

**BOROUGH OF NEW MILFORD
ORDINANCE NO. 2020:08**

**AN ORDINANCE TO AMEND CHAPTER II OF THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF NEW MILFORD ENTITLED ‘POLICE
DEPARTMENT’, THEREBY REMOVING SUBSECTION 2-19.7a.4, ENTITLED
“DEPARTMENT RULES”; SUBSECTION 2-19.7b, ENTITLED “DEFINITIONS”; AND
SUBSECTION 2-19.7d, ENTITLED “RULES OF CONDUCT”**

WHEREAS, the New Milford Police Department is currently pursuing accreditation with the assistance of the Rodgers Group; and

WHEREAS, the Rodgers Group has recommended the removal of sections 2-19.7a.4, 2-19.7b and 2-19.7d from the Revised General Ordinances of the Borough of New Milford as they are redundant and may conflict with the department rules and regulations; and

WHEREAS, Chief Clancy is in agreement with the recommendation to remove the above referenced sections; and

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of New Milford that the following subsections of ordinance 2-19 be removed:

2-19.7 New Milford Police Department Rules and Regulations.

a. Establishment of Police Department Rules and Regulations.

4. Department Rules.

- (a) Rules and regulations established. The appropriate authority of the Borough of New Milford hereby adopts and promulgates the Department Rules and Regulations, known as the New Milford Police Department Rules and Regulations and after this called the "Rules."
- (b) Right to amend or revoke. In accordance with N.J.S.A. 40A:14-118, the right is reserved by the appropriate authority to amend or to revoke any of the rules contained herein.
- (c) Previous rules, policies and procedures. All rules previously issued, and policies and procedures that are contrary to the rules contained herein, are hereby revoked. All other policies and procedures shall remain in force.
- (d) Application. These rules are applicable to all police officers of the Department and to all civilian employees of the Department where appropriate.
- (e) Distribution. One copy of these rules shall be distributed to each employee of the Department.

- (f) Responsibility for maintenance. Employees shall be responsible for maintaining a current copy of the rules, including all additions, revisions and amendments as issued.
- (g) Familiarization. Employees shall thoroughly familiarize themselves with the provisions of the rules. Ignorance of any provision of these rules will not be a defense to a charge of a violation of these rules.

b. Definitions.

1. *Authority* – Shall mean the right to issue orders, give commands, enforce obedience, initiate action and make necessary decisions commensurate with rank or assignment as provided for in the Department rules, policies and procedures. Authority may be delegated by those so designated. Acts performed without proper authority or authorization shall be considered to be in violation of the rules.
2. *Chain of Command* – Shall mean vertical lines of communication, authority and responsibility within the organizational structure of the Department.
3. *Day Off* – Shall mean those days determined by the appropriate supervisor on which a given employee is excused from duty.
4. *Directive* – Shall mean a document detailing the performance of a specific activity or method of operation. "Directive" includes:
 - (a) General order. Broadly based directive dealing with policy and procedure and affecting one or more organizational subdivisions of the Department.
 - (b) Personnel order. A directive initiating and announcing a change in the assignment, rank or status of personnel.
 - (c) Special Order. A directive dealing with a specific circumstance or event that is usually self-canceling.
5. *Employee* – Shall mean all employees of the Department, whether sworn regular or civilian employees.
6. *May/Should* – As used herein words "may" and "should" mean that the action indicated is permitted.
7. *Order* – Shall mean any written or oral directive issued by a supervisor to any subordinate or group of subordinates in the course of police duty.

8. *Policy* – Shall mean a statement of department principles that provides the basis for the development of procedures and directives.
9. *Procedure* – Shall mean a written statement providing specific direction for performing Department activities. Procedures are implemented through policies and directives.
10. *Shall/Will* – The words "shall" and "will" as used herein, shall indicate that the action required is mandatory.
11. *Supervisor* – Shall mean employee assigned to a position requiring the exercise of immediate supervision over the activities of other employees.

d. Rules of Conduct.

