

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH
ORDINANCE NO. 10-XXXX**

ORDINANCE REPEALING ORDINANCE NO. 03-1110 AND REAFFIRMING THE ESTABLISHMENT OF THE POSITION OF CHIEF OF POLICE AND AMENDING CHAPTER 3-12.2 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF TINTON FALLS GOVERNING THE COMPOSITION OF THE BOROUGH'S POLICE FORCE

WHEREAS, pursuant to Borough Ordinance 03-1110, the position of the Chief of Police was designated as the Chief Commanding Officer of the Borough's police force so long as the individual serving at the time of the adoption of ordinance 03-1110 was serving in that capacity; and

WHEREAS, Gerald M. Turing served in such capacity until April 1, 2010, at which time the position of Chief of Police was left vacant and of uncertain existence upon his retirement as Chief of Police under Ordinance 03-1110; and

WHEREAS, N.J.S.A. 40A:14-118 authorizes municipalities to adopt ordinances providing for the "appointment of a chief of police, and such members, officers and personnel as shall be deemed necessary"

WHEREAS, pursuant to N.J.S.A. 40A:14-118 "[a]ny such ordinance . . . shall provide that the chief of police, if such position is established, shall be the head of the police force and that he shall be directly responsible to the appropriate authority for the efficiency and routine day to day operations thereof. . . ."

WHEREAS, the Appellate Division has held in *Reuter v. Borough Council of Fort Lee*, 328 N.J. Super. 547, 554 (App. Div. 2000), *aff'd in part, rev. in part*, 167 N.J. 38 (2001), and more recently following suit in *Loigman v. Middletown*, 409 N.J. Super. 13, 16 (App. Div. 2009), cert. denied, 200 N.J. 503 (2009) that "the type and number of police positions [must be] created by ordinance because of the importance and cost of police positions, the positions should be created only through the formality and public involvement attendant to the adoption of an ordinance . . . to inform the public of the approximate cost, based upon the maximum number of officers in each rank"; and

WHEREAS, it is recommended by the Borough Administrator and Director of Law that the following amendments be made to the Revised General Ordinances of the Borough of Tinton Falls to clarify the continued existence of the position of the Chief of Police, currently vacant, and to ensure conformance with current law governing the organization of municipal police forces.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Tinton Falls in the County of Monmouth, State of New Jersey that Borough Ordinance 03-1110 is hereby repealed in its entirety and Chapter 3-12.2 of the Revised General Ordinances of the Borough of Tinton Falls is hereby amended and supplemented as follows:

3-12.2. Composition of Force.

The Police Force shall consist of the following police officers appointed by the Mayor in the following descending rank and order of authority, provided such positions have been

filled by appointment pursuant to the terms of this chapter:

- a. Chief of Police (no more than 1)
- b. Captain (no more than ____)
- c. Lieutenant (no more than ____)
- d. Sergeants, as may be appointed from time to time (no more than ____)
- e. Patrolmen ~~Officers~~, as may be appointed from time to time (no more than ____)

Repealer.

All ordinances, or parts thereof, inconsistent with this ordinance are hereby repealed as to the extent of such inconsistency. Ordinance No. 03-1110 is repealed in its entirety.

Effective Date.

This ordinance shall take effect upon final passage and publication as provided by law.

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