

ORDINANCE NO. 2008-31

**AN ORDINANCE AMENDING CITY CODE SECTION 905
REGARDING THE FIRE DEPARTMENT**

The City of Minnetonka Ordains:

Section 1. Existing section 905 of the city code, a copy of which is attached as exhibit A, is repealed in its entirety and a new section 905 is adopted to read as follows:

SECTION 905. FIRE DEPARTMENT.

905.005. Organization.

The Minnetonka volunteer fire department has the primary purpose of preventing and suppressing fires within the city of Minnetonka to protect and preserve lives and property. The city commits to maintaining this department as primarily a paid on-call organization, but some regular city employees will be assigned to the department when appropriate. The members of the department, including both paid on-call and regular employees, are governed by this section, city personnel policies, fire department policies, and directives adopted by the fire chief.

905.010. Membership.

1. Membership in the department is based upon criteria established by the chief.

2. There are six categories of members within the department: regular employees, probationary, active, retired, auxiliary and honorary members.

3. Each category of membership is defined as follows.

a. Regular employees are regular employees of the city assigned to the fire department.

b. Probationary members are paid on-call employees who must serve a one-year probationary period with the department before being eligible to become active members. They are subject to criteria established by the fire chief before being eligible to become active members.

c. Active members are those paid on-call employees who have successfully completed the probationary period based upon their training, experience, participation, and adherence to standards established by the fire chief. The chief will decide whether a probationary member becomes an active member.

d. Retired members are those who served in the Minnetonka volunteer fire department and have retired in good standing.

e. Auxiliary members are persons who assist the department upon request of the fire chief.

f. Honorary members are those persons chosen by the fire chief who have promoted the goals and purposes of the department or otherwise served to enhance or promote firefighting safety, fire prevention, or the protection of persons or property from the hazards of fire.

4. Probationary and active members must be at least 18 years of age and meet other qualifications regarding such things as response time, physical condition, training, participation and behavior which are established by the fire chief.

905.015. Officers.

1. The fire chief has the responsibility for the management and operation of the department. The chief is appointed by, and works under the direction of, the city manager.

2. The fire chief has the authority to appoint all subordinate officers in the chain of command. These officers will serve at the pleasure of the chief. All appointments must be made on the basis of merit and ability.

Section 2. This ordinance is effective 30 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on October 13, 2008.

Janis A. Callison, Mayor

ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction: September 29, 2008

Date of adoption: October 13, 2008

Motion for adoption: Wiersum

Seconded by: Wagner

Voted in favor of: Callison, Ellingson, Hiller, Schneider, Wagner, Wiersum

Voted against:

Abstained:

Absent: Allendorf

Ordinance adopted.

Date of publication:

CERTIFIED COPY:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on October 13, 2008.

David E. Maeda, City Clerk

Exhibit A

Repealed Section 905

SECTION 905. FIRE DEPARTMENT.

905.005. Organization.

1. The Minnetonka volunteer fire department has the primary purpose of preventing and suppressing fires within the city of Minnetonka to protect and preserve lives and property. The city commits to maintaining this department as primarily a volunteer organization, but some regular city employees will be assigned to the department when appropriate. The volunteer members of the department are governed by this section, department by-laws, and directives adopted by the fire chief. Regular city employees assigned to the fire department are governed by city personnel policies instead of the department by-laws.
2. The department will consist of a fire chief, an assistant fire chief, fire marshal and sufficient volunteers and city employees as budgeted to meet the needs of the city. All members serve on a voluntary basis except the fire chief, fire marshal and other regular city employees. The department is under the direction and control of the fire chief who is a regular city employee.
3. With the city manager's approval, the fire chief may divide the city into districts, stations and companies based upon an analysis of the community's needs.
4. The active members of the department may adopt by-laws regulating the volunteer members. The fire chief should observe these by-laws to the extent that the chief believes that they are appropriate, but the chief may revise the by-laws if the chief believes that this is beneficial for the effective and efficient operation of the department. When adopting revised by-laws, the chief must first submit the proposal to the department members for their review and comment before the revisions become effective. When the chief reasonably believes that immediate action is necessary, the chief may implement interim revisions without following this procedure, on the condition that as soon as possible after taking the interim action, the chief must notify the membership and solicit their input before adopting final revisions. Nothing in this section governs the chief when adopting policies that are in addition to the department by-laws, but the chief should request the input of the membership when appropriate.

905.010. Membership.

1. Membership in the department for categories other than regular employees is on a volunteer basis and based upon criteria established in the department by-laws and policies adopted by the chief. Volunteer or voluntary-basis means that members are compensated pursuant to section 905.030 but that time devoted to the department for

matters not subject to compensation is considered donated to the city as a public service.

2. There are six categories of members within the department: regular employees, probationary, active, retired, auxiliary and honorary members.

