DELAWARE STATE FIRE PREVENTION COMMISSION

DELAWARE VOLUNTEER FIREMEN'S CRIMINAL HISTORY AFFIDAVIT

This affidavit **must** be completed by all applicants for membership in a Delaware volunteer fire department and attached to the application for membership. Applicants must complete one of the two statements below. An application is not considered complete and shall not be processed until the notarized affidavit is attached.

AFFIDAVIT

I have never been convicted of an offense that constitutes any of the crimes set forth in **16 Del. C. §6647** (*attached hereto*) or any similar offense under any federal, State, or local law. I hereby certify that the statements contained in this application are true and correct to the best of my knowledge and belief. I understand that if I knowingly make any false statement in this application, I am subject to penalties prescribed by law, including denial or revocation of membership in the volunteer fire department and a mandatory fine of at least $1000 or a term of imprisonment of up to 2 years, or both.

_____ _____

Applicant's Signature Date

I am unable to submit the above statement. My written explanation as to what is not true with regard to the above statement and why is set forth below:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

[Attach additional pages if needed along with a certified copy of your criminal history record from the appropriate authorities]

_____ _____

Applicant's Signature Date

_____ (County)

_____ (State)

Before me personally appeared, _____,
Applicant, of lawful age, to me known to be the identical person who signed this document of application and being by me first duly sworn, on oath state that all the foregoing statements are true and correct to the best of _____ knowledge and belief.

_____
Signature of Notary Public

_____
Printed or Typed Notary Public's Name

My Commission expires: _____

(Seal)

TITLE 16

Health and Safety

Safety

CHAPTER 66. FIRE PREVENTION

Subchapter IV. Volunteer Firefighters [Effective Sept. 15, 2007]

§ 6646. Definitions [Effective Sept. 15, 2007]

"Member" means a volunteer firefighter of a Delaware volunteer fire department, as certified by the Delaware State Fire Prevention Commission. (76 Del. Laws, c. 157, § 1.)

§ 6647. Membership requirements for volunteer firefighters [Effective Sept. 15, 2007]

(a) An applicant for membership in a Delaware volunteer fire department who has been convicted of or, had that applicant been charged as a juvenile, adjudicated delinquent of any of the following crimes is prohibited from serving as a firefighter in this State:

(1) A felony involving sexual misconduct where the victim's failure to affirmatively consent is an element of the crime, such as forcible rape;

(2) A felony involving the sexual or physical abuse of a child or of an elderly or infirm person, such as sexual misconduct with a child, sexual exploitation of a child, making or distributing child pornography, incest involving a child, or assault on an elderly or infirm person;

(3) A crime in which the victim is an out-of-hospital patient or a patient or resident of a healthcare facility, including abuse, neglect, or theft from or financial exploitation of a person entrusted to the care or protection of the applicant;

(4) Arson in the third, second, or first degree; reckless burning or exploding; cross or religious symbol burning; or any crime in which the applicant intentionally or recklessly started a fire or caused an explosion, or attempted or conspired to do so;

(5) A law of another state, territory, or jurisdiction which is the same or equivalent to the offenses described in paragraphs (a)(1) through (4) of this section.

(b) Membership in a Delaware volunteer fire department must be denied if the applicant has been convicted or, if that applicant was charged as a juvenile, has been adjudicated delinquent of any of the following crimes, except in extraordinary circumstances:

(1) Any crime for which the applicant is currently incarcerated, on work release, on probation, or on parole;

(2) Any crime in the following categories, unless at least 5 years have passed since the applicant's conviction or at least 5 years have passed since the applicant was released from custodial confinement, whichever occurs later:

a. A serious crime of violence against a person, such as assault with a dangerous weapon, aggravated assault, murder or attempted murder, manslaughter (other than involuntary manslaughter), kidnapping, or robbery of any degree;

b. A crime involving a controlled substance or designer drug, including unlawful possession or distribution of, or intent to unlawfully possess or distribute, a controlled substance in Schedules I through V of the Uniform Controlled Substances Act of Chapter 47 of this title;

c. A serious crime involving property, such as burglary, embezzlement, or insurance fraud;

d. Any crime involving sexual misconduct;

e. A crime of another state, territory, or jurisdiction which is the same or equivalent to the offenses described in paragraphs (b)(2)a. through d. of this section.

(3) In extraordinary circumstances, membership may be granted under subsection (b) of this section only if the applicant establishes by clear and convincing evidence that his or her membership will not jeopardize public health or safety.

(c) An applicant for membership in a Delaware volunteer fire department who knowingly provides false, incomplete, or inaccurate criminal history information, or who otherwise knowingly violates a provision of this subchapter, is guilty of a class G felony. In addition to a term of imprisonment of up to 2 years, the court shall impose a fine of no less than $1,000 which may not be suspended.

(d) The State Fire Prevention Commission shall adopt regulations to

implement the provisions of this subchapter. The regulations must include, as

part of the application form for membership in a Delaware volunteer fire

department, a dated and signed statement by the applicant swearing to or

affirming the following, if the following is true. If it is not true, the

applicant must explain in writing what is not true and why it is not true.

"I have never been convicted of an offense that constitutes any of the crimes

set forth in 16 Del. C. § 6647 or any similar offense under any federal,

state, or local law. I hereby certify that the statements contained in this

application are true and correct to the best of my knowledge and belief. I

understand that if I knowingly make any false statement in this application, I

am subject to penalties prescribed by law, including denial or revocation of

membership in the volunteer fire department and a mandatory fine of at least

$1,000 or a term of imprisonment of up to 2 years, or both."

(e) An applicant for membership in a Delaware volunteer fire department who is denied membership or whose membership is revoked because of the requirements of this subchapter may appeal the denial or revocation to the State Fire Prevention Commission within 15 days of written notification of the denial or revocation by the volunteer fire department. An appeal under this subsection must be held in accordance with the appropriate provisions of the Administrative Procedures Act, Chapter 101 of Title 29, and is subject to judicial review under subchapter V of Chapter 101 of Title 29. (76 Del. Laws, c. 157, § 1; 70 Del. Laws, c. 186, § 1.)