

FIREMEN'S ASSOCIATION OF THE STATE OF NEW YORK
FIRE COMPANY 2006-2007 GOOD GOVERNANCE LAWS

Oversight of Fire Companies by State Comptroller

Effective January 22, 2007, the Office of the State Comptroller (OSC) has the authority (but not the obligation) to examine the financial affairs of a fire company. Such an examination may include a review of cash receipt and disbursement transactions, the duties of the treasurer, record keeping procedures, bank reconciliations, purchasing policies, and other internal controls. **This new law simply gives OSC the ability to conduct such an examination – it does not require the NYS Comptroller to do so.**

Question: Can this be done through a request from an outside contact. Example, you have an upset member can he request this be done as a way of him or her making the fire company records public?

Answer: The law states that the OSC has the authority, but not the obligation, to audit a fire company.

Question: Can an argument be made comparing district commissioners to board of directors of independent departments?

Answer: The law does not speak to this question.

Question: Most printed matter directs itself to fire districts or company, is a fire "protection" district exempt or different under the new guidelines?

Answer: Fire protection districts are administrative units within towns. The town contracts with independent fire companies, or with fire districts, cities or villages to perform fire protection services within the district. The contracting organizations are not exempt from oversight and are responsible for following town or village law.

Question: Please briefly define fire company and fire district. Our department is village-owned and contracts with five townships for fire protection. (In the case of comptroller oversight or audit, would this only concern the contract monies (village books) or include the department's monies as well?)

Answer: Fire districts are autonomous public corporations, independent from the towns in which they are located, established for the primary purpose of providing fire protection and responding to certain other types of emergencies. They are usually governed by an elected board of fire commissioners and have the authority to levy taxes. Fire districts have the authority to incur debt generally without approval from any other governmental entity. Fire district boundaries sometimes cross town and county lines. Fire districts must file their own financial reports (the Annual Update Document, or AUD) annually with OSC. As of 2004, there were 871 fire districts statewide. Fire protection districts are administrative units of towns, not independent public corporations. Towns, on behalf of their fire protection districts, contract with fire companies, fire districts, cities or villages for the provision of fire protection and certain other services within the fire protection districts. The amounts paid under these contracts are assessed and levied on taxable property within the districts at the same time and in the same manner as town taxes. All budgetary controls and financial reporting are handled by town governments; fire protection districts are not required to file separate AUDs with OSC.

Question: If you are village owned does this rule have no affect?

Answer: The new audit laws affect (1) fire districts and (2) those entities contracting with a town, village, city or fire district. In some cases, this means an independent fire company. In other cases, cities and villages contract to provide fire protection to other towns, cities, villages or fire district. In these cases, the city, village or independent fire

company is responsible for obtaining an independent audit if they have more than \$200,000 in total annual revenues.

Question: Does an unincorporated company of a fire district fire department meet the definition of a “company” in the law?

Answer: Yes.

Question: Does an unincorporated fire department meet the definition of “company” in the law?

Answer: Yes.

Fire Company Audits

Effective August 1, 2007, fire companies with revenues of \$200,000 or more are required to obtain an annual audit by an independent public accountant. The audit is limited to an examination of the fire companies revenues and expenditures derived from contracts to provide fire service. The audit must also indicate whether the fire company has filed two documents required under pre-existing law: the Internal Revenue Service (IRS) Form 990 and the reports required for receipts and disbursements of foreign fire insurance tax moneys. If these forms and reports are not filed, then the audit must also include an examination of a fire company's revenues from sources other than contracts for fire protection. **This law only applies to fire companies with annual budgeted revenues of \$200,000 or more, derived specifically from contracts to provide fire service.**

Question: What officers in an independent company would be offered the audit training?

Answer: The training curriculum currently being made available for fire district commissioners will be also made available, for information purposes only, to anyone in a fire department.

Question: Is a fire company in a fire protection district required to open all their financial records when only one set of books is used for all income?

Answer: Fire companies with annual revenues of more than \$200,000 are required to obtain an independent audit of revenues and expenditures. The audit must indicate whether the entity has filed IRS form 990 and any report required pursuant to Section 30-a of the General Municipal Law (receipts and disbursements of 2 percent money). If those filings are not made, the audit must examine all revenues, expenditures and resources from any source. Upon completion of the audit, a certified copy must be provided to the fire company and the contracting municipality within 180 days of the end of the fiscal year.

