, who are 18 years old and older, a graduate from high school or equivalent and who have applied and have been employed by ~~accepted as members~~ of the Department as described in ~~Subsection~~ section 2.3.

~~Subsection 2.3~~ Application for ~~Membership~~Employment: All applications for ~~membership~~ employment in the Department ~~must be~~ reviewed and accepted approved by the Fire Rescue Chief with final approval by the Town Manager. ~~and by a majority of the appointed officers of whichever Section the applicant wishes to join.~~ ~~Members~~ Applicants must meet all ~~membership~~ standards as established by the Fire Rescue Chief. There shall be a full background and driver’s license check conducted on each applicant. If the applicant is offered a position within the Department, the applicant must pass a medical clearance test as performed by the Town of North Yarmouth’s occupation health associate.

~~2.3.14~~ New Employees: All new ~~memberships~~ employees will be subject to a provisional ~~for a six (6)~~ month probationary period, followed by a review of their performance by the Fire Rescue Chief and the officers in their ~~Section~~ section before the new member’s full ~~membership~~ employment status is achieved.

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2.5 Personnel Policy - Fire Rescue Department employees are required to acknowledge and follow the Town's Personnel Policy.

~~2.3.2 Full membership maybe considered by the Fire Chief for approval based on prior experiences.~~

~~Subsection 2.4~~ 6 Junior Firefighters: An individual between the ages of 14 and ~~17-18~~ accepted as a Junior Firefighter in accordance with Subsection 2.3, after meeting the ~~membership-employment~~ standards established by the Fire Rescue Chief and all requirements of Maine law.

~~Subsection 2.5 Sections: Individuals may be Fire Members, Rescue Members, or Support Personnel. These three sections will be known as the Fire Section, the Rescue Section, and the Support Section.~~

~~Subsection 2.6~~ 7 Firefighting Companies: All Firefighters who are not officers will be assigned to companies by the Fire Rescue Chief to serve under the officer of each company.

~~Subsection 2.7~~ 8 Number of Members:Employees: The Board of Selectmen will determine the number of paid ~~members-employees~~ necessary for the effective operation of the Department, acting on a recommendation of the Fire Rescue Chief and Town Manager.

**SECTION 3: Rules, Regulations & Standard Operating Guidelines**

~~Subsection 3.1~~ Rules, Regulations and Standard Operating Guidelines: The North Yarmouth Fire ~~/Rescue~~ Rules and Regulations and Standard Operating Guidelines ("~~RRSOGs Document~~") shall be how the department operates.

~~Subsection 3.2~~ Amendment: The ~~RRSOGs Document~~ may be amended by the Board of Selectmen, upon a recommendation of the ~~Fire Chief~~ Fire Rescue Chief, ~~or upon a recommendation of a majority of the appointed officers from either the Fire Section or the Rescue Section.~~ All amendments must be consistent with this Ordinance, Maine State law, and other applicable laws, ordinances, town charter, and regulations.

~~Subsection 3.3~~ Emergency Rules, Regulations, and SOGs: The ~~Fire Chief~~ Fire Rescue Chief shall have the authority to adopt emergency rules, regulations or SOGs when necessary to respond to immediate needs or changes in circumstances. These rules, regulations and SOGs may not be effective for more than 30 days, until reviewed and adopted, rejected or allowed to sunset.

**~~SECTION 4: Discipline, Suspension, and Dismissal~~**

~~Subsection 4.1~~ Causes for Discipline or Suspension: ~~Causes for discipline, suspension and/or dismissal include, but are not limited to, those matters described in: 9.3 Prohibited Conduct of the Town of North Yarmouth Personnel Policy.~~

~~Subsection 4.2~~ Grievance Procedure: ~~All grievances will be handled in accordance with 9.1 Resolving Issues of the North Yarmouth Personnel Policies as it may be amended. All members will be treated as employees under that policy for the purposes of grievances only.~~

~~Subsection 4.3 Disciplinary Procedure: All discipline, suspensions and dismissals shall be handled in accordance with 9.2 Corrective Action of the North Yarmouth Personnel Policies as it may be amended. All members will be treated as employees under that policy for the purposes of disciplinary action only.~~