3. Each category of membership is defined as follows.

a. Regular employees are those who are employees of the city, as defined in the city personnel policies, assigned to the fire department. When allowed by their job duties, they may also choose to qualify for any of the other membership categories and be eligible for benefits associated with those categories.

b. Probationary members are persons who must serve a one-year probationary period with the department before being eligible to become active members. They are subject to criteria established in the by-laws and by the fire chief before being eligible to become active members.

c. Active members are those who have successfully completed the probationary period based upon their training, experience, participation, and adherence to standards established by the by-laws and the fire chief. The chief will decide whether a probationary member becomes an active member, but the department by-laws may provide a process for membership input into this decision and for an appeal of the chief's decision to the city manager.

d. Retired members are those who served in the Minnetonka volunteer fire department and have retired in good standing.

e. Auxiliary members are persons who without compensation and on a volunteer basis assist the department upon request of the fire chief from time to time, but who may not act as firefighters.

f. Honorary members are those persons who by a majority vote of those present at a regular meeting of the department are nominated and elected to this classification. Any person may be elected to this position who has promoted the goals and purposes of the department or otherwise served to enhance or promote firefighting safety, fire prevention, or the protection of persons or property from the hazards of fire.

4. Only active members have the right to vote on matters coming before the members of the department.

5. Probationary and active members must be at least 18 years of age and meet other qualifications regarding such things as response time, physical condition, training, participation and behavior which are established in the by-laws and by the fire chief.

905.015. Officers.

1. The fire chief has responsibility for the management and operation of the department. The chief has final authority over all matters involving the department and, except for amendments to the constitution, has the right to countermand actions taken or proposed to be taken by vote of the department's active members. The chief is appointed by, and works under the direction of, the city manager.

2. The fire chief may appoint more than one assistant chief. The chief must appoint one assistant chief who will assume the duties and responsibilities of the fire chief regarding the volunteer members in the event of the absence, death, physical or mental incapacity, dismissal or resignation of the chief. The city manager will designate a person or persons to assume the other duties and responsibilities of the fire chief in those situations.

Before appointing the assistant fire chief who has duties and responsibilities regarding the volunteer members, the chief must submit the nominee's name to the membership for an advisory vote to determine whether the membership agrees with the nomination. The vote must be open and not by secret ballot.

The fire chief has the authority to appoint all other subordinate officers in the chain of command. These officers and the assistant chief(s) will serve at the pleasure of the chief. All appointments must be made on the basis of merit and ability.

3. The department will also have a fire marshal who is a regular employee of the city. The fire marshal will operate under the direction and control of the fire chief and will be responsible for enforcement of the city fire code.

(Amended by Ord. #2000-9, adopted May 22, 2000)

905.020. Discipline.

1. All regular employees are subject to the city personnel policies. If a regular employee is also an active or probationary member, discipline will be for the membership status in which the member was operating at the time the conduct occurred. Such members will not be disciplined in both capacities for the same conduct.

2. All probationary and active members must comply with the constitution and by-laws of the department and obey all orders and directives from their supervisors, the fire chief, the assistant chief or acting fire chief. Failure to so comply may result in disciplinary action being taken by the fire chief or the chief's designee or replacement.

3. An active member may be disciplined only for just cause set forth in the department by-laws and directives of the fire chief. The fire chief may dismiss a probationary firefighter at any time in the chief's sole discretion. The probationary firefighter will have no right to appeal this decision.

4. Types of disciplinary action are limited to the following: oral reprimand, written reprimand, suspension, and dismissal. Demotion is not a form of discipline because all

appointed officers serve at the pleasure of the chief and may be removed at any time for any reason.

5. Except for an oral reprimand, a supervisory officer must give written notice of the disciplinary action to any active member disciplined, with specific reasons, effective dates and conditions of the action. The notice must be signed and dated by the officer.

6. Within five days after receiving the notification of disciplinary action, an active member may appeal the action upward through the chain of command by submitting a request for review in writing to the next higher officer in the chain of command. Within five days after receiving the decision of each officer in the chain of command, the active member may appeal to the next level of command, ending with the city manager, by submitting a written request for review to the next higher officer. If the person does not receive a decision within ten days after submitting the appeal, the appeal will be considered denied at that level, and the person may appeal to the next available level.

905.025. Meetings.

1. The department must hold joint meetings of active and probationary members at least quarterly during the calendar year.

2. The chief will preside over those meetings and may call additional meetings from time to time to conduct business as deemed necessary.

905.030. Compensation.

1. Active and probationary members will receive the compensation established in a resolution adopted by a majority vote of the city council.

2. Payment of compensation earned by probationary and active members must be determined and paid pursuant to a schedule established by the chief, but in no event less than one time in any calendar year.

905.035. Constitution.

1. The active members may adopt a constitution which must be consistent with this ordinance. Any provision of the constitution which conflicts with this ordinance is null and void.

2. The constitution of the department may be amended by an affirmative vote of three-quarters of the active firefighters present at a regular or special meeting, provided that notice of the proposed amendment has been posted in writing not less than 30 days prior to the meeting in each fire station in the city. Changes to the proposed amendment may be made at the meeting without further notice, if those changes are minor and involve no new issues. Any amendment is subject to approval by the city council before becoming effective. If not approved, the amendment is null and void.