Fire companies with annual revenues of less than \$200,000 are not required to obtain an independent audit of revenues and expenditures. This threshold does not exempt them from any requirement to file IRS form 990 or the 2 percent report.

Question: Are IMA (inter municipal agreements) funds under the same constraints as 2 percent money for a fire department (not district)?

Answer: 2 percent rules apply only to 2 percent funds. 2 percent funds are not subject to audit as long as OSC reporting requirements have been met. Other income is subject to audit. The audit is directed at revenues from contracts to provide fire service. If a fire company has filed their Federal Form 990 and the OSC 2 percent report, the audit will be limited to only those revenues derived from such contracts for fire protection service rendered.

Question: Does a fire department that receives total funds from village, 2 percent and IMA monies need to file a tax return or are they covered by village tax return?

Answer: If a fire company contracts with a village and has total annual revenues of more than \$200,000, it must obtain an independent audit of revenues and expenditures. If it is a village fire department, it will be included in the village Annual Update Document filing with OSC, and is not required to obtain an audit. The way the law is presently written, if a village offering fire protection services has total revenues of more than \$200,000, it is

responsible for obtaining the audit. 2 percent fund revenues and expenditures must be reported to OSC. Federal Form 990 must also be filed.

Question: When will 1099's have to be issued?

Answer: The law does not speak to tax reporting requirements.

Question: We have a public accountant in our company can he/she still do our books. If yes, does he/she have to fill out an ethics form and will this be a conflict of interest?

Answer: A fire company member who is a CPA can do your books but they would not be able to conduct an independent audit as required by the law.

Fire Company Code of Ethics

Effective June 1, 2007, all fire companies must adopt a code of ethics. The code of ethics must set forth reasonable standards of conduct for the fire company. Prior to the effective date, OSC is required to develop and make available a model code of ethics for Fire Districts. A typical code of ethics may contain provisions relating to conflicts of interest, disclosure of personal financial interests in fire company business, confidentiality, gifts, and reimbursements. **FASNY has published an edited version of the OSC model code of ethics that can be adapted for fire departments/companies.**

Question: Is adopting a code of ethics mandated by this law for incorporated volunteer fire departments governed by a village municipality?

Answer: Effective June 1, 2007, every fire company that either is under the control of a municipality or fire district, or contracts with a municipality or fire district to provide fire protection or other emergency service, must adopt a code of ethics. A fire company code of ethics must set forth reasonable standards of conduct.

Question: What is the effective date by which a code of ethics must be developed by a fire company.

Answer: June 1, 2007 is the date by which Fire Companies must adopt their code.

Question: When may we expect the Comptroller to issue the ethics code guidelines.

Answer: A model Code of Ethics is available on the Office of the State Comptroller website now at www.osc.state.ny.us/localgov/fdreform/modelcoe.pdf.

Question: If a fire district adopts a code of ethics, does the fire company governed by the district need to also adopt a code?

Answer: All fire districts and fire companies are responsible for adopting a code of ethics. Fire companies could look to the Districts code as a model when adopting theirs.

Disclosure of Conflict of Interests

Effective June 1, 2007, elected or appointed fire company officers that are involved with the governance of the fire company (e.g. President, Vice President, Secretary, Treasurer and line officers) must disclose financial interests that such officers have in actual or proposed contracts (or other agreements) with the fire company. This requirement also applies to the spouses of such officers. Disclosures under this law must be in writing and made to the officer's supervisor and the fire company's governing body. Disclosures must be included in the official record of the fire company's proceedings. The requirements of this new law do not apply if the financial interest of the officer is less than \$750 in the aggregate (e.g. the financial interest in all contracts that the officer has with the fire company is less than \$750 when added together). **This new law is not a prohibition on contracts with the fire company, but simply a requirement that the interest in the contract be disclosed to the appropriate individuals.**

Question: Would family members of a fire district commissioner working for a fire district be a conflict of interest?

Answer: The law would require that the commissioner and his family member disclose the financial interest that exists with the fire company. Provided the employment is under

reasonable conditions this law would not prohibit such an arrangement but would require that it be clearly disclosed to the governing body of the district. Fire districts are municipal corporations. There may be other requirements under pre-existing law.