1. General Conduct.

- (a) Performance of duty. All employees shall promptly perform their duties as required or directed by law, Department rule, policy or directive, or by lawful order of a superior officer.
- (b) Action off duty. While off duty, police officers shall take appropriate action as needed in any police matter that comes to their attention within their jurisdiction as authorized by New Jersey law and Department policy.
- (c) Obedience to laws and rules. Employees shall obey all laws, ordinances, rules, policies, and procedures and directives of the Department.
- (d) Withholding information. Employees shall report any information concerning suspected criminal activity of others.
- (e) Reporting violations of law or rules. Employees knowing of other employees violating laws, ordinances, or rules of the Department, shall report same in writing to the Chief of Police through official channels. If the 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.
- (f) Insubordination. Employees shall not:
 - (1) Fail or refuse to obey a lawful order given by a supervisor;
 - (2) Use any disrespectful or abusive language or action toward a supervisor.

- (g) Conduct toward other Department employees. Employees shall treat other Department employees with respect. They shall be courteous and civil at all times in their relationships with one another. When on duty and in the presence of the public, officers should be referred to by rank.
- (h) Compromising criminal cases. Employees shall not interfere with the proper administration of criminal justice.
- (i) Recommending attorney and bail bond brokers prohibited. Employees shall not suggest, recommend, or advise the retention of any attorney or bail bond broker to any person as a result of police business.
- (j) Posting bail. Employees shall not post bail for any person in custody, except relatives.
- (k) Use of force. Employees shall follow Department policy and procedure on the use of force.
- (l) Physical fitness. Police officers shall maintain good physical condition so that they can handle the strenuous physical activities often required of a law enforcement officer.
- (m) Driver's license. Employees operating Department motor vehicles shall possess a valid New Jersey driver's license. Whenever a driver's license is revoked, suspended, or lost, the employee shall immediately notify the appropriate supervisor giving full particulars.
- (n) Address and telephone numbers. Employees are required to have a telephone in the place where they reside. Changes in address or telephone number shall be reported in writing to the appropriate supervisor within 24 hours of the change.

2. Orders.

- (a) Issuing orders.
 - (1) Manner of issuing orders. Orders from a supervisor to a subordinate shall be in clear and understandable language.
 - (2) Unlawful orders. No supervisor shall knowingly issue any order which is in violation of any law or ordinance.
 - (3) Improper orders. No supervisor shall knowingly issue any order which is in

violation of any Department rule, policy, or procedure.

(b) Receiving orders.

- (1) Questions regarding orders. Employees in doubt as to the nature or detail of an order shall seek clarification from their supervisors by going through the chain of command.
- (2) Obedience to unlawful orders. Employees are not required to obey any order which is contrary to any law or ordinance. Responsibility for refusal to obey rests with the employee, who will be required to justify the refusal to obey.
- (3) Obedience to improper orders. Employees who are given any order which is contrary to Department rule, policy, or procedure must first obey the order to the best of their ability, and then report the improper order as provided.
- (4) Conflicting orders. Upon receipt of an order conflicting with any previous order, the employee affected will advise the person issuing the second order of this fact. Responsibility for countermanding the original order rests with the individual issuing the second order. If so directed, the latter order shall be obeyed first. Orders will be countermanded, or conflicting orders will be issued, only when reasonably necessary for the good of the Department.
- (5) Reports of unlawful or improper orders. An employee receiving an unlawful or improper order shall, at first opportunity, report in writing to the next highest ranking supervisor above the supervisor who issued the unlawful or improper order. Action regarding such a report shall be conducted by the Chief of Police.
- (6) Criticism of official acts or orders. Employees shall not criticize the actions or orders of any Department employee in a manner which is defamatory, obscene, or which tends to impair the efficient operation of the Department.

3. Police Records and Information.

- (a) Release of information. Employees shall not release any information nor reveal any confidential business of the Department to the public or the press except as provided in Department policy and procedure.
- (b) Department records. Contents of any record or report filed within the Department shall not be exhibited or divulged to any person other than a duly authorized police officer, except with the approval of the appropriate supervisor, or under due process of law, or as permitted under Department policy and procedures.

