

CITY OF CREOLA
ORDINANCE 2023-001

To provide for the organization and regulation of a volunteer fire department in the City of Creola to be known as THE FIRE DEPARTMENT OF THE CITY OF CREOLA, ALABAMA, prescribing the powers and duties of its officers and members; providing certain regulations the violation of which shall be unlawful; and prescribing penalties and punishment for such violations.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CREOLA

Section 1. Pursuant to the authority contained in Sections 11-43-140 through 11-43-144, Code of Alabama 1975, a department to be known as THE FIRE DEPARTMENT OF THE CITY OF CREOLA (hereinafter referred to as "the Department") is hereby established, and the duty of preventing and extinguishing fires and the protection of life and property within the City of Creola (and its police jurisdiction and the protected area assigned from time to time by the Mobile County 911 Board), as well as Emergency Medical Services, Rescue Services, hazardous materials response, and other services that may be required or requested from time to time by the Mayor and City Council within the aforementioned protected areas, is hereby delegated to the department, under the direction of a Chief as hereinafter set forth, and by and through the existing Volunteer Fire Department of the City of Creola. The organization and internal regulation of the department shall be governed by the provisions of this ordinance, and such by-laws adopted by the Volunteer Fire Department, with the approval of the City of Creola Council, except as otherwise provided by law or ordinance. The Department shall operate in conjunction with, and by and through, the Volunteer Fire Department of Creola, an unincorporated association, or such other volunteer fire department association as may be formed in the future, and approved by the Mayor and Council of Creola from time to time by resolution or contract.

Section 2. (a) The department shall consist of a chief, and such other officers or staff as may, in accordance with this Ordinance or the bylaws of the Volunteer Fire Department, be appointed or elected (as applicable) from time to time. The Department may also include such staff members as may be necessary from time to time, as approved by the City Council.

(b) The chief shall be appointed by the Mayor and City Council. The position of Fire Chief shall be a full time paid position with the City of Creola. At the discretion of the Mayor and Council, the Chief may be hired under and pursuant to the Rules and Regulations of the Mobile County Personnel Board, or such other merit system as may exist or be formed from time to time, or in the alternative, in the discretion of the Mayor and Council, may be retained by contract for a term not to exceed that of the Mayor. The Chief's tenure of office shall depend upon good conduct and efficiency, and any other rules and regulations governing and regulating such officers in the public service. If the Chief is hired pursuant to the rules and regulations of the Mobile County Personnel Board, or any other merit system procedure then in effect, then the Chief shall be compensated in an amount determined by the Mayor and Council, and in accordance with any published pay range set by such statutory or regulatory agency or rules and regulations, or set by the City Council. The fire chief shall be technically qualified by training and experience and shall have the ability to command fire personnel and hold their respect and confidence. The

qualifications of the Chief shall be established by the Mayor and City Council of the City of Creola prior to the position being filled. The fire chief shall be removed only during his working test period, or thereafter for just cause by the Mayor in accordance with the Rules and Regulations of the Mobile County Personnel Board (or such other merit system as may be in force at the time), or, in accordance with any contract of employment. Nothing contained herein is intended to impact or negate the volunteer status of any volunteer fire department member.

(c) The City shall have the authority to require physical and/or mental fitness examinations for volunteer fire department members at intervals established by the City and/or the Chief for members other than the Chief. Continued membership in the Creola Volunteer Fire Department is predicated on the ability of volunteer firefighters to physically and mentally perform the requirements of the position as established by the Chief, or the State Fire Marshall.

(d) Any person desiring to become a member of the Volunteer Fire Department may file, with the Chief an application in such form as the City Council may require. Each applicant shall also file a certificate of physical fitness from such physician as the chief may designate for any such position applied for. The name of the applicant approved by the chief as provided in the by-laws shall be presented to the City Council for confirmation. Any applicant consents to a background investigation being performed by the City to determine the moral fitness of the applicant to serve in the applicable position.