Question: Can volunteer members or paid fire drivers also be vendors? Can they sell equipment to the fire company?

Answer: A volunteer or a paid driver can be a vendor and may sell equipment to the fire company. If the volunteer is an officer, he or she must disclose the interest in the contract to the governing board of the fire company. It is always good for any member of a fire company to disclose financial interests. When the financial interest is more than \$750 an officer of the company must disclose that fact.

Question: Would it be considered a conflict of interest if a member was a company officer (Financial Secretary) and a District officer (Commissioner) at the same time?

Answer: The new law addresses disclosure of financial interest in fire company contracts. The law does not speak to the compatibility of different offices and whether there is the potential for conflict if an individual were to hold both offices.

Question: Is there a financial limit on a contract for services provided by a business whose owner is a company officer for disclosure purposes?

Answer: Disclosure is required if the amount of the contract or contracts is \$750 or more or if the owner owns more than five percent of the stock of the particular company.

Question: If the company officer is an owner of a local business that conducts ongoing business with the fire company or fire district is the disclosure required just once or annually?

Answer: The disclosure should be made every time the contract expires and is being considered for renewal. There should be a renewal date for the contract. Disclosure once annually is a good precaution.

Question: Would a conflict of interest include elected trustees of a fire department? They may institute contracts that are approved by the company and executed by the Secretary or Treasurer?

Answer: The law is not specific regarding elected trustees of a fire department. It addresses appointed or elected officers. Anyone who holds a leadership position and does business with a fire company should consider that subject to disclosure and make it known to the governing body.

Attendance at Training Schools and Instruction Courses

This law took effect October 24, 2006. In order for a volunteer firefighter to attend a training school or instruction course that is not located in the State of New York, the governing board of the municipal corporation that the fire company serves must find that such training is necessary, in the public's interest, and not available within a reasonable distance and time period within New York State. If a volunteer attends such out-of-state training, then the chief officer of the fire company must notify the NYS Office of Fire Prevention and Control (OFPC) of the out-of-state training and provide proof of the volunteer firefighter's attendance. This information will be used by OFPC to compile data on training needs and assist in the development of training programs in NYS. If travel to such training is by automobile, then the mileage allowance for such travel cannot exceed the rate set by the federal government for federal income tax purposes. **This legislation is intended to create a procedure whereby the chief of the fire company notifies the municipal corporation that it serves of the out-of-state training needs and the municipal corporation acknowledges such needs.**

Question: If a trade show or conference is offered in state, will an officer be allowed to attend a similar show out of state? For example, the NYSAFE vs. IAFE Conference?

Answer: If a training school or course of instruction is located or given outside New York State, the authorization to attend must be granted by the board of fire commissioners if they find that the school or course is necessary and in the public interest, and is not available within a reasonable distance and time period in the State.

If a volunteer travels to a training school or course of instruction using his or her personal automobile, the mileage allowance that the district may provide must not exceed the standard travel allowance for mileage adopted or prescribed for federal income tax purposes. In addition, the chief of the fire district must provide to the State Office of Fire Prevention and Control notice and proof of attendance at any out-of-state training school.

Question: At what point is the line drawn between out of state training and a conference out of state that offers several different training sessions/seminars?

Answer: The Chief approves the necessary training and the governing board of the municipal corporation must find that the training is necessary.

Question: In a village owned fire department with no formal board of commissioners, I believe the village trustees assume the role of the fire commissioners, are they required to attend the fire commissioner training?

Answer: No. The Fire Commissioner mandatory training applies only to elected fire district commissioners.

Question: What requirements are there for a volunteer fire chief?

Answer: The law does not require fiscal training for a fire chief.

Travel to Conferences

This law took effect July 26, 2006. Travel to conferences must be for official business and requires use of a cost-effective and reasonable method of travel. If the most cost-effective method of travel is by automobile, then the mileage allowance for such travel cannot exceed the rate set by the federal government for federal income tax purposes. This law is currently in effect.

The term "cost-effective" is intended to mean, for example, that flying to a conference in Florida for \$300 is more cost effective than driving to the same conference in Florida for \$1000.

Question: How do you calculate hotel prices and food per person per day for travel inside and outside of NY State?