- (c) Reports. No 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.

4. Gifts, rewards, etc.

- (a) Soliciting or accepting benefits. Employees shall not directly or indirectly solicit, accept or agree to accept any benefit not allowed by law to influence the performance of their official duties.
- (b) Rewards. Employees shall not accept any gift, gratuity, or reward in money or other compensation for services rendered in the line of duty, except that which may be authorized by law and Department policy.
- (c) Disposition of unauthorized gifts, gratuities. Any unauthorized gift, gratuity, loan, fee, reward, or other object coming into the possession of any employee shall be forwarded to the Chief of Police together with a written report explaining the circumstances.

5. Alcoholic Beverages and Drugs.

- (a) Consuming alcoholic beverages before duty. Employees shall not consume alcoholic beverages within four hours prior to reporting for duty.
- (b) Being under the influence. Employees shall not report for duty under the influence of any alcoholic beverage.
- (c) Consuming alcoholic beverages on duty. Employees of the Department shall not consume any alcoholic beverage while on duty.
- (d) Exception. Employees while assigned to duty in civilian clothes may consume alcoholic beverages only if such consumption:
 - (1) Is absolutely necessary in the performance of duty; and
 - (2) Has been approved by the appropriate supervisor; and
 - (3) Does not render the employee unfit for proper and efficient performance of duty.
- (e) Consuming alcoholic beverages off duty in uniform. Employees shall not consume alcoholic beverages while off duty and in uniform or any recognizable component of the uniform.

- (f) Alcoholic beverages in police buildings. Alcoholic beverages shall not, at any time, be consumed in police buildings or facilities.
- (g) Supervisors' responsibility. Supervisors shall not assign to duty or allow to remain on duty any employee whose fitness for duty is questionable due to the use of alcohol or medication.
- (h) Possession of alcoholic beverages. Employees shall not have alcoholic beverages on their person while on duty or in uniform, nor in any Police Department building or vehicle, except for evidential or other authorized purpose.
- (i) Entering licensed premises. Employees in uniform shall not enter any licensed premises where alcoholic beverages are sold or stored, except in the performance of duty and in compliance with Department policy.
- (j) Taking medication on duty. Employees of the Department shall not take any medication which may diminish their alertness or impair their senses prior to or after reporting for duty unless directed by a physician.
- (k) Notification about medication. When employees are required to take any prescription medication or any nonprescription medication which may diminish their alertness or impair their senses, the employee shall notify their supervisor as to the medication required, its properties, the dosage and the period during which the employee is required to take the medication. This notification shall be by the prescribing physician. If the medication is a nonprescription drug the employee shall make this notification. The required notification shall be made prior to the employee reporting for duty. This information so provided shall be confidential.
- (l) All officers are aware that drug screening through urinalysis will be conducted when there exist facts that provide a reasonable objective basis to suspect that an officer is illegally using drugs in compliance with Departmental policy and procedure.
- (m) Any officer who has reasonable suspicion to believe that a fellow officer is illegally using drugs must immediately report that fact to the Chief of Police in compliance with Departmental policy and procedure.

6. Duty Conduct.

- (a) Reporting for duty. Employees shall report for duty at the time and place specified, properly uniformed and equipped.
- (b) Absence from duty. An employee who fails to appear for duty at the date, time, and

place specified without the consent of competent authority is absent without leave. Supervisors shall immediately report to their supervisor in writing any employee who is absent without leave.

- (c) Prohibited activity on duty. Employees who are on duty are prohibited from engaging in activities which are not directly related to the performance of their duty (for example, conducting private business, personal socializing, sleeping, gambling).
- (d) Smoking while on duty. Employees shall not smoke except in authorized areas. Employees shall not smoke on duty while in direct contact with the public.
- (e) Personal radios. The use of portable radios and any other form of entertainment other than equipment authorized by the Department is prohibited while on duty.
- (f) Relief. Employees are to remain at their assignments and on duty until properly relieved by other employees or until dismissed by competent authority.
- (g) Breaks and meal breaks. All breaks and meal breaks are to be taken within authorized areas, subject to modification by the supervisory officer.
- (h) Training. Employees shall attend training at the direction of the appropriate supervisor. Such attendance is considered a duty assignment, unless the prevailing collective bargaining agreement provides otherwise.
- (i) Inspections. Employees directed to attend full dress inspections shall report in the uniform prescribed, carrying the equipment specified. Unauthorized absence from such inspection shall be considered absence without leave.