**SECTION 64: Gifts, Donations and Bequests: ~~North Yarmouth Fire Company~~**

~~Subsection 6.1 Establishment: At the time that this Ordinance is adopted, there exists an independent company called the North Yarmouth Fire Rescue Company and shall be cited herein as the Association.~~

~~6.1.1 The Association is not a department, nor part of a department of the Town of North Yarmouth, but is recognized as an independent association.~~

~~6.1.2 The Association may raise funds from the public on behalf of the Department for training, education, equipment, vehicles, facilities and any other related purposes.~~

~~6.1.3 Funds raised by the Association shall remain the property of the Association.~~

~~6.1.4 Equipment, vehicles, or facilities purchased by the Association shall remain the property of the Association unless donated to and accepted by the Town by a vote of the Board of Selectmen.~~

~~6.1.5 Equipment, vehicles or facilities owned by the Association shall be clearly marked as their property.~~

~~6.1.6 As of the adoption of this ordinance, any equipment, vehicles, or other facilities that have been donated to the Town, whether or not the Board of Selectmen have accepted these gifts or not, shall become the property of the Town. All liability that may be associated with such equipment, vehicles or facilities, now clearly resides with the Town.~~

~~Subsection 6.2 Gifts, Donations and Bequests:~~

~~6.2.1~~ **64.2.1** Gifts, donations, and bequests made to the Department, whether conditional or unconditional, shall be treated as public funds and will only be accepted and used in accordance with the provisions established in Title 30-A MRSA Sections 5652-5654.

~~6.2.2~~ **64.2.2** Gifts, donations and bequests made to the Association or other such associations associated with the Department, but not part of the Department, ~~may~~ shall be treated as private funds, to be disposed of as determined by the independent association.

**SECTION 5: Organization**

~~Subsection 5.1~~ Duties of the Department:

5.1.1 The Department shall provide firefighting, emergency medical services and other emergency services within the Town and elsewhere as provided by mutual aid or other contractual Agreements agreements as recommended by the Fire Rescue Chief and approved by the Town Manager and or the Board of Selectmen.

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5.1.2 The Department shall further be authorized to provide emergency services by responding to and managing other public safety emergencies, including, but not limited to, hazardous materials incidents or other natural or man-made disasters.

5.1.3 The Department shall also be authorized to provide emergency medical services to the Town.

~~Subsection~~ 5.2 Fire Rescue Chief Position:

5.2.1 The Fire Rescue Chief shall be appointed by the ~~Board of Selectmen~~ Town Manager. ~~with input from the Department~~

5.2.2 The Fire Rescue Chief position's compensation shall be established by the ~~Board of Selectmen~~ Town Manager with conformity to Personnel Policy. ~~6.7 Attachment A Adopted Wage Grid~~

5.2.3 The Fire Rescue Chief may be removed from position for cause after notice and hearing as set forth in the Town of North Yarmouth Personnel ~~Policies~~ Policy and ~~Procedures Manual~~.

5.2.4 The Fire Chief shall have the powers and duties set forth in 30-A M.R.S.A. § 3153.

5.2.5 The Fire Chief shall have the powers and duties set forth in 25 M.R.S.A §2361, 25 M.R.S.A §2373, and 25 M.R.S.A §2392

A. The purpose is the local adoption and imposition of the NFPA-1 (Fire) and NFPA-101 (Life-Safety) Codes throughout the Town of North Yarmouth to promote fire-safety and life-safety for persons and the structures they occupy. The editions of NFPA-1 and NFPA-101 adopted and currently in-use by the State Fire Marshal's Office (FMO) at the time of adoption of this Ordinance shall be the versions initially adopted by the Town. Subsequently, at any time the FMO adopts a newer edition of the subject Codes, this will trigger automatic adoption and imposition of same by the Town. Where applicable, buildings and structures regulated under this Ordinance may also be subject to the following State laws, which also have provisions for local authority and enforcement:

