

# **How to Form a Fire District**

## **A Step-By-Step Guide to Help A Community Get Organized**

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## **WHAT IS A FIRE DISTRICT?**

Fire districts are municipal corporations. Their purpose is to manage certain functions of town government that either are not available throughout the entire town, or are better administered by a distinct, special-purpose entity. Fire districts have been formed to manage community sewer systems, sidewalks, street lighting, fire departments, and water systems. This document will focus on the formation of a fire district whose function is to provide water.

## **THINGS TO CONSIDER BEFORE FORMING A FIRE DISTRICT**

The main reasons for a community to form a fire district are:

- The customers of the water system retain control of its operation.
- The district is governed democratically because all registered voters within the district have voting powers.
- The system becomes eligible for various state and federal funding programs and municipal financing rates and terms that are not available to privately owned water systems.
- The district has the power to collect fees for water use and levy tax liens for non-payment of water rates.

Some of the disadvantages of a fire district include:

- Members may not have a technical, managerial, and financial background required to operate a water system. However, the fire district can overcome technical deficiencies this by hiring someone with the appropriate skills.
- Members are not likely to realize the extensive time commitment required until the fire district has been formed. This can cause a high turnover in the governing body of the fire district. Therefore, a fire district should be formed only when there is a genuine level of interest in the community.
- A fire district has all the rights and responsibilities of a municipality, including following open meeting and record retention laws, taxing and taking decisions, and passing bonds for infrastructure improvements.

## **FORMATION OF A FIRE DISTRICT**

There are a number of steps a community must take to form a fire district. Residents who wish to form a fire district should be aware of the set of legal requirements, powers, and duties that affect its operation. Particular attention should be given to The Vermont Statutes Annotated, [Title 20, Chapter 171](#), which lays out the process for the formation and operation of a fire district (also see Appendix A). This document is not intended to replace the services of a lawyer. However, it will outline the requirements and powers of a fire district, and should give an idea when it is advisable to hire a lawyer or when residents may prepare the necessary information on their own. When a lawyer is necessary, it is best to hire one who has experience in municipal law. In fact, it is perfectly acceptable to ask a prospective lawyer if they have ever formed a fire district. This may save money and time.

### **Determine the level of interest**

The first step in forming a fire district is to determine the general level of interest within the community. The best way to do this would be to talk to neighbors individually and then call a meeting to discuss the idea.

By law, 20 property owners or registered voters who are full time residents (called 'freeholders' in statute) must sign a petition to be presented to the Selectboard in support of a fire district. Before this is done however, it may be a good idea to determine the level of support with a pre-petition, or a simple survey that is distributed to all potential members. This way, the district could decide beforehand what issues are of concern to residents and could address these concerns before the petition is written. For example, there may be people within the boundary of the district who do not want to be served by it. It is possible to include only those that wish to be included, but it must be clearly stated in the petition; however, fire district boundaries must be contiguous. Remember, it is best to avoid any conflicts before they arise.

### **Drafting a petition**

If at least 20 'freeholders' or registered voters support the formation of a fire district, draft the petition or consider hiring a lawyer to draft the petition to insure that proper wording is used. See sample petition in Appendix B. A freeholder is a person residing within the limits of a fire district who are voters in a town meeting.

The petition should include the powers and duties of the fire district. For example, how the district will collect charges for water use, what the district's powers will be when making repairs to the water system, etc. It is best to address all areas of powers and duties that might seem useful in operating a water system in your petition. It may be helpful to talk with other fire districts in the area to find out what they have done. A map of the proposed district that outlines the geographical boundaries must be filed with this petition.

A copy of the petition must then be filed with the Town Clerk and the Selectboard. It is imperative that all material be filed properly with the town.

If a fire district is proposed to cross town boundaries, the petition must be filed in each town and presented separately to each Selectboard. Approval is also needed by all affected towns.

For a list of fire districts in your area, please contact the Vermont Drinking Water and Groundwater Protection Division at (800)823-6500.

Fire districts may also be formed by an act of the Legislature. Authority to organize can be found under [Title 24, Chapter 89](#).

### **Notice of public meeting**

Next, the Selectboard must, as part of a regularly scheduled public meeting or Special Meeting, vote on the creation of the fire district. All required documentation should be provided to the Town Clerk and Selectboard in advance of the meeting. They will then either include it as part of their normal meeting agenda or hold a Special Meeting; either way, the warning of the meeting is the town's responsibility, not the proposed fire district's. It is helpful to notify the Selectboard of your intentions beforehand in an informal meeting with the Selectboard Chair and the town administrator/manager so they may voice any concerns before they make a final decision.

### **Selectboard's acceptance**

At the official meeting, the Selectboard must sign an order establishing the creation of the new fire district. A sample copy of this order can be found in Appendix C. This is presented by the district for the Selectmen's signature. A lawyer should draft the order. The Selectboard may also deny the fire district application; however, this is rare.

### **Fire District's First Meeting**

After the acceptance of the fire district by the Selectboard, there must be an organizational meeting of the district presided over and moderated by a member of the Selectboard, preferably the Chair. See a sample notice of the first meeting in Appendix D.

At the first meeting, officers (so called the Prudential Committee) are elected and additional committees and staffs are assigned. This is the only meeting that the Selectboard must preside at. From here on, the Prudential Committee will govern the district. See [20 V.S.A. Sec. 2482-2487](#) for more on this issue.

### **Developing By-Laws and Rules and Regulations**

The district must now develop by-laws and a set of rules and regulations, including rate charges, services provided, owners responsibilities, etc. See Appendix E for sample by-laws and Appendix F for sample rules and regulations.

By-laws are very basic and should not include anything that changes on a regular basis like user rates or charges for disconnection. By-laws should outline the basic structure of the fire district, general ruling authority and officer's duties. By-laws can only be amended at an Annual or Special Meeting. State Statute clearly outlines this process.

Rules and regulations, having separate legal standing, are not as strict in its creation or change. It is strongly recommended that an attorney assist with the drafting of rules and regulations. However, a district may save a significant amount of money if it decides on the content of the rules, and uses the attorney primarily to insure proper wording of the document.

## **ONGOING MAINTENANCE OF THE FIRE DISTRICT**

The operation and maintenance of a water system requires regular attention. All fire district officers have a responsibility, to the state as well as the residents, to ensure the continued supply of safe water. Officers must keep accurate records, provide adequate monitoring of the water system, hold public meetings, and make timely repairs. In most cases, fire district officers do not have specific training in these areas. The lack of training should not prevent people from taking the responsibility, and everyone involved in the water system should become aware of the operational requirements, even if a professional is hired to do this. The Vermont Drinking Water and Groundwater Protection Division has prepared operator training courses which are used to certify water system operators, both professional and volunteer.

All prudential committee members should familiarize themselves with the state agencies that enforce the statutes and regulations pertaining to water systems. The Drinking Water and Groundwater Protection Division of the Vermont Department of Environmental Conservation oversees all water quality monitoring as well as the permitting and construction of sources and facilities. The Drinking Water and Groundwater Protection Division staff provides technical assistance as well as regulatory functions. Engineers,

hydrogeologists, and other professionals are available to answer questions from water system owners and operators. Also, Vermont Rural Water Association (VRWA) and the Northeast Rural Community Assistance Program (RCAP) Solutions provide on-site technical assistance to regulated public water system and communities.

If a district must make expensive capital improvements to its water system, there are a number of funding options. There are federal and state programs that may be able to provide loans or grants for repairs, replacements, or improvements to the system. For example, the state provides low interest loans to eligible water systems through the Drinking Water State Revolving Fund (DWSRF), and 'disadvantaged' communities, as defined in the DWSRF Intended Use Plan, may be eligible for more attractive loan terms and rates. For information on DWSRF loans, contact the DWSRF Project Development Specialist in the Facilities Engineering Division at 802 828 1550.

USDA Rural Development offers loans and, in limited cases, grants for water systems. USDA, a federal agency, operates funding programs for rural communities. They provide capital costs for new and existing water projects including construction, design, legal, land, and right-of-way acquisition necessary for the project. For more information, contact the USDA Rural Development/Rural Utilities Service office at 802 828 6000.

The Vermont Department of Housing and Community Development offer a Community Development Block Grant Program (CDBG). All Vermont municipalities except Burlington are eligible for funds. Funds are not restricted to water and sewer projects, so there is competition with all housing and economic development projects. For more information, contact them at 802 828 5219.

The Small Business Administration (SBA) guarantees loans made by local banks, thus providing a reduced interest rate to the borrower which provides direct loans to businesses that are unable to get an SBA-guaranteed loan through a bank. Contact the Vermont District SBA office at 802 828 4422.

If you are not considered a fire district but a private system, the Vermont Economic Development Authority (VEDA) issues Community Development Grants. Grants can be used to make improvements to private water systems. For information, contact the VEDA office at 802 828 5627.

Many of these programs have certain conditions you must meet in order to be eligible. If you do not qualify for these programs, there are private financial institutions where you can go for help.

## **DO YOU STILL WANT TO FORM A FIRE DISTRICT?**

Operating a public water system can be an exciting challenge. Many people feel that this responsibility should be in the hands of the residents who are served by the system because they are the most concerned about the quality of water at the tap. In addition, the financial benefits of public funding sources can make a significant difference in the user cost. Whatever your reasons may be, there are many benefits in having a locally controlled water system, but keep in mind that it does require effort.

## **FIRE DISTRICTS: FREQUENTLY ASKED QUESTIONS**

The following first appeared in the Spring 2012 edition of *Waterline*, a publication of the Drinking Water Program of the Drinking Water and Groundwater Protection Division.

#1: Why are Fire Districts formed?

*There are myriad reasons a fire district forms. Statute allows fire districts to be responsible for many aspects of community service from maintaining sidewalks, to operating public drinking*

*water systems. Here at the Drinking Water and Groundwater Protection Division (DWGPD) we most often see fire districts form to purchase and run private, for-profit and/or failing small water systems or to take advantage of more favorable funding opportunities. The DWGPD provides more favorable funding opportunities to municipalities, of which a fire district is, than other organizational structures. Additionally, it is often easier for a community to form a fire district than another similarly financially favorable organizational structure because it doesn't require unanimous support from the community, which is often very difficult.*

#2: How do Fire Districts form?

