

**TOWNSHIP OF HAMILTON
COUNTY OF MERCER, NEW JERSEY**

ORDINANCE NO. 20-010

1ST READING MARCH 3, 2020
2ND READING&PUBLIC HEARING MAR. 17,2020
WITHDRAWN _____ LOST _____

DATE TO MAYOR _____
DATE RESUBMITTED TO COUNCIL _____
DATE EFFECTIVE _____

APPROVED AS TO FORM AND LEGALITY

FACTUAL CONTENTS CERTIFIED TO BY

TOWNSHIP ATTORNEY

TITLE

ORDINANCE OF THE TOWNSHIP OF HAMILTON, COUNTY OF MERCER AND STATE OF NEW JERSEY DISSOLVING HAMILTON TOWNSHIP FIRE DISTRICTS NO. 1, 2, 3, 4, 5, 6, 7, 8, AND 9 PURSUANT TO N.J.S.A. 40A:14-91 AND 40A:5A-20

WHEREAS, there is established in the Township of Hamilton, County of Mercer, State of New Jersey Hamilton Fire Districts No. 1, 2, 3, 4, 5, 6, 7, 8, and 9 (“HFD”) which provide fire and emergency medical services to the residents of Hamilton Township (“Township”); and

WHEREAS, the Mayor and Township Council have authorized various evaluations of the HFD; and

WHEREAS, pursuant to N.J.S.A. 40A:14-91, upon written application of at least five percent (5%) of the registered voters of the Township, the Mayor and Township Council shall consider the dissolution of the HFD and upon receipt of such an application the Mayor and Township Council shall fix a time and place for a hearing thereon. After the hearing the Mayor and Township Council shall determine the question of the proposed dissolution; and

WHEREAS, pursuant to N.J.S.A. 40A:14-91 the required signatures were provided relative to the dissolution of the fire districts as verified by the township clerk; and

WHEREAS, the Mayor and Township Council on notice to the public conducted various public hearings on the question of the dissolution of the HFD, where public input on the question was solicited and comments from the public were received; and

WHEREAS, the Township solicited and secured a Fire District Dissolution Study which was prepared by the New Jersey Department of Community Affairs, Division of Local Government Services, dated as of January 2017; and

WHEREAS, after careful examination and analysis of the study and public input, as well as input from the career and volunteer firefighters, including the creation of a subcommittee, the governing body has determined that it is in the best interest of the Township and its residents to dissolve the HFD and to assume responsibility for the services and financial obligations of the HFD as set forth herein; and

WHEREAS, the governing body recognizes a compelling public safety interest in consolidating the HFD into a department of the Township; and

WHEREAS, the Township finds that the efficient, proficient, fiscally responsible and effective delivery of fire and emergency management services shall be achieved by the dissolution and consolidation of the HFD; and

WHEREAS, the Hamilton Township Council adopted Resolution No. 20- , RESOLUTION OF THE TOWNSHIP OF HAMILTON, COUNTY OF MERCER AND STATE OF NEW JERSEY AUTHORIZING AN APPLICATION TO THE LOCAL FINANCE BOARD FOR THE DISSOLUTION OF HAMILTON FIRE DISTRICTS NO. 1, 2, 3, 4, 5, 6, 7, 8, AND 9 PURSUANT TO N.J.S.A. 40A:14-91 AND 40A:5A-20; and

WHEREAS, pursuant to N.J.S.A. 40A:5A-20, any municipal governing body which has established a Fire District, is empowered to dissolve the Fire District by ordinance, providing said ordinance is approved by the Local Finance Board within the Department of Community Affairs, prior to adoption; and

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WHEREAS, the Local Finance Board must approve the dissolution if it finds that said ordinance makes adequate provision for the payment of all creditors or obligees of the authority and that adequate provision has been made for the assumption of those services provided by the Fire District which are necessary for the health, safety and welfare of the recipients of those services; and

WHEREAS, it is the desire of the Township Council of the Township of Hamilton to dissolve the HFD, to assume the debts and obligations of said HFD and to itself provide all services previously provided by said HFD; and

WHEREAS, N.J.S.A. 40:48-2 provides that any municipality may make, amend, repeal and enforce such ordinances, as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Council of the Township of Hamilton, County of Mercer and State of New Jersey as follows:

SECTION 1. DISSOLUTION. Hamilton Fire Districts No. 1, 2, 3, 4, 5, 6, 7, 8, and 9 are hereby dissolved and abolished effective July 1, 2020 or such date as approved by the Local Finance Board, subject to the terms and conditions hereof and the terms of the offices of the members of the Board of Commissioners of the HFD are hereby terminated.

SECTION 2. TRANSFER OF TITLE OF ALL FACILITIES. All real and personal property owned or titled in the name of HFD and all monies remaining in HFD's treasury shall be transferred to the Township of Hamilton and all documents and records pertaining to same shall be delivered to the Township Clerk of the Township of Hamilton forthwith.