(e) (1) The assistant chief(s) shall be appointed by the fire chief from qualified candidates who are current members of the department. If no such persons exist, the Chief may appoint such qualified Assistant Chief(s) from outside the Department, provided such candidates apply for membership and are admitted as members. Such Assistant Chief(s) shall be accountable to the Fire Chief and shall be subject to demotion or expulsion by the Chief for neglect or refusal to perform their departmental duties. The by-laws of the Creola Volunteer Fire Department may also provide expulsion for failure to participate in departmental activities or for non-residence. All captains or Lieutenants shall be elected by the membership of the volunteer fire department, and shall be accountable to their respective superior officers.

(2) No member of the Volunteer Fire Department shall be eligible for departmental or company offices unless that person is a resident of Creola, or its police jurisdiction, or who is a resident of an adjoining community approved by the Chief, and except for the initial appointments under this ordinance, has not been a member of the department for at least two years.

(3) All resignations from the department shall take the same course as applications for appointment to membership

(f) The Chief may organize the department into companies, and make such other appointments and transfers consistent with this Ordinance, as he she deems necessary from time to time.

(g) In case of any vacancy, the chief shall appoint a member in good standing to fill any office until the next annual meeting.

Section 3. The Department is hereby authorized and directed to adopt by-laws for the control, management, government and regulation of the business and proceedings of the Creola Volunteer Fire Department, which by-laws, after adoption by a two thirds vote of the members of the department, shall not become effective and operative until presented to and approved by the City Council. Amendments to the by-laws shall be adopted and approved in the same manner.

Section 4. The Mayor and Council may appropriate funds to provide for the necessary training and operation of the Department, and for the purchase of firefighting and other apparatus and equipment to be used by the department in any permitted or required function of the Department within the protected area, as the Mayor and Council may deem expedient and necessary to maintain efficiency and properly protect life and property from fire, hazardous materials, and to provide for emergency medical and other response. Any firefighting or other apparatus and equipment to be used by the Department shall remain the property of the City of Creola, Alabama.

Section 5. The officers and members of the Department may receive such compensation or reimbursement from the City of Creola as the Council may fix from time to time, provided that such compensation may not negatively impact or alter the volunteer status of the volunteer firefighters.

Section 6. Powers and Duties of the Chief.

(a) The Fire Chief shall have the general supervision of the department, which shall be subject to and not conflict with this ordinance and which may be consistent with the by-laws of the Volunteer Fire Department. The chief shall be responsible for establishing safety measures for the protection of the volunteer members of the Creola Volunteer Fire Department. Volunteer Fire Department members are not to be considered nothing contained herein is intended to establish any employee or agency status between the City and any Volunteer Fire Department member. Rather, such members shall remain Volunteers, as that term is included in Code of Alabama (1975) §6-5-336.

(b) It shall be the duty of the chief to preside over all meetings of the department, or to designate individuals to preside over such meetings, to call special meetings, and to enforce a rigid observance of this ordinance and any policies or procedures which the Chief may implement from time to time.

(c) It shall be the duty of the chief or a designated or on duty Assistant Chief to be present at all fires, and to have complete command and entire responsibility of all firefighting operations, to plan the control of the same, to direct the action of the firefighters and other volunteers when they arrive at the fire, to observe that every company does its duty, to grant leaves of absence at a fire when he may deem it proper, and to see that the fire apparatus and other equipment is kept in proper condition at all times. In the absence of a Chief, Assistant Chief, or designated senior officer at an incident, the senior captain or other member of the fire department shall assume command of all responsibilities outlined in this subsection of this section of this Ordinance.

(d) The chief shall have the power to demote or expel any volunteer officer or volunteer member of the department for neglect or refusal to perform his duties. The by-laws of the Volunteer Fire Department may also provide for expulsion by the membership for failure to participate in departmental activities or for non-residence, or for such other reasons, including conduct adversely reflecting on the Department or the City, as the membership may elect. In any event, the Chief shall have authority to expel or demote any volunteer member if the Chief determines that the conduct of such member reflects adversely on the City, or in anyway subjects the City to anticipated liability.