*Initially, a signed petition of 20 'free holders' or voters of the proposed fire district boundary who reside and are registered to vote in the town(s) where the proposed fire district is proposed, is needed. This petition, along with a map showing the proposed fire district boundaries and a list of powers outlined in Title 20, Chapter 171 Sections 2601 and 2603 of the Vermont Statutes, are presented to the Selectboard of the town where the fire district is proposed, or if the fire district boundaries are proposed to cross town boundaries, all the towns where the proposed boundaries touch. The Selectboard(s) will vote on the petition; there may be discussion over the course of multiple meetings, but the Selectboard(s) is required to make a decision.*

*After the positive Selectboard vote, the fire district will decide a time/date/place for their first meeting, properly warned, of course, and a Selectboard member will call that first meeting to order and may or may not stay for the rest of the meeting to assist with process.*

*In some instances, it is a good idea to have the General Assembly ratify the fire district formation. This is critical if the fire district is going to exercise some powers not spelled out in the general statutes (ex. highways).*

*You must then register with the Town Clerk's office in each town the fire district is approved. This registration should include a copy of the organizing petition, map and approved by-laws. Additionally, if the fire district makes changes to its boundaries and/or by-laws at any point in the future, these updated copies should also be filed with the appropriate Town Clerks.*

#3: Can Fire Districts cross town boundaries?

*Yes, but you must go through the formation process in each town where the proposed fire district boundaries will fall.*

#4: Can Fire Districts change its boundaries?

*The Selectboard may change the limits of a fire district upon a similar application and in like manner subject to the approval by the fire district at the duly warned Annual or Special meeting of the fire district; however, any change in limits of a fire district may take place only with the consent of the majority of the landowners newly included within or excluded from those newly proposed boundaries.*

#5: Can Fire Districts exclude properties from its district?

*No, the fire district boundary must be contiguous; there can be no 'holes' within the boundaries.*

#6: How do Fire Districts change their by-laws?

*By-law changes can be proposed at any public meeting by the Prudential Committee or voters. The changes can be discussed at duly warned public meetings and voted on at an Annual or Special meeting where the item is on the published agenda. However, the Prudential Committee has the exclusive responsibility for enacting and enforcing water and sewer system ordinances, rules and regulations.*

#7: Where is Fire District regulating authority?

*Vermont State Statutes*

#8: Who regulates Fire Districts?

*Nobody directly, but indirectly all State and Federal laws that apply to municipalities, apply to fire districts. Additionally, water and sewer rates are not under the jurisdiction of the Public Service Board and Department of Public Service as they are for private, for-profit entities.*

#9: What rules apply to Fire Districts?

*Any rules that apply to municipalities also apply to fire districts. There are additional State Statutes that specifically addresses fire districts, but it does not exclusively regulate them. Vermont State Statute [Title 20 Chapter 171](#) refers specifically to fire districts. Vermont State Statute [Title 24 Appendix](#) lists a few fire districts with Municipal Charters. [Title 24 Chapter 89](#) refers specifically to Water Works. Another important State Statute that fire districts should be familiar with is the Uniform Water and Sewer Disconnect (Appendix G). This can be found in [Title 24 Chapter 129](#). The Vermont Secretary of State created a fire district document in 1992; its updated version is included in Appendix H.*

#10: What can Fire Districts control/be responsible for?

*A fire district can be responsible for anything that is allowed under the general statutes or the fire district charter. See State Statute [Title 20 Chapter 171 Section 2601](#) for examples of what a fire district can control and/or be responsible for.*

#11: What resources are there for Fire Districts?

*Unfortunately, there are not many resources available specifically to fire districts. Instead, resources that specialize in municipalities, Vermont League of Cities and Towns, for example might be useful. Legal consul who is familiar with municipal law can be a great resource. Additionally, with respect to public water systems, the DWGWPD and USDA Rural Development have personnel who are familiar with fire districts.*

#12: Are Fire Districts a municipal entity?

*Yes, with all the rights and responsibilities.*

#13: Can Fire Districts be sued?

*Like any other municipality, fire districts are subject to suit. Accordingly, fire districts should procure and maintain public liability and casualty insurance.*

#14: What fiduciary responsibilities do Fire Districts have?

*The same as there are for a municipality. They must pass a budget; charge appropriate and equitable rates; be transparent with and account for expenses and revenues; use water and sewer revenue only for purposes allowed by Statute; and comply with State and Federal laws relating to water supplies and environmental protection.*

#15: How do Fire Districts collect late payments?



*Payments can be collected in ways similar to taxes. The fire district will send out frequent bills based on an approved rate structure indicating the process for payment. Late or delinquent payments may be subject to additional penalties, disconnection, property liens and tax sale.*

#16: What if Fire Districts don't/can't pay its loans and default?

*If the fire district defaults on any loan, a creditor can obtain a judgment and force the fire district to levy a tax on all property to satisfy the judgment. Private property can be taken to satisfy a judgment; the property owner then has a claim for reimbursement against the fire district.*

#17: Is Fire District information public information?

*Yes, as a municipality, all information is public and must be made available upon request. Vermont Open Records Law is another set of regulations a fire district board should be familiar with.*

#18: Do Fire Districts have to have a Prudential Committee and how big does it have to be?

*Yes, the fire district must have a Prudential Committee. There must be a minimum of three members; however, there can be as many as the system desire. It is recommended that there be an odd number so there can't be a tie. Also keep in mind that all the Prudential Committee spots must be filled; this may be difficult to accomplish, especially in very small communities.*

#19: Can the people who are on the Prudential Committee get together outside of meetings?

*Of course they can. They, however, should not discuss fire district issues and certainly cannot make decisions related to the fire district except at a properly warned public meeting. This includes email discussion; avoid the 'reply-to-all' option.*

#20: What if no one wants to be on the committee?

*The Selectboard of the town the fire district is in can appoint Prudential Committee members to fill a vacancy. However, if there is no one is available to run the fire district it may be placed into receivership.*

#21: Do Fire Districts have to have regularly scheduled meetings?

*Not necessarily, but they must have an Annual Meeting. If there is a quorum of Prudential Committee members, and fire district issues are discussed and decisions made, it is considered a Public Meeting and should be properly warned. They may, however, choose to have regular meetings (bi-weekly, monthly, quarterly) and those can be outlined in the by-laws or announced at another properly warned meeting.*

#22: Do Fire Districts have to publically warn Prudential Committee meetings?

*Yes, but only if it differs from the regularly scheduled meeting time/date/place, or is the Annual Meeting. If regular meeting time/date/place is indicated in the by-laws, then there is no need to public notice them; however, an agenda must be made available to anyone requesting one, and is a good practice to make one available in a publically viewable forum. There are specific rules for warning Annual and Special fire district meetings and bond elections. A public informational hearing has to be held within the ten-day period preceding any fire district meeting at which the votes will be conducted by Australian ballot.*

#23: Do Fire Districts have to make minutes available to the public?

*Yes, minutes must be made available to the public within five days of the meeting. They are not required to be distributed to the community, but they must be provided upon request.*

## **APPENDIX A: THE VERMONT STATUTES, TITLE 20, CHAPTER 171: Fire Districts**

The Vermont Statutes

### ***Title 20: Internal Security and Public Safety***

#### ***Chapter 171: FIRE DISTRICTS***

[§ 2481.](#) Establishment; change of limits

[§ 2482.](#) Body corporate; first meeting

[§ 2483.](#) Annual and special meetings

[§ 2484.](#) Voters

[§ 2485.](#) Officers generally

[§ 2486.](#) Collector

[§ 2487.](#) Clerk

[§ 2488.](#) Board of tax abatement

[§ 2489.](#) Fire districts; two or more towns

[§ 2541.](#) Formation

[§ 2542.](#) Powers generally

[§ 2543.](#) Board of fire commissioners

[§ 2544.](#) Employees

[§ 2545.](#) Expenditures

[§ 2601.](#) Generally

[§ 2602.](#) Matters subject to regulation by bylaws

[§ 2603.](#) Sprinkling and oiling streets

[§ 2604.](#) Preservation of property

[§ 2605.](#) Purchase of property

[§ 2606.](#) Eminent domain

[§ 2607.](#) Actions and claims

[§ 2671.](#) Duties generally

[§ 2672.](#) Enforcement of bylaws; alteration and repair of fireplaces, furnaces and stoves

[§ 2673.](#) Powers and duties during hazardous chemical or substance incident, fires; threat of fires or explosions

[§ 2674.](#) Assistance outside district

[§ 2675.](#) Penalties for disobedience of order or bylaw

#### **§ 2481. Establishment; change of limits**

(a) Upon application in writing of 20 or more freeholders or voters of a proposed fire district, the Selectboard, after a duly warned public hearing, may establish such proposed fire district and define its limits. Such application shall contain a list of the powers mentioned in sections 2601 and 2603 of this title which the proposed district shall have and the district shall not have any of the other powers mentioned in these sections. Fire districts thus created shall be named by number in the order of their establishment. The Selectboard shall file a certificate of its doings in the office of the town clerk for record. The Selectboard may change the limits of a fire district upon a similar application and in like manner subject to the approval by the fire district at the annual or a special meeting of the fire district duly warned but any change in limits of a fire district may take place only with the consent of the majority of the landowners newly included within or excluded from those boundaries by that alteration. A record of any alteration of fire district boundaries shall be made by the town clerk. Only property contiguous to the fire district shall be the subject of an expansion of the boundaries of a fire district. For purposes of this subsection, a "public hearing" shall be a meeting of the legislative body of a town or of a fire district for the duly warned purpose of establishing or changing the limits of a fire district. Public notice for a public hearing required by this subsection shall be given not less than 15 days prior to the date of the public hearing by:

(1) The publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the municipality affected; and

(2) The posting of the same information in one or more public places within the municipality.

(b) If a petition signed by five percent of the legal voters of the town objecting to the proposed establishment or change of limits of the fire district is presented to the town clerk within 30 days of the date of posting and publication of the notice required by subsection (a) of this section, the Selectboard shall cause the question of whether the town shall establish or change the limits of the fire district to be considered at a special or annual meeting called for that purpose. After the meeting, the fire district shall be established or the limits changed unless a majority of the voters of the town present and voting vote to disapprove of such establishment or change of limits. If a petition signed by five percent of the legal voters of a town objecting to a Selectboard decision denying the establishment or the change of limits of a fire district is presented to the town clerk within 30 days of the Selectboard decision, the Selectboard shall cause the question of whether the town shall establish or change the limits of the fire district to be considered at a special or annual meeting called for that purpose. (Amended 1993 No. 164 (Adj. Sess.) § 13; 2003, No. 93 (Adj. Sess.), § 1.)