Answer: Per diem and lodging rates are established by the Internal Revenue Service (IRS). If a volunteer travels to a training school or course of instruction using his or her personal automobile, the mileage allowance that the district may provide must not exceed the standard travel allowance for mileage adopted or prescribed for federal income tax purposes.

Question: Is attending a two day spring conference a fire district authorized expense for a firefighter representing a fire department.

Answer: Yes.

Question: Which mileage rate will be used, business rate, charitable rate or the IRS rate?

Answer: If a volunteer travels to a training school or course of instruction using his or her personal automobile, the mileage allowance that the district may provide must not exceed the standard travel allowance for mileage adopted or prescribed for federal income tax purposes by the IRS.

Question: Training out of state, The National Fire Academy in Maryland may be cheaper (taxpayer money) than going to Montour Falls and is available prior to the National Hand off to states. Should the districts/departments use the NFA (Maryland) if less expensive from a tuition and travel standpoint?

Answer: The intent of the law was to create an awareness regarding out of state travel and to determine if it is necessary. The report to OFPC is to catalog the courses being

taken and to make the information available in an effort to develop appropriate courses to be made available inside of NY State.

Question: Training inside NYS OFPC vs. sending students, instructors and executives to a Fire Department Instructors Conference (Indianapolis, IN) NFPA conference/training, IAFC Hazmat team conference (Maryland). This allows training with students from all around the country as well as international students at one event for prospective other than just OFPC available course?

Answer: These are good examples of training and education that the sponsor of this legislation did not intend to curtail by this law.

Question: Are trade shows considered training?

Answer: There is valuable current information made available at trade show. A chief can make a determination that a trade show could be considered training.

Question: What does cost effective travel to a conference mean?

Answer: Cost effective is a comparative term. Flying to a conference for three hundred dollars is more cost effective than driving for a thousand dollars.

Governance Training

This law took effect January 22, 2007. OSC is required to develop a training curriculum relating to fire district management. OSC is responsible for developing training materials that will address legal, financial, fiduciary, procurement and ethical responsibilities. These materials will be made available to fire companies upon request. It is intended to make these training materials available to fire companies only for informational purposes. Under this legislation, no training is required of fire company officers at this time.

ASSOCIATION OF FIRE DISTRICTS OF THE STATE OF NEW YORK FIRE DISTRICT 2006-2007 GOOD GOVERNANCE LAWS

Capital Reserve Accounts

This bill became law on January 1, 2007. The OSC in its publication entitled "Financial Information for Fire District Officials", has one chapter set aside for reserve accounts. This law amends Section 6-g as it presently exists in the General Municipal Law so as to require that any resolution of the Board of Fire Commissioners authorizing the establishment of a reserve fund shall not take effect until a proposition has been submitted to the qualified electors residing within the district. The resolution and notice to the electors shall contain an abstract of such resolution concisely stating the purposes and effect thereof. The fire district secretary shall prepare such abstract with the advise of the attorney for the fire district, and forthwith transmit that proposition to the Board of Fire Commissioners in the form in which it shall be submitted at such annual or special election of such fire district. Expenditures from the reserve fund shall continue to be subject to a permissive referendum. This amendment to the present 6-g will require additional duties and place additional responsibilities on the Secretary relative to notification of the availability of a permissive referendum.

Fire Districts Special Elections

This law took effect July 26, 2006. This law amends the Town Law of the State of New York. Specifically, subdivision 3 of Section 179 would be amended so that all special elections in fire districts would be conducted on a Tuesday provided that such date is not a public holiday and shall be conducted and scheduled in a manner that maximizes voter participation. As voters of the State of New York and of the United States, we have become accustomed to holding all elections on Tuesdays. Tuesdays have almost become a National day of election. Fire districts are required to hold their annual elections of their Commissioners on the second Tuesday in December. By restricting special elections in fire districts to Tuesdays, it will provide more transparency to the governance issues of fire districts. The requirement of the statute is that it would be conducted so as to maximize voter participation. To maximize voter participation, it

would be anticipated that Boards of Fire Commissioners would post notices of their elections on their bulletin boards outside the firehouse if they have one, on any signs that they may have outside of the firehouse and on their website if they have one.