7. Uniforms, Appearance and Identification.

- (a) Regulation uniforms required. All police officers and uniformed civilians shall maintain uniforms prescribed in Department policy and procedure. Uniforms shall be kept neat, clean and well-pressed at all times.
- (b) Manner of dress on duty. Employees shall wear the uniform or civilian clothing on duty as prescribed by Department policy and procedure for the employee's current assignment.
- (c) Wearing jewelry on duty. Personnel will not wear jewelry while on duty, unless in accordance with Departmental policy.
- (d) Personal appearance. Employees, while on duty, shall be neat and clean in person,

with uniform or clothes clean and pressed. This provision shall not prohibit non-uniform officers on duty from dressing appropriately for the conditions of their current assignment in accordance with Department policy.

- (e) Wearing or carrying identification. Employees shall wear or carry their Department identification at all times, provided that it is practical under the circumstances.
- (f) Identification as police officer. Except when impractical or where the identity is obvious, police officers shall identify themselves by displaying the official badge or identification card before taking police action.

8. Department Equipment and Property.

- (a) Equipment on duty. Employees shall carry all equipment on duty as prescribed in Department policy and procedure based on their assignment.
- (b) Equipment off duty. Employees shall carry equipment off duty as prescribed in Department policy and procedure based on their assignment.
- (c) Firearms. Employees shall follow Department policy and procedure on the care and handling of firearms.
- (d) Department property and equipment. Employees are responsible for the proper care of Department property and equipment assigned to them.
- (e) Use of department property and equipment. Employees shall not use any Department property or equipment for personal business or pleasure.
- (f) Damaged or inoperative property or equipment. Employees shall immediately report to their supervisors any loss of or damage to Department property assigned to or used by them. The supervisor shall also be notified of any defects or hazardous conditions existing in any Department equipment or property.
- (g) Care of department buildings. Employees shall not mark or deface any surface in any Department building. No material shall be affixed to any wall in Department buildings without specific authorization from the appropriate supervisor.
- (h) Notices. 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 the appropriate supervisor, except those areas designated for use by the collective bargaining units.

- (i) Use of department vehicles. Employees shall not use any Department vehicle without the permission of a supervisor.
- (j) Operation of department vehicles. When operating Department vehicles, employees shall not violate traffic laws except in cases of emergency and then only in conformity with State law and Department policy and procedure regarding same.
- (k) Transporting citizens. Citizens will be transported in Department vehicles only in conformance with Department policy.
- (l) Reporting accidents. Accidents involving Department personnel, property, equipment and vehicles must be reported in accordance with Department policy and procedure.
- (m) Inspection. Departmental property and equipment is and remains the property and is subject to entry and inspection without notice.
- (n) Liability. If Department property is damaged or lost as a result of misuse or negligence by an employee, that employee will be held liable to reimburse the Department for the damage or loss and is subject to disciplinary action.
- (o) Surrender of Department property.
 - (1) Upon separation from the department. Employees are required to surrender all Department property in their possession upon separation from the service. For failure to return an unexpendable item, the employee will be required to reimburse the Department for the fair market value of the article.
 - (2) Under suspension. Any employee under suspension shall immediately surrender their identification, firearm (if applicable), and all other Department property to the appropriate supervisor pending disposition of the case.

9. Communications, Correspondence.

- (a) Restrictions. Employees shall:
 - (1) Not use Department letterheads for private correspondence.
 - (2) Only send correspondence out of the Department under the direction of the appropriate supervisor.
- (b) Forwarding communications. Any employee who receives a written communication

for transmission to another employee shall forward same without delay.