#### **§ 2482. Body corporate; first meeting**

The inhabitants of such district shall be a body corporate. The first meeting shall be called by the selectmen in the manner provided for warning fire district meetings. The first selectman, or, in his absence, either of the others shall preside at such meeting.

#### **§ 2483. Annual and Special meetings**

The annual fire district meeting shall be held on the second Monday in January, or at such other time as the district at any regular or special meeting may determine, and shall be warned by the clerk, or, in the clerk's absence or neglect, by one of the prudential committee. Special meetings shall be warned in the same manner on application in writing by three or more voters of the district, or by five percent of the voters of the district, whichever is greater. A warning for a fire district meeting shall state the business to be transacted. The time and place of holding the meeting shall be posted in two or more public places in the district not more than 40 days nor less than 30 days before the meeting and recorded in the office of the clerk before the same is posted. (Amended 1985, No. 196 (Adj. Sess.), § 19.)

#### **§ 2484. Voters**

Persons residing within the limits of a fire district who are voters in town meeting shall be voters in fire district meeting.

#### **§ 2485. Officers generally**

A fire district shall elect at its first meeting and at each annual meeting thereafter a clerk, a treasurer and a collector of taxes. Such fire district may elect a chief engineer and such assistant engineers as are necessary, whether or not they are inhabitants of the district, who shall rank in the order of their election. Such officers shall hold office until the next annual meeting and until others are elected. A vacancy in any office may be filled by the prudential committee. Such district at its first meeting shall elect a prudential committee which shall consist of three persons, who shall serve for one, two and three years, respectively. Thereafter at each annual meeting a member of such committee shall be elected for the term of three years. If the fire district so votes, two additional persons may be elected to such committee for a term of one year. A vacancy in such committee may be filled at an annual meeting, or at a special meeting called for that purpose, but the selectmen of the town in which such district is located

may fill a vacancy in such committee until an election by the appointment of a resident of such district. When a meeting is not held on the second Monday in January, the officers of the district may be elected at a special meeting. The officers shall be elected by ballot if demanded by a voter, and by a majority vote. (Amended 1993, No. 77, § 1.)

#### **§ 2486. Collector**

A fire district may elect the collector of town taxes, although he is not an inhabitant of the district, to be collector of fire district taxes. If he accepts the office, he shall have the powers and be subject to the duties imposed upon fire district collectors.

#### **§ 2487. Clerk**

The clerk shall keep a record of the meetings, votes and proceedings of such district for the inspection of the inhabitants thereof.

#### **§ 2488. Board of tax abatement**

The board for the abatement of taxes of a fire district shall consist of the prudential committee, the clerk thereof, the justices of the peace and listers residing therein. Such board may abate taxes accruing to such municipality in all cases where a different provision is not made by the charter, acts of incorporation, or amendments thereto, of such municipality.

#### **§ 2489. Fire districts; two or more towns**

(a) Where the limits of a proposed fire district include two or more towns, or portions of two or more towns, irrespective of whether the towns are situated in different counties, the application set forth in section 2481 of this title shall be made to the selectmen of each such town and the selectmen of each town as provided in section 2481 of this title may establish the proposed fire district and define its limits. The selectmen of each town shall file a certificate of their doings for record in the office of their respective town clerks and, if the proposed district extends into more than one county, in the office of the clerk of each such county. The selectmen may change the limits of the fire district upon a similar application subject to the approval of the fire district as provided in this chapter.

(b) The first meeting of the fire district shall be called by the combined membership of the boards of selectmen of the several towns in the manner provided for warning fire district meetings. The combined membership shall elect from its members a chairman to preside at the first meeting. Where a vacancy in the prudential committee arises, the vacancy in the committee may be filled by the combined vote of the selectmen of each town. The fire district shall have all the same rights, duties, obligations, and responsibilities, and be governed by all of the provisions relating to fire districts located wholly within the limits of one town. (Added 1971, No. 62, § 1, eff. April 14, 1971.)

#### **§ 2541. Formation**

At an annual or special meeting, by a majority vote of those present and voting, towns may vote to form a fire district whose limits shall be the town limits, provided the warning for such meeting contains an article to that effect. (Amended 1971, No. 62, § 2, eff. April 14, 1971.)

#### **§ 2542. Powers generally**

A town functioning as a fire district under this chapter shall have all the powers, so far as the same may be applicable, now given to fire districts by sections 2601-2607 and 2671-2675 of this title.

#### **§ 2543. Board of fire commissioners**

When a town has so voted, the board of selectmen shall constitute a board of fire commissioners and may purchase all necessary and proper apparatus for the prevention and extinguishment of fires.

#### **§ 2544. Employees**

The selectmen may appoint a chief engineer for such district and all other necessary firemen and employees.

#### **§ 2545. Expenditures**

All expenditures under sections 2541-2544 of this title shall be paid out of the general fund of the town unless the town by its vote shall otherwise direct.

#### **§ 2601. Generally**

A fire district may vote to adopt the town manager system in compliance with chapter 37 of Title 24. It may vote a tax upon the polls and taxable estate or upon the taxable estate only for the protection of property in the district from damage by fire; for the acquisition, construction and maintenance of sewers and sewage treatment works; sidewalks; public parks; water works, water companies and equipment and real estate used in connection therewith including reservoirs and dams; for lighting; and for other lawful purposes. The prudential committee and collector shall have the same power in assessing, levying and collecting the tax, as town officers have in assessing and collecting town taxes, including the collection of interest on overdue taxes. The prudential committee may expend such sums for acquiring, constructing and maintaining sewers and sewage treatment works; sidewalks; public parks; water works, water companies and all equipment and real estate used in connection therewith including reservoirs and dams; and for lighting purposes as the fire district may vote. The committee may use and occupy such portions of the highways within the district as may be necessary for constructing and maintaining sewers and sewage treatment works; sidewalks; public parks; water works and mains and for lighting purposes. (Amended 1969, No. 223 (Adj. Sess.), § 1, eff. March 31, 1970; 1981, No. 133 (Adj. Sess.), § 2, eff. April 2, 1982.)

#### **§ 2602. Matters subject to regulation by bylaws**

A fire district at its meetings may regulate by bylaws the manufacture and safekeeping of ashes, gunpowder and combustibles, and the preservation of buildings from fire by precautionary measures and by inspection.

#### **§ 2603. Sprinkling and oiling streets**

If it so votes at its annual meeting, a fire district may empower its prudential committee to cause the streets of such district to be sprinkled or oiled to the extent deemed necessary by the committee.

#### **§ 2604. Preservation of property**

In the name of the district, the prudential committee may make contracts and expenditures for the preservation of property in such district from damage by fire as they deem necessary, and draw orders

on the treasury therefor. However, such committee shall not bind the district for a greater sum than has been voted.

#### **§ 2605. Purchase of property**

A fire district, through its prudential committee, may purchase and hold, in addition to the apparatus for extinguishing fires, such real and personal estate as is necessary for the preservation of the fire apparatus. (Amended 1967, No. 17.)

#### **§ 2606. Eminent domain**

When a fire district decides to erect a building for the preservation of its fire apparatus and the location of land for such building is determined, if the owner thereof refuses to convey the same to the district at a price which such district deems reasonable, such district may take such land in the same manner as a town may take land for town purposes as provided in sections 2805 to 2812 of Title 24. The duties imposed by such sections upon selectmen shall be performed by the prudential committee of such district. All petitions and notices shall be served on the clerk of such district in lieu of on the town clerk as therein provided.

#### **§ 2607. Actions and claims**

The committee may commence and prosecute actions in the name of the district, defend and adjust actions commenced against it and settle claims in favor of and against the district.

#### **§ 2671. Duties generally**

The chief engineer, or, in his absence, the assistants in the order of their rank, under the supervision of the prudential committee, shall have charge of the apparatus for the prevention and extinguishment of fires, and shall keep the same in serviceable order. When on duty, an engineer shall wear conspicuously a badge of office with his rank inscribed thereon.

#### **§ 2672. Enforcement of bylaws; alteration and repair of fireplaces, furnaces and stoves**

The chief engineer may carry into effect any bylaw or regulation of the district, and may direct alterations in the position and repairs of fireplaces, furnaces, stoves and other things from which damage from fire is apprehended. If such directions are not complied with forthwith, he may cause such change or repairs to be made, and recover the expense thereof, with costs, of the owner or possessor in a civil action in the name of the district.

#### **§ 2673. Powers and duties during hazardous chemical or substance incident, fires; threat of fires or explosions**

(a) The chief engineer, or in the chief's absence, the assistant highest in rank present at a hazardous chemical or substance incident or fire, shall have charge of the fire apparatus and of the companies and persons attending the hazardous chemical or substance incident or fire for the purpose of containing, controlling or extinguishing the same, and may remove goods and effects out of a building or place endangered by the hazardous chemical or substance incident or fire. The chief engineer may cause to be pulled down or removed, such buildings as the chief deems necessary to prevent the spread of hazardous material or fire, and for such purposes, may require the assistance of inhabitants of the district. During

the hazardous chemical or substance incident or fire, the chief engineer may suppress tumults or disorders and direct the labor of inhabitants present in such fire district.

(b) Where an emergency situation exists in a municipality and there is no fire, but there is an imminent threat of a hazardous chemical or substance incident, fire or explosion, the ranking member of the fire company responding will be in charge as long as the imminent threat continues. Where there is a threat of bombing, the fire department shall surrender responsibility to the police department having jurisdiction in the area.

(c) The ranking member of a fire department shall have authority to direct, control and supervise traffic at the scene of a fire or other emergency to which a fire department has responded.

(d) When the chief engineer determines that the company lacks either the training, expertise or equipment to contain or control a hazardous material spill or discharge, the chief engineer may request the assistance of the state HAZMAT emergency operations team. The team shall dispatch a regional HAZMAT response team to respond with the specific assistance requested, and the personnel shall serve at the direction of the chief engineer. The chief engineer may transfer control of the hazardous material incident to the regional HAZMAT response team crew chief at the scene if the chief engineer has responded and implemented the plan for the incidents and has exhausted all of the resources, including available mutual aid. The senior state official shall retain control until the imminent threat is eliminated. (Amended 1961, No. 52, § 1; 1975, No. 222 (Adj. Sess.), § 1, eff. May 7, 1976; 1991, No. 29, § 1; 1993, No. 194 (Adj. Sess.), § 10, eff. June 14, 1994.)

#### **§ 2674. Assistance outside district**

When a fire occurs in a fire district or town, and application for assistance is made to an officer or inhabitant of another organized fire district by an officer or inhabitant of such district or town, if in his judgment assistance should be granted, the chief engineer may designate the engine and company to render such assistance.