Audits of Fire Districts

This law took effect July 26, 2006 for districts with revenues of \$1 million dollars or more in 2007, Districts with revenue of \$500,000 or more in 2008 and with districts with revenue less than \$500,000 beginning in 2009. This law amends both the Town Law and the General Municipal Law to require fire districts with annual budgets in excess of \$200,000 to have an annual audit of its records by an independent CPA or independent public accountant. Copies of the report shall be filed with both the Town in which the fire district is located and with the New York State Comptroller's Office. It shall be furnished within 180 days after the end of the fiscal year of the district. Districts with budgets of less than \$200,000 shall report the district's financial conditions and resources to the New York State Comptroller's Office on a form prescribed by him/her. This portion of the new legislation is very similar to what already happens. Fire districts shall also be required to request proposals for the conducting of such annual audits. This law requires that new RFP's be solicited every five (5) years. The statute also requires that the district file a corrective action plan in response to any findings contained in the annual external audit. This, once again, is very similar to what is already required.

Fire Districts Code of Ethics

This law takes effect June 1, 2007. This law will require Boards of Fire District Commissioners to adopt a Code of Ethics. Presently, Boards of Fire Commissioners who are elected officials are subject to conflict of interest statutes as set out in Article 18 of the General Municipal Law. There is a directive that the Office of the State Comptroller prepare a model Code of Ethics which those Boards who do not wish to draft their own could adopt. This model code is available on OSC's website. www.osc.state.ny.us

Budget Hearing

This law took effect January 1, 2007. This law amends the Town Law requiring fire districts to hold public hearings before submitting their budgets to the Town. It amends specifically Section 105 of the Town Law to add a new subparagraph 3 requiring that fire districts conduct a public hearing on the third Tuesday in October after appropriate notices. At such hearing, any person may be heard in favor of or against the proposed budget as compiled. This law does not require public votes on fire district budgets.

Notice Procedures – Hearings and Elections

This law took effect January 1, 2007. This law amends the Town Law in relation to the posting of notices of hearing and elections in fire districts. Notices of all public hearings and elections will need to be posted on the fire district's website if one exists and on any sign board that the fire district might maintain. A copy of the notice shall also be forwarded to the Town or Towns in which the fire district exists so that it can also be posted on the Town's website if one exists. Fire districts are presently required under the Open Meetings Law to notify all members of the public as to any meetings. The requirement that the notice also be posted on the website and on any sign boards that may be in front of the fire district or on the Town's website is just an extension of the requirement under the Open Meetings Law.

Fire Commissioner Mandatory Training

This law took effect January 1, 2007. This law amends the Town Law to require Fire District Commissioners to undergo mandatory training. The Association of Fire Districts has had a long history of providing training to Fire District Commissioners, Secretaries and Treasurers. During the course of the last five years, the Association of Fire Districts in conjunction with the New York State Comptroller's Office has conducted eight teleconferences. In addition, there have been five annual meetings and five annual workshops at which various topics have been presented

including discussions relative to travel, budgets, Open Meetings Law, etc. This law is an extension of that training concept and requires the State Comptroller to promulgate rules and regulations necessary to implement this training curriculum.

LOSAP – OSC to Obtain and Disclose Provider Information on Website

This law took effect January 22, 2007. This law requires the administrators of Service Award Programs to provide to the State Comptroller information to be placed on the Comptroller's website relative to the cost of their various programs including fees and commissions, the rate of return for the past one, three, five and ten year periods, the length of time that the company has been in business, information regarding management stability, description of investment structure, statement of the investment philosophy and a list of all the representatives and relationships to any program sponsor.

LOSAP – OSC to Administer Parallel Program

This law takes effect June 1, 2007. This law creates an optional state administered volunteer firefighters service award program under rules promulgated by the OSC. It would not be a state take over of existing programs but creates another option for fire districts.

Question: It was said, that the only mandate on creating new reserves was that they be approved at an election. Does this mean that once new reserve funds have been created you no longer have to ask by permissive referendum to use the money accumulated? What about old reserve funds created before the legislation?

Answer: Capital reserve funds are established by fire districts (and other local governments) to accumulate money for large purchases in the future. The board of fire district commissioners may establish two different kinds of capital reserve funds:

“Specific” Fund: The construction, reconstruction or acquisition of a specific capital improvement or the acquisition of a specific item or specific items of equipment. For example, a specific fund might be established for the future purchase of a certain fire truck.