SECTION 3. PAYMENT OF ALL CREDITORS AND OBLIGEEES. The Township of Hamilton shall assume responsibility for the payment of all lawful debts and obligations of the HFD and the Township of Hamilton hereby covenants and agrees to comply with and perform all covenants, obligations and agreements of HFD, except as may be modified between the Township of Hamilton and said creditors and obligees.

SECTION 4. RESERVATION OF RIGHTS. The Township of Hamilton reserves the right to challenge the validity of any and all debts, covenants, obligations and/or agreements of the HFD and to determine whether it is truly a lawful debt, covenant, obligation and/or agreement incurred by the HFD.

SECTION 5. INJUNCTION AGAINST FURTHER ACTION WITHOUT CONSENT. HFD is hereby enjoined from taking any further action without the Township of Hamilton's consent. Simultaneously, upon the effective date of this dissolution as set forth above, HFD shall cease all operations and activities and all operations and activities shall be transferred to the Township automatically and without further action either by the Township of Hamilton or HFD.

SECTION 6. TOWNSHIP AUTHORITY. The Mayor, Township Council, Clerk, Solicitors, and other appropriate employees and professionals of the Township of Hamilton are hereby authorized and directed to undertake any and all such acts and execute any and all such documents as may be necessary to effectuate and accomplish the purposes hereof. The members of HFD, its officers, employees, and representatives are hereby authorized and directed to undertake any and all such acts and execute any and all such documents as may be necessary to effectuate and accomplish the purposes hereof.

SECTION 7. APPOINTMENT OF FIRE CHIEF. The Township shall appoint a Fire Chief in order to implement the Hamilton consolidation transition plan as may be amended from time to time by the Mayor and Township Council. The Fire Chief shall have full operational and management control of the Township Fire Department during the transition and thereafter, subject to the direction and approval of the Mayor and Township Council.

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SECTION 8. ESTABLISHMENT OF HAMILTON TOWNSHIP FIRE DISTRICT CONSOLIDATION SUBCOMMITTEE. A Hamilton Township Fire District Consolidation Subcommittee is hereby established consisting of eight (8) members. The purpose of the Subcommittee shall be to provide advice, information and assistance to the Township of Hamilton regarding fire department matters during the transition period. The initial eight (8) members are:

- | | |
|--|---|
| 1. Pasquale "Pat" Papero, Jr. – Council Vice President | 5. Nick Buroczi, President Of Fire Officers |
| 2. Anthony Carabelli, Jr. - Council Member | 6. Shane Mull, President of FMBA |
| 3. Mark Murranko – Assistant Business Administrator | 7. Joe Monzo – Rep. Phoenix Advisor |
| 4. Rich Kraemer – Fire Chief | 8. Scott Goldsmith – Volunteer Representative |

SECTION 9. APPROVAL OF LOCAL FINANCE BOARD. Pursuant to the provisions of N.J.S.A. 40A:5A-20, after its introduction and before its adoption, a copy of this Ordinance and application for dissolution shall be submitted to the Local Finance Board of the State of New Jersey ("Board") for review and approval. Final adoption of this ordinance shall be subject to the Board's approval. A copy of the ordinance as adopted shall be filed immediately with the Board and with the Secretary of State of the State of New Jersey.

SECTION 10. EFFECTIVE DATE OF DISSOLUTION. The dissolution of the HFD shall be effective as of July 1, 2020 or such date as approved by the Local Finance Board.

SECTION 11. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

SECTION 12. REPEAL OF ALL INCONSISTENT ORDINANCES. All ordinances of the Township of Hamilton that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 13. EFFECTIVE DATE. This Ordinance shall take effect upon its passage and publication, as required by law, and upon approval by the Local Finance

PRESIDENT

MUNICIPAL CLERK

| RECORD OF VOTE | | | | | | | | | | | | | |
|------------------|-----|-----|----|----|-----|-----|------------------|-----|-----|----|----|-----|-----|
| First Reading | | | | | | | Second Reading | | | | | | |
| COUNCIL | AYE | NAY | NV | AB | ORD | SEC | COUNCIL | AYE | NAY | NV | AB | ORD | SEC |
| A CARABELLI, JR. | ✓ | | | | | | A CARABELLI, JR. | | | | | | |
| NANCY PHILLIPS | ✓ | | | | | | NANCY PHILLIPS | | | | | | |
| CHARLES WHALEN | ✓ | | | | | ✓ | CHARLES WHALEN | | | | | | |
| P. PAPER0, JR. | ✓ | | | | ✓ | | P. PAPER0, JR. | | | | | | |
| RICK TIGHE | ✓ | | | | | | RICK TIGHE | | | | | | |

X - Indicates Vote A.B. - Absent N.V. - Not Voting RES. - Moved SEC. - Seconded

REJECTED _____

JEFFREY MARTIN, MAYOR

DATE

APPROVED _____

RECONSIDERED BY COUNCIL _____ OVERRIDE VOTE AYE _____ NAY _____