10 M.R.S. §9724 "Maine Uniform Building and Energy Code"

25 M.R.S. §2351 et seq. "Municipal Inspection of Buildings"

25 M.R.S. §2371 et seq. "Building Codes & Standards"

32 M.R.S. §3403-B "Plumbing Code"

14 M.R.S. §6021 et seq. "Rental Property"

17 M.R.S. §2851 et seq. "Dangerous Buildings"

30-A M.R.S. §4452 "Enforcement of Land Use Laws & Ordinances"

B. The Town's Code Enforcement shall be primary responsibility for administration of this Ordinance, with enforcement assistance provided by the Town's Fire Rescue Chief, both per 30-A M.R.S. §4452(5)A.

Per 30-A M.R.S. §4452(5)A, it shall be the administrative responsibility of the Code enforcement officer in conjunction with the Fire Rescue Chief to determine and make public the sections of NFPA-1 and NFPA-101 to be adopted locally at the time of initial enactment of this Ordinance and at the time

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of any subsequent adoption of newer editions of these Codes by the Maine State Fire Marshall's Office.

~~5.2.5-6~~ The Fire Rescue Chief shall be responsible for the immediate supervision and operation of the Department and the conduct of Department ~~membership~~employees.

~~5.2.6-7~~ The Fire Rescue Chief will appoint the following officers, and may appoint other officers as the need arises:

1. Deputy Chief(s)
2. Captain(s)
3. Lieutenant(s)

A Fire Captain or a Fire Lieutenant may also be a Fire Training Officer. Fire Officers shall be appointed for a two year term and will need to re-apply for the position if still interested in serving in the capacity of that position.

~~Subsection 5.3-2.8~~ The Fire Rescue Chief shall also serve as the town's Public Safety Coordinator. ~~Position: 5.3.1~~ The ~~Board of Selectmen~~Town Manager may hire with input from the Fire Rescue Chief, an individual or individuals to the position of Public Safety Coordinator, ~~herein after referred to as PSC~~ who shall be considered an member-employee of the ~~Department~~Town. Compensation and duties shall be established by the Town Manager in accordance with the town's Personnel Policy.

~~5.3.2~~ The PSC's position's compensation shall be established by the ~~Board of Selectmen,~~ with conformity to ~~Personnel Policy 6.7 Attachment A Adopted Wage Grid~~

~~5.3.3~~ The PSC shall be an employee of the Town.

~~5.3.4~~ The PSC may be removed from position for cause after notice and hearing as set forth in the ~~Town of North Yarmouth Personnel Policies and Procedures Manual.~~

~~5.3.5~~ The PSC shall have duties as set forth in the position's job description.

## **SECTION 76: Mutual Aid & Interlocal Agreements**

~~Subsection 76.1~~ Mutual Aid: The Department shall provide mutual aid fire ~~&~~and rescue protection to those municipalities with whom the Town has approved agreements. All mutual aid agreements shall be in writing and shall be subject to review and approval by the ~~Board of Selectmen,~~Town Manager and or the Board of Selectmen.

~~76.1.1~~ Mutual Aid can also be provided on fire and rescue calls or situations that the Fire Rescue Chief has deemed worthy.

~~Subsection 76.2~~ Interlocal Agreements: Pursuant to Title 30-A, Chapter 115 ss 2201 and ss2203 (1), ~~this~~ This ordinance shall allow the Board of ~~Selectmen~~Selectpersons, upon recommendation of the Fire Rescue Chief and Town Manager, and after notice and public hearing, to enter into an Interlocal Agreement should it be found to be in the best interests of the Town to do so.

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**76.2.1** Such an agreement shall not extend longer than three(3) years, and any funding shall be subject to Town Meeting approval.

## **SECTION 7: Structural Regulations**

**7.1 Applicability:** This Ordinance shall apply to all structures within the Town of North Yarmouth, including: multi-unit residential, commercial, and industrial; new and existing construction; expansions, additions, relocations, and conversions; and manufactured housing installations. Exempted from this Ordinance are owner-occupied single-family and duplex residential structures.