- (c) Use of department address. Employees shall not use the Department as a mailing address for private purposes. The Department address shall not be used for any private vehicle registration or driver license.
- (d) Telephones. Department telephone equipment may not be used for personal use involving toll charges without the express approval of a supervisor.
- (e) Radio discipline. Employees operating the police radios shall strictly observe the procedures and restrictions for such operations as set forth in Department policy and procedure and by the Federal Communications Commission.

10. Conduct toward Public.

- (a) Courtesy. Employees shall be courteous and orderly in their dealing with the public. They shall perform their duties politely, avoiding profane language and shall always remain calm regardless of provocation.
- (b) Request for identification. Upon request, employees are required to supply their identification in a courteous manner.
- (c) Impartiality. Employees shall not exhibit bias or favoritism toward any person because of race, sex, sexual orientation, creed, color, national origin, ancestry, or influence.
- (d) Use of derogatory terms. Employees shall not use language that is derogatory to anyone because of race, sex, sexual orientation, creed, color, national origin, ancestry, or influence.
- (e) Affiliation with certain organizations prohibited. No employee shall knowingly become a member of any organization which advocates the violation of law, or which professes hatred, prejudice, or oppression against any racial or religious group or political entity, except when necessary in the performance of duty and at the direction of the Chief of Police.
- (f) Representing the Police Department. Employees shall not give public speeches or demonstrations on behalf of the Department, nor shall they endorse any product or service as a representative of the Department, without prior approval from the Chief of Police.

11. Political Activities.

- (a) Employees shall not be candidates for or hold office in elective public positions or political organizations within or inclusive of the jurisdiction in which they are employed unless authorized to do so by the County Prosecutor subject to provisions of the law governing the holding of such public office.
- (b) Employees may contribute funds or any other thing of value to candidates for public office subject to the provision of law governing such contributions.
- (c) Employees shall not engage in any political activity while on duty, or while in uniform, or at any other time if to do so would conflict with their duties or impair their ability to perform their duties.
- (d) Employees shall not directly or indirectly use or attempt to use their official position to influence the political activity of another person.
- (e) Employees shall not engage in any polling duties except in the performance of their official duties.
- (f) Employees shall not display any political material on any government property or on their person while on duty or in uniform.

12. Judicial Appearance and Testimony.

- (a) Duty of employee to appear and testify. Employees shall appear and testify on matters directly related to the conduct of their office, position or employment before any court, grand jury, or the State Commission of Investigation.
- (b) Subpoena. Employees must attend court or quasi-judicial hearings as required by a subpoena. Permission to omit this duty must be obtained from the prosecuting attorney handling the case or other competent court officials.
- (c) Court appearance. When appearing in court on Department business, employees shall wear either the Department uniform or appropriate business attire.
- (d) Testifying for the defendant. Any employee subpoenaed to testify for the defense or against the municipality or Department in any hearing or trial shall notify the appropriate supervisor immediately upon receipt of the subpoena.
- (e) Department investigations. Employees are required to answer questions, file reports, or render material and relevant statements, in a Departmental investigation when such questions and statements are directly related to job responsibilities. Employees shall be advised of, and permitted to invoke, all applicable constitutional and

statutory rights, including consultation with their designated representative.

- (f) Truthfulness. Employees are required to be truthful at all times whether under oath or not.
- (g) Civil action, subpoenas. Employees shall not volunteer to testify in civil actions arising out of Department employment and shall not testify unless subpoenaed. If the subpoena arises out of Department employment or if employees are informed that they are a party to a civil action arising out of Department employment, they shall immediately notify the appropriate supervisor.
- (h) Civil depositions and affidavits. Employees shall confer with the appropriate supervisor before giving a deposition or affidavit on a civil case relating to their police employment.
- (i) Civil action, expert witness. Employees shall not volunteer or agree to testify as expert witnesses in civil actions without the prior written approval of the county prosecutor.
- (j) Civil process. Employees shall not serve civil process or assist in civil cases unless such service is approved by the appropriate supervisor.

BE IT FURTHER ORDAINED that the remainder of this ordinance remains unchanged and that this amendment shall become effective upon passage and publication in accordance with law.