#### **§ 2675. Penalties for disobedience of order or bylaw**

A person who refuses to obey a lawful order or direction of an engineer or the official highest in rank present at a fire or other emergency, or disobeys a bylaw of the district, shall be fined not more than \$250.00. (Amended 1961, No. 52, § 2; 1991, No. 29, § 2.)



**APPENDIX B: PETITION TO ESTABLISH A FIRE DISTRICT (sample)**

STATE OF VERMONT

Town of Oz

**APPLICATION TO ESTABLISH A FIRE DISTRICT**

Now come the undersigned and state as follows:

1. All of the undersigned are freeholders of the Town of Oz, Vermont: and are residents of the proposed Fire District which is the subject of this application.
2. The proposed Fire District shall have the geographic limits as set forth on the map attached hereto as Exhibit A and made a part hereof.
3. The proposed Fire District shall have the following powers and one others:
  - a. It may vote a tax upon the taxable estate only for the acquisition, construction and maintenance of water works, water companies and equipment and real estate used in connection therewith including reservoirs and dams; and for other lawful purposes.
  - b. The Prudential Committee and collector shall have the same power in assessing, levying and collecting the tax, as town officers have in assessing and collecting town taxes.
  - c. The Prudential Committee may expend such sums for acquiring, constructing and maintaining water works, water companies and all equipment and real estate used in connection therewith including reservoirs and dams.
  - d. The Committee may use and occupy such portions of the highways within the District as may be necessary for constructing and maintaining the water works and water mains.
  - e. The Fire District may elect the collector of taxes of the Town of Oz, to be collector of fire district taxes.

NOW THEREFORE in accordance with Title 20 Vermont Statutes Annotated Section 2481, the undersigned hereby apply to the Selectboard of the Town of Oz for the establishment of a Fire District with the powers and definition of its limits as set forth in this application; and request the Selectboard to set a place, date and time for consideration of this application and notify the residents of the proposed Fire District thereof.

*Respectfully submitted.*

Name

Address

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

## **APPENDIX C: SELECTBOARD'S ORDER TO ESTABLISH A FIRE DISTRICT (sample)**

### **CERTIFICATION OF PROCEEDING**

Upon receipt of a petition for the formation of Oz Fire District #1, submitted to the Oz Selectboard in accordance with 20 V.S.A. §2481, at regular meeting held thereof on January 1, 2525 and April 1, 2525, acknowledge receipt of said Petition and conduct public meetings into the substance thereof.

Upon motion duly made and adopted, it was RESOLVED BY THE OZ SELECTBOARD, that

1. Oz Fire District #1 is hereby established.
2. The geographical limits of said Fire District are those depicted on the attached plan dated January 1, 2525, and identified as "Starting with lots 1-2-34 and 5-6-78 located near jct. of Rt. 1 and 99 and proceeding south on Rt. 1 including Yellow Brook Rd. to the Field of Poppies, and continuing south on Rt. 1 to jct. of Emerald Ln. including lot 9-10-11 and continuing up Glenda-the-Good Way and ending with lots 12-13-14 and 15-16-17, including all lots physically connected to Yellow Brook Rd, Emerald Ln and Glenda-the-Good Way within these boundaries".
3. All property within the limits of the Fire District shall be subject to the provisions of 20 V.S.A. Ch. 171, and the inhabitants thereof shall be a body corporate for all purposes permitted by law.
4. The Fire District shall have those powers and prerogatives enumerated in 20 V.S.A. §2482-2488, 2601 and 2607, together with those powers conferred generally upon municipal corporations incident to ownership, acquisition and management of water works.
5. The Selectboard reserves the right to modify the boundaries of the Fire District within sixty (60) days of the date of this Certificate, which modification shall take form of an amendment here to referencing a survey or plan depicting boundaries. Upon expiration of such sixty (60) day period, the boundaries of the Fire District shall be deemed to have been conclusively established, and thereafter may be modified only as provided by statute.
6. The Selectboard Chair shall act as moderator at this meeting only. The first meeting of the Oz Fire District #1 is hereby called for April 1, 2525 at 6:00 pm at the Oz Town Hall, for the purpose of transacting the following Articles of business:
  - a. To elect a District Clerk, a District Treasurer, a District Collector, and three Prudential Committee members to serve for terms of one, two and three years respectively.
  - b. To adopt by-laws of the Oz Fire District #1.
  - c. To accept the assets of the Oz Water Co-op.
  - d. To establish the date of the annual meeting.
  - e. To discuss any other matter which may properly come before the moderator.

The Chair of the Oz Selectboard shall preside at the first meeting of the Fire District. Notice thereof shall be given by posting the Warning in at least three public places within the Fire District, and publishing the Warning once in the Emerald City Daily. Such posting, publication and delivery shall occur no more than 40 nor less than 30 days before the date of said first meeting of the Fire District. The Warning for said meeting shall contain a notice to the effect that persons residing within the Fire District who are voters in Town meetings shall be voters of the Fire District.

Attest this \_\_\_\_ day of Month, 2525.

\_\_\_\_\_  
Town Clerk

**APPENDIX D: WARNING OF 1<sup>ST</sup> FIRE DISTRICT MEETING (sample)**

**NOTICE OF FIRST MEETING OF WARNING**

The inhabitants of the Oz Fire District #1 are hereby notified and warned that the Oz Selectboard has called the first meeting of the Oz Fire District #1 for April 1, 2525 at 6:00 pm at the Oz Town Hall, for the purpose of transacting the following Articles of business:

- (1) To elect a District Clerk, a District Treasurer, a District Collector, and three Prudential Committee members to serve for terms of one, two and three years respectively.
- (2) To adopt by-laws of the Oz Fire District #1.
- (3) To accept the assets of the Oz Water Co-op.
- (4) To establish the date of the annual meeting.
- (5) To discuss any other matter which may properly come before the moderator.

In habitants of Oz Fire District #1 who are on the Oz checklist are eligible to vote at said meeting.

Done at Oz, Vermont this \_\_\_\_\_ day of Month, 2525

ATTEST: \_\_\_\_\_  
Town Clerk

Recorded in the records of the Town of Oz this \_\_\_\_\_day of Month, 2525

ATTEST: \_\_\_\_\_  
Town Clerk

## **APPENDIX E: BY-LAWS OF A FIRE DISTRICT (sample)**

### **OZ FIRE DISTRICT #1** **BY-LAWS**

#### **ARTICLE I - PURPOSE**

This Fire District has been incorporated with limited liability in accordance with Chapter 171 of Title 20, V.S.A. to design, construct, upgrade, operate, and maintain a water supply and distribution system; to provide limited water service of a basic residential character to the dwellings within the area bounded as described and depicted on the map entitled "Boundaries of Oz Fire District #1" dated at Oz, in the County of Lamoille and the State of Vermont, the 1<sup>st</sup> day of January, 2525, and to maintain any appropriate apparatus in furtherance of this purpose and as a natural incident to the construction, installation, maintenance and repair of the water system as a whole.

#### **ARTICLE II – POWERS**

The Fire District shall be empowered to construct, install, maintain and repair all facilities and equipment necessary for the provision of the aforesaid water service; to bill all the users of said service for their pro-rata share of the expense of said service; to take by eminent domain, receive, purchase, own, grant, convey and sell real property, easements on real property, and personal property in the name of the Fire District and as a municipal entity; and to perform those functions and have those powers enumerated in Title 20, V.S.A. Sec. 2601-2608 and any amendments thereto.

#### **ARTICLE III – OFFICE**

The office of the Fire District shall be maintained at the residence of the Fire District Clerk or Treasurer. The Fire District may alter its designated office and may also maintain offices at such other places within the Fire District as the Prudential Committee may, from time to time, determine.

#### **ARTICLE IV – MEETINGS OF THE FIRE DISTRICT**

1. **Annual Meetings** – The Annual Meeting of the Fire District shall be held on second Wednesday in January. The fiscal year of the District shall be January 1 through December 31 of the following year.
2. **Special Meetings** – Special Meetings shall be warned upon the application of a petition of three (3) or more voters of the Fire District, or five percent (5%) of the voters of the district, whichever is greater. This warning shall be the same as the warning for an Annual Meeting.
3. **Annual Meetings** – All Annual and Special Meetings shall be warned by the Clerk, or in his/her absence or neglect, by one of the Prudential Committee members. A warning for a fire district meeting shall state the business to be transacted, the time and place of the holding of the meeting and shall be published in the newspaper of record and be posted in two (2) or more public places in the District not more than forty (40) days and no less than thirty (30) days before the meeting. A signed and dated copy shall be recorded and be on file in the office of Fire District #1. Non-resident users shall be notified by mail as above. Resident members may also be notified by mail as above.
4. **Voting** – Persons residing within the Fire District who are voters in the Town of Oz shall be entitled to one vote on each matter submitted to a vote at a meeting of the Fire District.

## ARTICLE V – PRUDENTIAL COMMITTEE

1. **Number, Election and Term of Office** –
  - a) The number of members of the Prudential Committee shall be three (3).
  - b) Except as provided below, the terms of the Prudential Committee shall be as follows: one term of one (1) year; one term of two (2) years; and one term of three (3) years. Subsequent terms of all Prudential Committee members shall be three (3) years. Terms shall expire at the Annual Meeting and Prudential Committee members shall be elected at the Annual Meeting.
2. **Duties and Powers** – The Prudential Committee shall be the administrative body of the Fire District and shall be responsible for the control and management of the affairs, property and interests of the Fire District, and may exercise all powers of the Fire District, including the execution of contracts, except as are expressly conferred upon or reserved to the members of the Oz Fire District #1 by statute or by these by-laws. In addition, the Prudential Committee may commence and prosecute actions in the name of the Oz Fire District #1, defend and adjust actions commenced against the Fire District, and settle claims in favor of and against the Fire District.
3. **Regular Meetings** – The Prudential Committee shall elect from time to time to have their monthly meetings at a certain time and place. For example, the Prudential Committee shall have its regular meetings on the Third Wednesday of each month. This posting will remain at the Town Clerks Office and another location in the District but need not be reported each month in the newspaper.
4. **Meetings** – The Prudential Committee shall meet on the second Wednesday of each calendar month, or at such time as the Prudential Committee at any Regular or Special Meeting of said Committee may determine. Said meeting of the Prudential Committee shall be warned by the Clerk and said warning shall state the business to be transacted, the time and the place of the holding of said meeting, and shall be posted in three (3) or more public places in the District at least twenty-four (24) hours prior thereto.
5. **Chairman** – At the first regular meeting of the Prudential Committee following the Annual Meeting of the Fire District, the members of the Prudential Committee shall elect from their membership a Chairman and Vice-Chairman. At all meetings of the Prudential Committee and of the Fire District, the chairman of the Prudential Committee shall preside. In the absence of the Chairman, the Vice-Chairman shall preside.
6. **Quorum** – A majority of the Prudential Committee present at the time and place of a Regular Meeting or any Special Meeting shall constitute a quorum for the transaction of business.
7. **Vacancies** – Any vacancy on the Prudential Committee may be filled by the Selectman of the Town of Oz. Such appointee, who shall be a registered voter of the Town of Oz and reside within the boundaries of the Fire District, shall serve until the next annual meeting of the Fire District at which time the term shall be declared vacant and an election held to fill the un-expired portion of the term.
8. **Manner of Acting** –
  - a) At all meetings of the Prudential Committee, each member of the Prudential Committee shall have one vote.
  - b) The act of the majority of the Prudential Committee members present at a meeting shall be the act of the Prudential Committee.
9. **Resignation** – Any Prudential Committee member may resign at any time by giving written notice to the Chairman of the Prudential Committee. Unless otherwise specified in said written notice, such resignation shall take effect upon receipt thereof. The acceptance of such resignation shall not be necessary to make it effective.
10. **Removal** – Any Prudential Committee member may be removed with or without cause at any time by the affirmative vote of a majority of the members of the Fire District at a special meeting of the Fire District called for that purpose, and may be removed for cause by the action of the Prudential Committee.