**7.2 Inspection Required; Entry Allowed:** Before any construction, addition, alteration, demolition, relocation, or foundation work is commenced on any property and/or structure for which the owner, or an authorized agent for the owner, has filed a Project Registration Form with the Code Enforcement Office and/or a Building Notification Form with the Assessing Office, the owner, or an authorized agent for the owner, shall contact the Fire Rescue Chief and/or Code Enforcement Officer so they can determine if the subject property must be inspected per 25 M.R.S. §2353-A and §2354 by personnel from same under the editions and sections of NFPA-1 and NFPA-101 currently in effect in the Town, if these codes are applicable to the subject project.

Per 25 M.R.S. §2351-A, whenever NFPA-1 and/or NFPA-101 are applicable to a structure, designated personnel from the Fire Rescue Department and/or Code Enforcement Office shall have the right to enter any premises to inspect under the editions and sections of NFPA-1 and NFPA-101 currently in effect in the Town, on the basis of a request to do same: by the owner, by an authorized agent for the owner; by the Code Enforcement Office and/or the Assessing Office; by a tenant; or in response to an emergency call to Fire Rescue.

**7.3 Enforcement:** Any property owner that has received a Citation of Violation(s) and/or Statement of Deficiencies from either the Fire Rescue Department and/or the Code Enforcement Office is required to return a Plan of Correction within 10 days of receipt, stating how and when the violations and/or deficiencies will be corrected. Failure by the property owner to furnish a Plan of Correction within ten (10) days, stating how and when the violations and/or deficiencies will be corrected, shall be a civil violation per 30-A M.R.S. §4452.

Any building project commenced without Fire Rescue Department and code enforcement inspection, when applicable under 5.2.5.5, as of the enactment date of this Ordinance, shall be considered a violation. The Fire Rescue Department and/or Code Enforcement Office shall order the property owner to obtain the required inspection within ten (10) days. Failure by the property owner to obtain an inspection within ten (10) days of said order shall be a civil violation per 30-A M.R.S. §4452. The Fire Rescue Department and Code Enforcement Office are authorized to commence an action seeking penalties, injunctive relief, and attorney's fees to correct the violation(s) per 30-A M.R.S. §4452.

Any violation of this Ordinance, including failure to comply with any condition, shall be deemed to be a violation of 30-A M.R.S. §4452. Every day a violation exists constitutes a separate offense.

**7.4 Appeals:** Any person aggrieved by the action of the Fire Rescue Department and/or Code Enforcement Office may appeal to the Board of Appeals by filing a notice of appeal within thirty (30) days after receipt of the Fire Rescue Department's and/or Code Enforcement Office's notification.

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Administrative appeals submitted under this Ordinance shall be subject to the standards and procedures established by the Town of North Yarmouth Board of Appeals Ordinance.

**SECTION 8: Administration ~~Supersession, Severability, Amendments and Adoption~~**

~~Subsection 8.1~~ Supersession: This Ordinance supersedes and replaces any or all like or comparable ordinances, polices or decisions previously enacted or adopted by the Town. This ordinance shall remain in effect unless or until it is revoked or superseded in accordance with Title 30-A MRSA Section 3002.

~~Subsection 8.2~~ Severability: ~~The invalidity of any portion of this ordinance shall not invalidate any other part thereof.~~ **Validity and Severability**: Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision.

**8.3 Conflicts with other Ordinances**: Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation, or statute, the more restrictive provision shall apply.

~~Subsection 8.3-4~~ Amendments: This Ordinance may be amended from time to time in accordance with the provisions or Title 30-A MRSA Section 3002.

~~8.3.2 The Board of Selectmen shall have the authority to amend, update, change, and/or modify any job description as they deem to be in the best interests of the Town.~~

~~Subsection 8.4-5~~ Adoption: This ordinance was submitted to the voters of the Town of North Yarmouth and shall be effective upon its adoption by the municipal legislative body, who voted on June 18, 2011.

Date of ordinance adoption: ~~ADOPTED:~~—June 18, 2011

Date amendments adopted: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_