(e) Not later than the first day of October of each year, the chief shall file with the municipal clerk a detailed estimate of the appropriations needed for the conduct of the department during the ensuing fiscal year.

(f) It shall be the duty of the chief to submit a report to the council monthly detailing the number of responses and the number of responding personnel for the previous month. The chief shall also submit a report of any upcoming expenses for approval, the condition of apparatus, personnel changes, or other pertinent information to the council as needed or requested.

(g) The Chief shall enforce all fire prevention ordinances of this municipality and the state laws and regulations pertaining to fire prevention, and shall keep citizens informed on fire prevention methods, and on the activities of the department.

(h) The Chief shall keep updated and appropriate records of every fire or other departmental response to which any company or members were called and shall enter into such records the location of the fire or other type response call, time the alarm or call was received, cause of any fire, where fire started, cause of delay (if any) in responding, amount of insurance carried on building and contents, estimated fire loss, time fire was extinguished, names of men responding and general remarks. In addition, such records shall be maintained and updated regularly regarding any hazardous material calls or EMS calls.

(I) The Chief shall keep an inventory of all apparatus and equipment, and an inventory of all hoses showing dates and results of tests on each length, which shall be individually numbered.

(j) The Chief shall perform such other duties as are usually incumbent on the commanding officer of the fire department.

(k) The Chief shall assist the proper authorities in suppressing the crime of arson by investigating the cause, origin and circumstances of all fires.

Section 7. Control and Care of Apparatus.

(a) (1) The chief shall have control of all City owned apparatus and equipment used by the department, and shall be responsible for its proper maintenance. Emergency repairs may be authorized by the chief, in accordance with expenditure policies set by the Mayor and Council from time to time.

(2) Absent approval by the Chief, no apparatus shall be used for any purpose except for firefighting, EMS and other emergency responses that are within the municipal limits, the police jurisdiction or the Protected Area, or in training therefor, except pursuant to an agreement approved by the council after the chief has given his recommendations on such use. With the approval of the chief, such apparatus may be used for emergency purposes outside the City or the police jurisdiction. A written report of all uses shall be made quarterly to the council. Response to mutual aid requests are understood to have the approval of the Chief.

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Section 8. Police Power of Department.

(a) Any officer of the department may cause the prosecution of any person failing to give the right of way to the fire department in responding to a fire, after first executing a sworn complaint in the presence of a duly authorized magistrate.

(b) The fire chief may prescribe certain limits in the vicinity of any fire or emergency scene within which no persons, except firefighters and police officers and those admitted by order of any officer of the department, shall be permitted to come. The chief shall have the power to order the removal of any property whenever it shall become necessary for the preservation of such property from fire, or to prevent the spreading of fire, or to protect the adjoining property, and during the progress of any fire, the chief shall have the power to order the removal or destruction of any property necessary to prevent the further spread of the fire. The chief shall also have the power to cause the removal of all wires or other facilities and the turning off of all electricity or other services where the same impedes the work of the department during the progress of a fire.

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The Chief maintains the same powers to control any other type of emergency scene with regard to people or property.]

(c) Firefighters may enter adjacent property. It shall be lawful for any firefighter while acting under the direction of the fire chief or other officer in command to enter upon the premises adjacent to or in the vicinity of any building or other property then on fire for the purpose of extinguishing such fire; and if any person shall hinder, resist or obstruct any firefighter in the discharge of his duties as is hereinabove provided, the person so offending shall be deemed guilty of resisting firefighters in the discharge of their duty, and may be punished upon conviction in accordance with the provisions of this ordinance..

(d) Duties of by-standers to assist. Every person who shall be present at a fire shall be subject to the order of the fire chief or officer in command, and may be required to render assistance in fighting the fire or removing or guarding property. Such officer shall have the power to cause the arrest of any person or persons refusing to obey said orders. [Reference: Section 13A-10-6, Code of Alabama, 1975.]