## **ARTICLE VI – OFFICERS**

1. **Titles** – Election and Terms of Office – The Fire District shall elect at Annual Meeting a Clerk, a Treasurer, and a Collector of Taxes. Each officer shall serve until the next Annual Meeting and until others are elected. The Prudential Committee shall have the authority to appoint an Assistant Clerk and an Assistant Treasurer as they may deem necessary.
2. **Duties** –
  - a) Clerk – The Clerk shall keep a record of the meetings, votes and proceedings of the Fire District for the inspection of the members.
  - b) Treasurer – The Treasurer shall accept payment of all accounts on behalf of the Fire District, keep accurate records of all payments, alert the Prudential Committee of any past-due accounts, write and sign all checks of the Fire District and keep accurate records of the financial status of the Fire District.
  - c) Collector of Taxes – The Collector of Taxes shall collect all past-due accounts together with interest and penalties and costs. The Collector of Taxes may take any and all legal action necessary in the execution of the duties of the office.
3. **Resignation** – Any officer may resign at any time by giving written notice of such resignation to the Prudential Committee. Unless otherwise specified in such written notice, such resignation shall take effect upon receipt thereof. The acceptance of such resignation shall not be necessary to make it effective.
4. **Vacancy** – A vacancy occurring in any District office, other than the Prudential Committee members, caused by death, resignation, removal from the Fire District or incapacity of an officer to carry out his duties, shall be temporarily filled by the Prudential Committee within thirty (30) days after the vacancy occurs and until the date when the newly elected officers take office. The vacancy shall then be filled at the next Annual Meeting.
5. **Removal** – Any officer may be removed by a vote of the Prudential Committee when there are at least two (2) votes for such action, whenever in its best judgment the best interests of the Fire District will be served thereby.

## **ARTICLE VII – WATER RATES AND REVENUES**

The Prudential Committee shall establish rates for the water and services provided by the Fire District, and all charges for said water and services shall be paid to the District Treasurer. All rates shall be established as to provide revenue for the following purposes:

1. To pay current expenses for operating and maintaining the water system;
2. To provide for the payment of interest and principal on the indebtedness created by the District;
3. If any surplus remains at the end of the year, it may be turned into a sinking fund or used to pay the costs of improvements to the water system.

## **ARTICLE VIII – OPERATING RULES AND REGULATIONS**

The Prudential Committee shall establish rules and regulations that shall govern the administration, operation and maintenance of the water system. Said rules and regulations are to become effective upon a majority vote of the Prudential Committee.

## **ARTICLE IX – TAX EXEMPTION**

All property of the Fire District shall be exempt from taxation.

## **ARTICLE X – AMENDMENT OF BY-LAWS**

The By-Laws of the Fire District may be amended, added to or repealed by a vote of at least two-thirds (2/3) of the Fire District members present at a Special Meeting convened for this purpose and at which a quorum is present.

## **APPENDIX F: RULES AND REGULATIONS OF A FIRE DISTRICT (sample)**

### **Oz Fire District No. 1 Rules, Regulations, and Schedule of Rates and Charges**

The Prudential Committee of Oz Fire District No. 1, a municipal entity formed and existing pursuant to Chapter 171 of Title 20 Vermont Statutes Annotated, hereby adopts the following rules, regulations, and schedule of rates and charges, as the same may be amended from time to time, governing use, operation, and administration of the community water systems serving the property owners within the Fire District.

Section 1: Definitions. The following definitions shall apply in interpreting these rules, regulations, and schedule of rates and charges:

"Fire District" shall refer to Oz Fire District No. 1.

1.2 The word "lot" shall mean and refer to any lot now or hereafter existing within the boundaries of the Fire District, as established pursuant to Order of the Selectmen of the Town of Oz Establishing the Fire District dated March 2004. Lots within the boundaries of the Fire District are shown on a map plan entitled "Oz Fire District No. 1 Service Area", Oz, Vermont", prepared by Joe Smith, Inc., dated March, 2004, and recorded in Map Book 5 at Page 122 of the Oz Land Records.

1.3 The word "owner" shall mean and refer to any individual, firm, corporation, partnership, or other person or entity owning or having an ownership interest in a lot.

1.4 "Water system" shall mean and refer to the community water systems made up of residential, a store/deli, an automotive garage, and 2 churches named Oz Fire District No. 1 Water System located in the Oz residential area in Oz, Vermont, to be acquired, upgraded, and operated by the Fire District for the common use and benefit of all owners.

Section 2: Service Provided by Fire District. The Fire District has been formed to acquire, upgrade, operate, and maintain the water system to provide water for domestic uses to owners within the Fire District. The Fire District shall provide water to all owners on a year-round basis, subject to the respective rights and responsibilities of the owners and the Fire District as provided herein.

Section 3: Acceptance of Service by Owners. All owners shall be provided with water for their domestic uses by the Fire District: Each and every lot connected to the existing Oz Fire District No. 1 Water System on the date hereof shall remain connected to and served by the water systems, and no owner of each such lot shall circumvent the upgraded water systems by drilling a private well or developing another alternative source of water. Each owner shall pay the annual rate and other charges applicable to each owner and shall abide by the rules and regulations contained herein, as the same may be amended from time to time. In addition, all lessees, invitees, contractors, and others occupying or working on an owner's lot shall be subject to these rules and regulations.

Section 4: Application Procedures for Water Service. Any owner of vacant lot intending to construct a residential dwelling on the lot, and any owner who wishes to increase the water service to his lot beyond usual and customary domestic needs (see Section 15) shall first apply in writing to the Fire District. The applicant shall indicate the location of the premises to be served, the extent of service requested, and other pertinent information to enable the Fire District to act upon the application. The Fire District may require as a condition to any such use a bond, escrow fund, or other form of security to ensure that operations of the water systems are not jeopardized.

Section 5: Fire District's Installation and Maintenance Responsibilities. The Fire District shall be responsible for installing, operating, maintaining, and replacing as necessary the primary components of the water system, including the well, pumps, reservoirs, chlorinators, pressure tanks, main water lines, and other equipment and apparatus appurtenant to the water system, leading to and inclusive of the shut-off valves connecting the primary components of the water system with the individual service lines extending to each residential dwelling. All costs of acquisition and installation of the primary components of the water system shall be paid by the Fire District, which shall own said primary components. The Fire District shall operate, keep, maintain, and replace the primary components of the water system in a good and careful manner to prevent frosting, leakage, or other damage or operating deficiencies. The Fire District shall not, however, have or incur any liabilities for quantity or quality deficiencies of water provided to the owners.

Section 6: Owners' Installation and Maintenance Responsibilities. Each owner shall be responsible for installing, operating, maintaining, and replacing as necessary the secondary components of the water system, including the individual service line extending from the shut-off valve at the main water link to the owner's residential dwelling and all water pipes and other fixtures and equipment within the dwelling. The plumbing in each dwelling within the Fire District must be adequate for a maximum water pressure of fifty (50) pounds per square inch. There shall be within each dwelling sufficient space, shelter, and protection from the weather and freezing conditions necessary for water service to the dwelling. Each owner shall keep, maintain, and replace as necessary the secondary components of the water system appurtenant to such owner's dwelling and all water pipes, plumbing, and fixtures in a good and careful manner to prevent freezing, leakage, or other kinds of operating deficiencies. Each owner shall pay for, own, and be responsible for the secondary components of the water system serving his dwelling and their maintenance and replacement as necessary

Section 7: Connections to the Water System. No unauthorized connections may be made to the main water line. Any new connections shall be made to a shut-off valve on the main water line and shall require prior review and written approval by the Fire District and its engineer, together with such supervision, inspection, and loan or escrow fund mechanism as the Fire District shall determine to be necessary or advisable to prevent damage to the water system. There shall be a hookup charge paid to the Fire District to cover the costs of making the hookup for any new connection. Each connection shall have only one dwelling, and no owner shall divert or supply water from his connection and secondary water line to any other dwelling or persons, unless an application is made to and approved in writing by the Fire District.

Section 8: Right of Entry and Inspection by Fire District. The Fire District and its agents, employees, contractors, and other authorized persons shall have an ongoing unrestricted right of entry and access to each lot and dwelling for all purposes necessary, advisable, or otherwise related to its ownership, operation, maintenance, repair and replacement responsibilities concerning the water systems. This right of access and entry shall include but not be limited to construction, installation, maintenance, and replacement of the water systems, periodic inspection and testing, and enforcement of these rules and regulations and collection of rates and charges. The Fire District shall exercise the right of access and entry in a good and careful manner and, unless emergency circumstances dictate otherwise, during reasonable hours.