“Type” Fund: The construction, reconstruction or acquisition of a type of capital improvement or the acquisition of a type of equipment. For example, a type fund might be established for future acquisitions of firefighting equipment and apparatus.

What is required to establish a new “specific” capital reserve fund?

Effective January 1, 2007, the board of fire commissioners must adopt a resolution establishing a specific fund, subject to mandatory voter referendum.

What is required to establish a new “type” capital reserve fund?

Effective January 1, 2007, the board of fire commissioners must adopt a resolution establishing a type fund, subject to mandatory voter referendum.

When do these requirements take effect?

The requirements pertaining to establishing new capital reserve funds take effect January 1, 2007.

What is required to spend money from a “specific” or “type” capital reserve fund?

Expenditures from specific capital reserve funds – old or new – can only be made following the adoption of a resolution by the board of fire commissioners. These resolutions are not subject to referendum.

Expenditures from type capital reserve funds – old or new – can only be made following the adoption of a resolution, subject to permissive referendum.

What is a permissive referendum?

When a resolution is subject to permissive referendum, a fire district must comply with certain public notice requirements. Voter approval is not required, however, unless a fire district receives from resident taxpayers a timely petition, meeting

statutory requirements, protesting the resolution and requesting that it be submitted to the voters for their approval or disapproval. If the district does not receive a timely and valid petition, the resolution takes effect without actually being submitted to the voters.

Do these restrictions apply to capital reserve funds that were established prior to January 1, 2007?

The only change that the new law makes is with respect to the procedure for establishing capital reserve funds, by requiring a mandatory referendum. The new procedure does not apply to reserve funds established prior to January 1, 2007.

Code of Ethics of the [Insert Name] Fire Department/ Company

Section 1. Purpose.

Officers and employees and the members of the fire department/company, hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. In furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. This code of ethics establishes those standards.

Section 2. Definitions.

(a) "Employee" means a paid employee of the fire department/company including, but not limited to, paid firefighters.

(b) "Family member" means a parent, sibling, spouse, child, uncle, aunt, first cousin, or household member.

(c) "Fire department/company" means the [insert name].

(d) "Interest" means a direct or indirect monetary, financial or other material benefit, but does not include any benefit arising from the provision or receipt of fire protection or other emergency services generally available to the residents of the area served. A person is deemed to have an interest in the contracts of any firm, partnership or corporation of which he or she is an owner, partner, director, officer, employee or stockholder.

(e) "Fire department/company member" means a volunteer member of the fire

department/company. The official powers and duties of a fire department/company member refers to the individual's powers and duties under laws, under rules or bylaws adopted by the fire department/company.

(f) "Officer" means a person serving as a paid or volunteer officer of the fire department/company including, but not limited to, the president, vice president, treasurer, secretary, and the chief and assistant chiefs of the fire department/company

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Section 3. Applicability.

This code of ethics applies to the officers and employees and to the members of the fire department/company. The provisions of this code of ethics shall apply in addition to all laws, rules or regulations or bylaws of the fire department/company.

Section 4. Appearance of impropriety.

No officer, employee or member of the fire department/company shall create an appearance of impropriety, by giving the impression that he or she will exercise or perform his or her official duties on the basis of family, private business or social relationships, or any consideration other than the welfare of the fire department/company.

Section 5. Use of position for personal or private gain.

(a) No officer or employee or no member of the fire department/company, may use his or her position to secure unwarranted personal or private gain for himself or herself, or for any other person or any organization. Unwarranted personal or private gain does not include any payment, benefit or opportunity that is available to any of the following groups of people:

- (1) all of the members of a fire department/company;**
- (2) the general public.**

(b) No member of the fire department/company, may use or permit the use of fire department/company resources for personal or private purposes. Fire department/company resources include, but are not limited to, use of personnel, or use of the money, vehicles, equipment, materials, supplies or other property.

(c) No officer or employee of the fire department/company, and no member of the fire department/company, shall cause the fire department/company to spend more than is reasonably necessary for transportation, meals or lodging

in connection with official travel.

Section 6. Disclosure of interest in legislation.