(e) Injury to fire apparatus. No person shall willfully injure in any manner any hose, hydrant or fire apparatus belonging to the City of Creola, and no vehicle, street car or railroad equipment shall be driven over any unprotected hose of a fire department when laid down on any street, private driveway, track or other place, to be used at any fire or alarm of fire, without the consent of the fire department official in command. [Reference: Section 13A-5A-59, Code of Alabama, 1975.]

(f) The chief and department officers under the direction of the chief are hereby empowered to enter any and all buildings and premises at any reasonable hour for the purpose of making inspections and to serve written notice upon the owner or occupant to abate any and all fire hazards that may be found within a specified time.

Section 9. Fire Inspector: Duties

(a) The chief of the fire department shall hold the office of fire inspector (Pro Board or IFSAC certified Fire Inspector 1), with power to appoint one or more deputy fire inspectors, who shall perform the same duties and have the same powers as the fire inspector.

(b) It shall be the duty of fire inspectors to inspect all buildings, premises and thoroughfares within the fire limits of this municipality for the purpose of noting and causing to be corrected any condition that could cause fire. Repairs or alterations necessary to remove the hazardous condition shall be made within 30 days following written notice, and shall be made at the expense of the owner or occupant. The Inspector shall also investigate the storage and handling of explosives and inflammatory liquids and substances within the municipality or police jurisdiction.

(c) The chief shall keep a written record of each property inspected and shall make a report of inspections as required by law.

(d) Whenever or wherever in the City of Creola any inspection by the fire chief or his deputies reveals a fire hazard, the chief or his deputies are hereby vested with authority to serve a notice in writing upon the owner or occupant of the property giving said owner or occupant a reasonable time in which to remove the hazard. In the event that the fire hazard is not removed within thirty (30) days of the date of such notice, it shall be deemed a nuisance and the fire chief or his deputy is authorized to have the same removed by the municipality, and the cost of such removal shall be recovered in an action by the municipality against the owner of the property.

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Commented [4]: Fire Inspector 1 must be one of the Fire Chief's qualifications.

(e) No person shall deny the chief or his deputies free access to any property within the municipality at any reasonable time for the purpose of making fire and life safety inspections. No person shall hinder or obstruct the fire inspector in the performance of his duties, or refuse to observe any lawful direction given by the inspector.

Section 10. The Chief may issue a badge designating the rank of officers. The chief of police may designate certain motor vehicles as authorized emergency vehicles for use by the Creola Volunteer Fire Department. Only properly designated emergency vehicles shall be equipped with emergency lights prescribed by the rules of the road for use only in answering fire alarms, and such vehicles when used for that purpose shall have the right of way over other traffic.

Section 11. It shall be unlawful for any person to operate any vehicle over fire hose except upon specific orders from the fire chief or other officer in charge where the hose is issued. [Reference: Section 13A-5A-59, Code of Alabama 1975.]

Section 12. It shall be unlawful for the operator of any vehicle, other than one on official business, to follow closer than 500 feet from any fire apparatus traveling in response to a fire alarm, or to drive or stop any vehicle within 500 feet of the point where fire apparatus has stopped in answer to a fire alarm. [Reference: Section 13A-5A-115, Code of Alabama 1975.]

Section 13. It shall be unlawful for any person to willfully turn in or cause to be turned in a false fire alarm. [Reference: Section 13A-10-8, Code of Alabama 1975.]

Section 14. Any person violating any provision of this ordinance shall be guilty of a misdemeanor, and on conviction, shall be punished by a fine of not exceeding five hundred dollars (\$500.00), and may also be sentenced to imprisonment at hard labor for not exceeding six (6) months. [Reference: Section 11-45-9, Code of Alabama 1975.]

Section 15. The parts of this ordinance are severable and should any part or parts be declared inoperative by a court of competent jurisdiction it shall not affect the remaining parts.

Section 16. All ordinances and parts of ordinances inconsistent herewith are hereby repealed to the extent of such conflict.

Section 17. This ordinance shall become effective immediately upon its adoption and publication as required by law.

Adopted this _____ day of _____, by the Mayor and City Council of the City of Creola.

Donald Nelson,
Mayor

ATTEST:

City [Town] Clerk