Section 9: Rates and Charges. Each owner shall pay an annual charge to pay for all of the Fire District's costs and expenses incurred on owning and operating the water system, including but not limited to debt service for acquiring and upgrading the water systems, general administration, repair, establishment of capital reserve funds for future replacement and/or upgrading work, operations, special or emergency assessments, and other costs and expenses pertaining to the water system. Payment of the annual charge, together with any related costs and expenses as provided hereinafter, shall be in accordance with the following conditions:



### 9.1 Annual Rates.

(a) The owner of each lot with a dwelling located on the lot shall pay an annual flat rate for water service in the amount of FOUR HUNDRED AND FIFTY DOLLARS (\$450.00)

(b) The owner of each lot that is vacant and does not have a dwelling located on the lot and the owner of each lot with a dwelling located on the lot but which is not connected to the existing Oz Fire District #1 Water System on the date hereof and which shall not be obtaining water service from the upgraded water system shall pay an annual flat rate of TWENTY-FIVE DOLLARS (\$25.00)

### 9.2 Billing.

(a) The annual charge for owners of lots with dwellings shall be billed in equal quarterly installments, payable in advance on the first day of January, April, July, and October of each year.

(b) The annual charge for owners of vacant lots without dwellings and owners of lots with dwellings located on the lots but which are not connected to the existing Oz Fire District #1 Water System on the date hereof and which will not be obtaining water service from the upgraded water systems shall be billed once a year, payable in advance on the first day of January for the ensuing year. Bills will be sent to each owner at their address as it appears in the records of the Fire District; and each owner shall be responsible for payment regardless of use or occupancy of his dwelling by tenants, invitees, or other persons.

9.3 Rate Adjustments. The Fire District has the right exercisable from time to time as it deems necessary or advisable to adjust the annual rates specified in Section 9.1 to reflect the actual costs and expenses incurred by the Fire District in connection with its ownership and operation of the water system, as described more particularly hereinbefore. Any such rate adjustment, upwards or downwards as the case may be, shall take effect immediately upon determination by the Fire District, and all owners shall be notified of the adjustment.

9.4 Late Payment Penalty and Interest. Any owner who is delinquent in payment of the water service charge for his lot shall be liable for a late payment penalty of 10% of the delinquent amount, together with interest on the delinquent amount accruing from the due date at the rate of 12% per annum. An owner is delinquent if he fails or refuses to tender payment of any charge he owes pursuant to Section 9.1 within 30 days of the postmarked date of the bill for such charge, or by a due date stated on the bill which shall be at least 30 days after mailing and which shall control in the absence of a postmark.

9.5 Collection. In the event an owner is delinquent in the payment of any water charge, there shall arise a lien against the owner's lot in favor of the Fire District to secure all sums due for payment of the delinquent charge, including late payment penalty, interest, and all costs including reasonable attorney's fees then or thereafter incurred in collecting the delinquent charge. Ownership of the lot and any subsequent transfer or conveyance shall be subject to the lien, which shall continue in effect until all sums have been fully paid. The Fire District may record a notice of lien in the Oz Land Records to provide further notice of its lien rights. Following recording of said notice of lien, the lien may be foreclosed in the same manner as provided for foreclosure of real estate mortgages under Vermont law. Suit to recover a money judgment for any unpaid charge may be brought against the owner, and a foreclosure action may be brought to enforce the lien against the owner's lot. An action at law to obtain a money judgment against an owner shall not be deemed to be an election preventing the Fire District from initiating a lien foreclosure action, nor shall any foreclosure action be deemed to be an election precluding the Fire District from maintaining an action at law for a money judgment against the owner. All costs including reasonable attorney's fees incurred in making collection efforts, enforcing payment, and initiating and maintaining legal proceedings shall be added to and become part of the delinquent owner's payment obligation.

Section 10: Discontinuance of Service. Rules and regulations governing discontinuance of water service to an owner are as follows:

10.1 Reasons for Discontinuance. Service to any owner or other user served by the water systems may be discontinued for any of the following reasons:

- (a) Waste of water through leakage or other exfiltration due to faulty secondary components of the water systems and failure or refusal of the owner responsible therefore to correct the deficiency causing the leakage or exfiltration; or
- (b) Failure or refusal to fulfill the owner's responsibilities to keep and maintain the secondary components of the water systems and related water pipes, plumbing, and fixtures within the owner's dwelling in good order and repair and protected from freezing or other damage; or
- (c) Failure or refusal to pay all charges and any other related costs and expenses for which the owner is liable, in accordance with the provision hereof, or
- (d) Willful damage to the water systems, obstruction of the water supply, or unauthorized tapping into or tempering with any portion of the water systems; or
- (e) Violation of any of the rules and regulations set with herein.

10.2 Disconnection Procedure. In the event of violation of any provisions of Section 10.1 by an owner or other occupant of the premises served giving rise to reason for discontinuance of water service, the Fire District shall give written notice to the owner or other occupant of the dwelling of the intention to disconnect service to the dwelling. The notice shall be mailed to the owner's address as appears in the record books of the Fire District and shall state the actions that must be taken to cure the violation giving rise to the reason for discontinuance of service. In the event the intention to disconnect is any reason of an owner's delinquency in payment of his water charge, the notice shall be in the form required by Title 24 Vermont Statutes Annotated § 5144 Pursuant to Title 24 Vermont Statutes Annotated § 5145, if the delinquent payment or other violation is not cured within 14 days from the stated disconnection date, then water service may be discontinued to the violating owner's lot.

Disconnection shall occur only between the hours of 8:00 a.m. and 2:00 p.m. of the business day specified on the notice of disconnection or within the same hours during the four business days thereafter. When service is disconnected to an owner's premises, the individual making the disconnection shall immediately inform a responsible adult on the premises that service has been disconnected or if no responsible adult is present, shall leave on the premises in a conspicuous and secure place notification advising that service has been disconnected and the actions that the owner or other occupant of the premises must take to have service restored. Disconnection shall not be permitted under any of the circumstances provided in Title 24 Vermont Statutes Annotated § 5143, including if the disconnection would represent an immediate and serious hazard to the health of the owner or a resident within the owner's household, as set forth in a physician's certification provided to the Fire District. In the event of emergency or other pressing circumstances requiring immediate disconnection of service, the Fire District may do without advance notice.

10.3 Restoration of Service. Service that has been disconnected or interrupted shall be restored upon the owner's written request when the cause for disconnection of service has been remedied or when an agreement has been reached between the owner and the Fire District that provides, to the full reasonable satisfaction of the Fire District, for cure of the violation giving rise to the disconnection. Service will be restored within 24 hours from the time when the owner complies with the provisions hereof for remedy or cure of the violation-giving rise to the disconnection of service. All costs of disconnection and restoration of service shall be borne by the owner and shall be paid prior to re-connection. In addition, the owner shall pay the special charges for restoration of service as provided in Title 24 Vermont Statutes Annotated § 1515.

Section 11: Disruption of Service. The Fire District may temporarily disrupt water service for purposes of maintaining, repairing, replacing, and upgrading the water systems. In such event, the Fire District shall make all reasonable and practicable measures to notify or otherwise inform the owners of the temporary disruption. In the event of a water line break, emergency, or other unavoidable circumstances requiring immediate corrective action, the Fire District shall not be required to provide any advance notice or warning to the owners. The Fire District shall not be liable for any damage or claim for inconvenience or other event resulting from the temporary disruption. If the disruption of service continues for longer than 24 hours, there shall be a proportional credit applied to each owner's next bill to reflect the number of days when service was disrupted.

Section 12: Notice to Fire District Upon Sale or Transfer of Lot. Each owner shall provide the Fire District with written notice of any sale, transfer, exchange, or other disposition of his lot at the time thereof, which said notice shall include the name(s) and address of the new owner(s).

Section 13: Extensions of Water Systems. Any extensions of the water systems to vacant lots, other limits to the Fire District, or otherwise shall require the prior written approval of the Fire District and its engineer or other persons authorized to approve and perform the extension work. The Fire District may require such liability, escrow fund, or other means of providing security that there will be no damage to the water systems in connection with any such extensions.

Section 14: Metering. The Fire District reserves the right to install meters for the purpose of measuring the water service provided to each lot, if and when the Fire District shall demonstrate it necessary or advisable for determining and adjusting the annual fees payable by the owners.

Section 15: Use of Water. Owners shall use water only for customary and ordinary domestic purposes and shall apply the diligent to conserve water supplied to their premises. Lawn sprinkling shall be limited to one sprinkler in use for no more than one hour during each 24-hour period. In the event any owner should wish to utilize the systems for extraordinary demands, such as, but not limited to, servicing swimming pools or other unusual needs, the owner must obtain prior written approval from the Fire District, with such conditions and extra payment obligations as the Fire District may determine. No owner shall install or use any plumbing or other apparatus, which will affect the pressure or operating conditions of the water system in a manner that would cause detriment, damage, or interference with the water service provided to the other owners.

Section 16: Actions by Fire District. All actions, authorization, rights, and powers of the Fire District as provided herein may be exercised by the Prudential Committee of the Fire District, as the same shall be composed from time to time. The officers, employees, agents, contractors, and other authorized persons of the Fire District shall conform under the direction and supervision of the Prudential Committee and on behalf of the Fire District.

Section 17: Modifications and Amendments. The Fire District through the Prudential Committee may amend, modify, or waive any of the provisions contained herein if circumstances or other events should require any such amendment, modification, or waiver, subject to the requirements of all laws and regulations of the State of Vermont applicable to the Fire District and under such terms and conditions as the Prudential Committee shall determine to be necessary or advisable in the interests of the Fire District.

Section 18: Miscellaneous Provisions.

18.1 Word Meanings. Words such as "herein", "hereinbefore", and "hereof" refer to those Rules, Regulations, and Schedule of Rates and Charges as a whole and not merely to any particular Section in which the words appear. The singular shall include the plural, and the masculine gender shall include the feminine and neuter (i.e., his, her, them, they, etc.).

18.2 Validity. Invalidation of any one or more of the rules, regulations, or provisions contained herein by a court or other tribunal as appropriate jurisdiction shall not affect in any manner the other rules, regulations, and provisions herein, which shall remain in full force and effect.

Adopted at Oz, Vermont on this \_\_\_\_\_ day of March, 2004 by Oz Fire District No. 1 by it's

Prudential Committee:

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XXXX XXXXX, Chairman

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XXXX XXXXX

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## **APPENDIX G: THE VERMONT STATUTES, TITLE 24, CHAPTER 129: Uniform Water and Sewer Disconnect**

The Vermont Statutes

*Chapter 129: UNIFORM WATER AND SEWER DISCONNECT*

[§ 5141.](#) Scope

[§ 5142.](#) Definitions

[§ 5143.](#) Disconnection of service

[§ 5144.](#) Uniform notice form

[§ 5145.](#) Time and notice of disconnection

[§ 5146.](#) Restoration of service

[§ 5147.](#) Jurisdiction for appeals and exceptions

[§ 5148.](#) Consumer provisions

[§ 5149.](#) Repealed. 1989, No. 45, § 12.