(a) Every officer and employee of the fire department/company, and every member must disclose the nature of any interest, in any matter coming before the elected officers of the fire department/company for action, which any of the following people have:

(1) the officer, employee or fire department/company member;

(2) a family member of the officer, employee or fire department/company member; or

(3) a family member of the spouse of the officer, employee or fire department/company member.

(b) For purposes of this section, a “matter coming before the officers of the fire department/company for action” means a motion, resolution or any other issue or question requiring a vote of the board.

(c) The disclosure required by this section must be in writing and must be made publicly to the elected officers of the fire department/company. The officers must cause the disclosure to be included in the minutes of the meeting at which the disclosure is made.

(d) Disclosure is not required with respect to interests in the following actions by the officers of the fire department/company:

(1) adoption of the fire department/company’s annual budget;

(2) authorization of lawful compensation for services as an officer or employee;

(3) authorization of lawful payment or reimbursement for actual and necessary expenses incurred by an officer, employee or fire department/company member in the performance of his or her official duty; or

(4) authorization of lawful benefits to the members of the fire department/company including, but not limited to, service awards, group life insurance, and benefits under the Volunteer Firefighters Benefit Law.

Section 7. Recusal and abstention.

(a) Except as otherwise required by law, no officer or employee of the fire department/company, and no member of the fire department/company, may participate in the discussion or vote on any matter, or exercise or perform any other official powers or duties in connection with, any matter, when any of the following people have an interest in the matter:

(1) the officer, employee or fire department/company member;

(2) a family member of the officer, employee or fire department/company member; or

(3) a family member of the spouse of the officer, employee or fire department/company member.

(b) In the event that subdivision (a) of this section prohibits an officer, employee or fire department/company member from exercising or performing his or her official powers or duties:

(1) if the officer has a deputy who is not prohibited by subdivision (a) from exercising or performing the power or duty, the deputy shall exercise or perform the power or duty; or

(2) in all other cases, the officer, employee or fire department/company member must refer the matter to his or her immediate supervisor or, if the person does not have an immediate supervisor, the officer, employee or fire department/company member must refer the matter to the elected officers of the fire department/company.

(c) When a matter is referred to a person's immediate supervisor or to the elected officers pursuant to subdivision (b) of this section, the power or duty shall be exercised or performed by the immediate supervisor or the elected officers. The supervisor or elected officers may delegate the power or duty to one or more persons who are authorized to perform the function and not prohibited from doing so by subdivision (a) of this section.

(d) This section does not prohibit an officer, employee or fire department/company member from performing a mandatory function that does not require the exercise of

discretion.

Section 8. Holding of investments in conflict with official duties.

(a) No officer or employee of the fire department/company, and no member of the fire department/company may hold the following investments:

(1) personal investments that will be directly affected by the exercise or performance of the person's official powers and duties; or

(2) personal investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties.

(b) This section does not prohibit an officer, employee or fire department/company member from owning any of the following assets:

(1) real property located within the fire department/company or any other area served by the fire department/company and used as his or her personal residence;

(2) less than five percent of the stock of a publicly traded corporation; or

(3) bonds or notes issued by the fire department/company and acquired more than one year after the date on which the bonds or notes were originally issued.

Section 9. Private employment in conflict with official duties. – Should be reviewed on OSC's website to determine applicability.

Section 10. Future employment. – Should be reviewed on OSC's website to determine applicability.

Section 11. Confidential Information. – Should be reviewed on OSC's website to determine applicability.

Section 12. Gifts. – Should be reviewed on OSC's website to determine applicability.

Section 13. Board of Ethics. – Should be reviewed on OSC's website to determine applicability.

Section 14. Posting and distribution.

(a) The officers of the fire department/company must promptly cause a copy of this code of ethics, and a copy of any amendment to this code of ethics, to be posted publicly and conspicuously in each building under the fire department/company's control.

(b) The president of the fire department/company or chief must promptly cause a copy of this code of ethics, including any amendments to the code, to be distributed to every person who is or becomes an officer and employee, or a member of the fire department/company.

(c) See OSC model code for fire districts. Language should be reviewed for applicability. Could be optional.

(d) See OSC model code for fire districts. Language should be reviewed for applicability. Could be optional.

Section 15. Enforcement. – Should be reviewed on OSC's website for applicability.

Section 16. Effective date.

This code of ethics takes effect on the first day of June, two thousand seven.