[§ 5150.](#) Unauthorized connection

[§ 5151.](#) Special charges

### **§ 5141. Scope**

This chapter applies only to municipalities providing water or sewer services, or both, and it allows disconnection of water or sewer services, or both, as a delinquency collection procedure for water or sewer delinquencies. Disconnection of water service as a collection procedure for delinquent sewer bills is specifically allowed. This delinquency collection procedure is a separate procedure from that allowed under Title 32. (Added 1977, No. 93; amended 1989, No. 45, § 7.)

### **§ 5142. Definitions**

For the purpose of this chapter:

(1) "Selectboard" means the Selectboard in the case of a town, the city council in the case of a city, the board of trustees in the case of an incorporated village, the prudential committee in the case of a fire district or the board of commissioners in the case of a consolidated sewer or water district.

(2) "Disconnection" means the deliberate interruption or disconnection of water or sewer service, or both, to a ratepayer by the servicing municipality for nonpayment of water or sewer charges.

(3) "Delinquency" means failure of the ratepayer to tender payment for a valid bill or charge within 30 days of the postmark date of that bill or charge, or by a "due date" at least 30 days after mailing, which shall be clearly printed on the bill and which shall control in the absence of the postmark. A delinquency of sewer charges shall be considered a delinquency of water charges, if operated by the same municipal corporation.

(4) "Hearing officer" means a person appointed pursuant to section 5147 of this chapter to act as a fact finder and to hear and investigate evidence, and to make recommendations to the board of selectmen for final determination of the dispute.

(5) "Notice" means the written notice on the form prescribed in section 5144 of this chapter, sent within 40 days after delinquency and postmarked and sent not more than 20 days, nor less than 14 days prior to the disconnect of service.

(6) "Physician's certificate" means a written statement by a duly licensed medical practitioner certifying that a ratepayer or resident within the ratepayer's household would suffer an immediate and serious

health hazard by the disconnection of the utility's service to that household. The certificate will be considered valid and in force for 30 days, or the duration of the hazard, whichever is less.

(7) "Payment of a bill" means the receipt at the municipal office of cash, check or money order which is subsequently honored.

(8) "Business days" means Monday through Thursday, excluding legal holidays and any other time, or the day before such time, when municipal offices are not open to the public.

(9) [Repealed.]

(10) "Credit supervisor" is any person appointed by the board of selectmen to perform the functions of a credit supervisor under this chapter. Notwithstanding section 1524 of this title, the municipal tax collector may be appointed, but the fees provided under Title 32 for a tax collector do not apply to the collection procedure in this chapter. (Added 1977, No. 93; amended 1989, No. 45, § 8.)

### **§ 5143. Disconnection of service**

(a) No municipality shall disconnect service to a ratepayer unless payment of a valid bill or charge is delinquent as defined herein, and notice of disconnection has been provided previously to the ratepayer. A copy of the notice shall be sent to the occupant of a residential dwelling which will be affected by the disconnection if the occupant is different than the ratepayer.

(b) Disconnection shall not be permitted if:

(1) The delinquent bill or charge, or aggregate delinquent bills and charges do not exceed \$15.00.

(2) The delinquency is due solely to a disputed portion of a charge which is the subject of an appeal.

(3) The delinquency is due to a failure to pay a deposit, line extension, special assessment, special construction charge, or other nonrecurring charge.

(4) The disconnection would represent an immediate and serious hazard to the health of the ratepayer or a resident within the ratepayer's household, as set forth in a physician's certificate which is on file with the municipality. Notice by telephone or otherwise that such certificate will be forthcoming will have the effect of receipt, providing the certificate is in fact received within seven days.

(5) The ratepayer has not been given an opportunity to enter into a reasonable agreement to pay the delinquent bill or, having made such agreement, has abided by its terms. (Added 1977, No. 93; amended 1989, No. 45, § 9.)

### **§ 5144. Uniform notice form**

The notice form required under section 5143 of this chapter, and defined in section 5142 of this chapter shall be clearly printed on a pink colored sheet of paper, and shall be according to the following form:

Date \_\_\_\_\_

\$ \_\_\_\_\_

AMOUNT IN ARREARS

Dear Customer:

According to our records, your (water) (sewer) service account is still unpaid. Please make full payment of the account or contact our office to make satisfactory arrangements before ..... If this is not done, we will no longer be able to extend credit and will have to discontinue your service, on that day or any one of the following four business days. (Under the law, "Business days" means Monday through Thursday, excluding legal holidays, when the offices are not open to the public). An unpaid bill is a lien on your real property, and may lead to tax sale proceedings. SPECIAL CHARGES - Section 5151 of Title 24, Vermont Statutes Annotated, provides that we charge a fee for coming to your location to collect the amount overdue. Also, the same statute provides that we shall charge a reconnection fee for restoration of service if your service has been disconnected for nonpayment. These fees are as follows:

Collection Trips - \$ 25.00, regardless of number

Reconnection - Normal Hours - \$ 25.00

Overtime - \$ 37.50

Interest according to 32 V.S.A. § 5136(a)

If payment has already been sent, we recommend that you contact our office to make certain that payment is recorded on your account by the indicated date as such payment may have become delayed or lost in the mail. Payment in the mail does not constitute payment until received by us.

THIS IS A FINAL REQUEST FROM:

(Name of Credit Supervisor)

(Name of Municipality)

(Address of Municipality)

(Town)

Vermont (Zip Code)

(Telephone Number)

OTHER IMPORTANT INFORMATION - If you have a question concerning this bill or if you want to seek an agreement with us to pay the balance due in partial payments over a period of time, you should contact this office as soon as possible after receipt of this notice. In the event an agreement is entered into, failure to abide by the terms of agreement can lead to disconnection without further notice. If disconnection would result in an immediate and serious health hazard to you or to a resident within your household, disconnection will be postponed upon presentation of a duly licensed physician's certificate.

APPEALS - If you cannot reach agreement as to payment of this bill with the credit supervisor whose name appears above, you may appeal to:

(Name of Chairman of the Local Legislative Body)

(Name of Town, City or Village)

(Address of Office)

(Mailing Address)

or by calling:

(Telephone Number)

An appeal cannot be taken unless you first attempt to settle with the credit supervisor. You may appeal only as to the proper amount of your bill or the correctness of application of the rules and regulations. You may not appeal as to the level or design of the rates themselves. No charge shall be made for the appeal. However, undisputed portions of the charges giving rise to this notice must be paid before the disconnection date given above.

(Added 1977, No. 93; amended 1987, No. 33, § 1; 1989, No. 45, § 10.)

#### **§ 5145. Time and notice of disconnection**

(a) Disconnection of utility service shall occur only between the hours of 8:00 a.m. and 2:00 p.m. of the business day specified on the notice of disconnection, or within the same hours during the four business days thereafter.

(b) When service is disconnected or interrupted at the premises of the ratepayer, which shall include disconnection or interruption at or near the premises of the ratepayer, the individual making the disconnection shall immediately inform a responsible adult on the premises that service has been disconnected or interrupted, or if no responsible adult is then present, shall leave on the premises in a conspicuous and secure place a notification advising that service has been disconnected or interrupted and what the ratepayer has to do to have service restored. (Added 1977, No. 93.)

#### **§ 5146. Restoration of service**

If service has been disconnected or interrupted, the municipality shall within 24 hours restore service upon the customer's request when the cause for disconnection of service has been removed or when an agreement has been reached between the ratepayer and the municipality regarding the dispute which led to the disconnection or when directed to do so by the board of selectmen. Restoration of service, to the extent feasible, shall be done so as to avoid charging ratepayers for overtime wages and other abnormal expenses. No collection or reconnection fees may be charged for disconnections or interruptions of service made for reasons of health or safety of the ratepayer or of the general public. (Added 1977, No. 93; amended 1989, No. 45, § 11.)

#### **§ 5147. Jurisdiction for appeals and exceptions**

The Selectboard shall promptly and fairly hear any or all appeals by the ratepayer after notice to all interested parties. During appeal, disconnection will be postponed. Upon just cause shown, the Selectboard may grant exceptions to any ratepayer. The Selectboard may appoint one or more members of the Selectboard to act as hearing officers for the purposes of the appeal. Alternatively, the Selectboard may appoint a responsible citizen to act as a hearing officer for the appeal. (Added 1977, No. 93.)

#### **§ 5148. Consumer provisions**

Nothing in this chapter shall prevent the Selectboard from adopting further procedures, ordinances, or rules providing greater protection for consumers than are required by this chapter. (Added 1977, No. 93.)

#### **§ 5149. Repealed. 1989, No. 45, § 12.**

#### **§ 5150. Unauthorized connection**



The officers and agents of such a municipality entrusted with the care and superintendence of the municipality may at all reasonable times enter all premises so supplied to examine the pipes and fixtures and prevent any unnecessary waste, and to examine for sanitary correction thereto. If any person, without the consent of such municipal corporation, shall use any connection to water or sewer, a civil action on this statute may be maintained against such person by such municipality for the recovery of damages thereon. (Added 1977, No. 93; amended 1989, No. 45, § 13.)

**§ 5151. Special charges**

(a) A municipality providing water and sewer services may charge fees for collection of overdue accounts and reconnection of service disconnected because of nonpayment.

(b) Fees charged shall not exceed the following schedule:

Collection Trips - \$25.00 maximum, regardless of number

Reconnection:

Normal Hours - \$25.00

Overtime - \$37.50

(c) Interest on delinquent accounts may be assessed if voted by the municipality according to 32 V.S.A. § 5136. (Added 1977, No. 93; amended 1987, No. 33, § 2; 1989, No. 45, § 14.)

## APPENDIX H: SECRETARY OF STATE FIRE DISTRICT DOCUMENT

Fire Districts and How They Work:  
A Guide for Municipal Life  
Office of the Secretary of State  
March 1992; updated May 2013

Fire districts are the orphans of Vermont municipal life. Towns and school districts have real identities, clear boundaries of authority, and good law to support most of what they do. Fire districts have none of these. They are usually organized by petition, created for special purposes, and left to fend for themselves with a law that tells fire district officers very little about their duties and responsibilities, that depends on other laws by analogy for authority and direction. No wonder some fire districts get into procedural trouble in the conduct of their affairs.

How should an annual meeting be warned? How are taxes collected? What services can the district provide to people residing outside the district? These are not questions that ought to be left to speculation or bad memory. We need to look at the law on fire districts and the law of other municipalities that fire districts must use and see how a fire district should be run.

Charters and general law: Fire districts can be created by one of two methods. One is by a petition signed by twenty freeholders, submitted to the Selectboard, who then establish the district and define its limits. The other is by special act of the legislature, sometimes called a municipal charter, which gives the fire district its authority. There is no preferred method of organization. The petition method is easier, since the legislature doesn't have to be involved, but the legislative approach allows the district additional authority beyond that granted by general law.

Remember the general rule that specific legislation preempts general legislation. 'This means that special legislation on a fire district that sets the warning period at seven or ten days before a meeting overrules the general requirement that all fire district meetings be warned' thirty to forty days ahead. [20 V.S.A. § 2483](#).

Knowing what special legislation has been adopted for the fire district is a critical first step in assembling the materials needed to decide what authority the district really has. The best source for learning whether your district has special legislation that applies to it is the pamphlet, [Vermont Municipalities: An Index to their Charters and Special Acts](#), ed. D. Gregory Sanford (Montpelier. Office of the Secretary of State, 1986). The information is also available upon request from the Office of the Secretary of State.

From this point forward in our discussion of fire districts, we describe general state law applying to fire districts. Inconsistencies between general law and your charter are almost certainly resolved in your charter's favor.

The index shows the following fire districts with some form of special legislation applying to them; this is by no means an exhaustive list of all fire districts:

- Bakersfield Fire District #1
- Barre Fire District #1
- Bennington Fire District
- Bethel Fire District #1
- Brandon Fire District #1
- Brighton Fire District #1
- Bolton Fire District#1

- Castleton Fire District #1
- Castleton Fire District #2
- Cavendish Fire Districts #1 & 2
- Colchester Fire District #1
- Colchester Fire District #2
- Colchester Fire District #3
- Cold Brook Fire District #1
- Coventry Fire District #1
- Danby and Mount Tabor Fire District #1
- Danville Fire District #1
- Dorset Fire District #1
- Greensboro Fire District #1
- Hardwick Fire District #1
- Lunenburg Fire District #1
- Lyndon Fire District #1
- Middlebury Fire District #1
- Milton Fire District #1
- Pawlet Fire District #1
- Poultney Fire District #1
- Readsboro Fire District #1
- St. George Fire District #1
- Wallingford Fire District #1
- Williamstown Fire District #1

### **Organization by Petition**

The basic law on the formation of fire districts by petition is [20 V.S.A. § 2481](#). Twenty or more freeholders petition the Selectboard asking that a fire district be formed and citing the powers requested for the district. The Selectboard then warn the first meeting. At the meeting, the chair of the board serves as moderator. [20 V.S.A. § 2482](#). Subsequent meetings are run by the fire district's own elected moderator.

Fire districts are expanded by the same process. A petition signed by twenty freeholders residing in the area of the proposed expansion of the fire district is submitted to the Selectboard who redefine the limits of the district. The voters of the fire district, exclusive of the proposed expansion, meet and vote to approve the expansion prior to submittal to the Selectboard.

"Freeholder" is an outdated term. Statute was updated to clarify that a voting member of the fire district is a voter who voted at town meeting. Basically, if a person's physical permanent address is within the fire district boundary and they are registered to vote in that town, they may vote on fire district business. [20 V.S.A. § 2484](#).

At the organizational meeting, the chair of the board acts as moderator as the fire district elects its first officers, moderator, clerk, treasurer, collector of taxes, and a three member prudential committee. The prudential committee is at first elected for terms of one, two and three years, with three year terms the rule as each of the initial terms ends, to ensure staggered terms of committee members. The statute does not require the election of auditors (or even a moderator for that matter), but they should be elected nonetheless because they are needed. Towns must elect auditors and moderators; so should fire districts.

This introduces the subject of derivative law. The fire district chapter is in [Title 20, Chapter 171](#). But if you stop there you miss much of the law that affects fire districts because the laws applicable to the inhabitants and officers of towns shall be applicable to the inhabitants and similar officers of all municipal corporations. This section shall be so construed as not to conflict with the acts of incorporation of or laws specifically applicable to such municipal corporations. [1 V.S.A. § 139](#).

The fire district might vote a tax at its organizational meeting or it may choose to wait until the Annual Meeting.

### **Powers of a fire district**

As noted above, a fire district has only those powers that are included in its organizational petition (or a subsequent amendment to that petition). General state law authorizes the fire district to construct and maintain sewers and sewage treatment works, sidewalks, public parks, water works, water companies and equipment (including reservoirs and dams), lighting, and for protection of property from damage by fire. [20 V.S.A. § 2601](#). With these responsibilities comes the right to levy a tax, subject to a vote at an Annual or Special Meeting of the fire district.

The fire district, through its prudential committee, has the right to use and occupy portions of the public highways within the district for these stated purposes. A fire district may also adopt the town manager system. See [20 V.S.A. § 2601](#) and [24 V.S.A. § 1243](#). Laws authorizing a fire district to engage in planning and zoning activities have been repealed, however.

It may adopt bylaws at an Annual or Special Meeting governing the manufacture and safekeeping of ashes, gunpowder and combustibles, and the preservation of buildings from fire by precautionary measures and by inspection. [20 V.S.A. § 2602](#). It may vote to empower the prudential committee to sprinkle or oil the streets. [20 V.S.A. § 2603](#).

Without the need for a vote of the electorate, the prudential committee may make contracts and expenditures for the preservation of property from damage by fire as it deems necessary. [20 V.S.A. § 2604](#). It may purchase and hold apparatus for extinguishing fire and real and personal estate needed to preserve the apparatus. [20 V.S.A. § 2605](#). The prudential committee also has the right to exercise eminent domain powers to erect a building to keep fire apparatus. [20 V.S.A. § 2606](#). It may also commence and prosecute, as well as defend and adjust (settle) lawsuits. [20 V.S.A. § 2607](#).

### **Budgets and annual reports**

The specific law on fire district budgets is slim. As with all municipalities, the voters appropriate money for expenditures, authorizing the prudential committee to spend revenues to meet the needs of the district. Unlike other municipalities, a prudential committee may not by law spend more money than its electorate has authorized at a Special or Annual Meeting. [20 V.S.A. § 2604](#).

It's best to warn and adopt a budget at the Annual Meeting, and not a tax rate. The fire district doesn't develop its own grand list; it relies on the town listers to do that, and then uses that portion of the grand list covering the fire district to raise its tax revenues. No vote on a tax rate at an annual meeting is precise, since the grand list is unsettled until mid-summer.

Most fire districts don't issue an annual report, but one is required by the auditors under general state law. [24 V.S.A. § 1682](#). It need not be as fancy as a town report. It should, at least, include a detailed statement of the financial condition of the district, a classified summary of receipts and expenditures, a list of all outstanding orders and payables more than thirty days past due, and any deficit. [24 V.S.A. § 1683](#). A proposed line item budget is the next most important addition to the annual report. The report ought to be available to voters at least ten days in advance of the Annual Meeting.

### **Warnings**

The warning period for an Annual or Special fire district meeting is no less than 30 and no more than 40 days from the date of the meeting. No published notice is required, but the warning should be posted in at least two public places and recorded in the town clerk's office. [20 V.S.A. § 2483](#). Annual meetings are

held on the second Monday of January, unless the voters have voted to appoint some other day as the annual meeting. Special meetings may be called on petition of three or more voters or five percent of the checklist, whichever is greater (five percent will be the rule in most cases). Warnings are signed by the fire district clerk or, if unavailable, one of the prudential committee.

The warning includes the specific articles to be voted; anything not included is out of bounds, since only articles appearing on the warning can be the subject of binding municipal action. No article, once voted, may be reconsidered at the same meeting. Once an article has been adopted or defeated, the voters cannot take it up again until new warning is given and a new meeting is held. [17 V.S.A. § 2661](#).

### **Checklists**

When and where the warning is posted, the most current checklist of the fire district should be posted. [17 V.S.A. § 2141](#). The checklist consists of those voters who are on the town checklist who reside in the fire district. If names are added or removed from the town checklist, then the same names are added or removed from the fire district checklist automatically.

Each time the fire district calls a meeting, the town is obliged to update its checklist. Noon on the third Saturday before the meeting is the deadline for receiving applications for addition to the town checklist. The town board of civil authority is required to meet between that time and the day of election to add the names of those whose applications are pending, if the individuals are qualified.

### **The annual meeting and the election of officers**

The Annual Meeting of a fire district is the occasion for the election of officers, the voting of the budget, and other public questions. Each year the district elects a clerk, treasurer, collector of taxes, a member of the prudential committee, and may elect a chief engineer and assistant engineers who rank in the order of their election. Members of the prudential committee may serve for three year terms, although at the beginning of a district the initial board is elected for one, two, and three year terms to provide for staggered terms. Prudential committee members may also be the clerk, treasurer and collector of taxes. Vacancies in any district office except prudential committee member are filled by the prudential committee until the next annual election. Prudential committee vacancies are filled by appointment of the Selectboard until the next annual or special meeting. [20 V.S.A. § 2485](#).

All officers elected at a fire district meeting must be residents of the fire district, except the collector of taxes. [20 V.S.A. § 2486](#).

Meetings are run by Robert's Rules of Order and general state law relating to town meetings, with one exception. [17 V.S.A. § 2658](#). The exception is the right of one voter to call for a paper ballot, unlike the seven provided by state law.

### **The prudential committee**

The prudential committee is obliged to follow the Open Meeting law. [1 V.S.A. § 310](#) and following. This means that its meetings must be properly warned. Regular meetings are warned with very little effort. Their regularity allows the committee to adopt a resolution in its minutes announcing the time, date (first Tuesday of the month, for example), and place and, as long as that doesn't vary, dispense with any further notice.

Special meetings require three public postings including the municipal clerk's office, notice to each member of the committee, at least twenty-four hours in advance of the meeting.

Emergency meetings, called to respond to an unforeseen event or occurrence, require some form of notice as soon as possible before any such meeting, but are not required to meet notification requirements as for other meetings. [1 V.S.A. § 312](#). No binding action can be taken except at a duly-warned meeting.

Minutes must be kept of each meeting, giving as a minimum the name of the committee members who are present and members of the public who play an active part in the meeting, a listing of all motions made, and the result of all votes. These minutes must be available within five calendar days of the meeting.

A majority of the committee is required to meet, and a majority of total members present must vote in favor of a motion in order to take binding action. [1 V.S.A. § 172](#). A committee probably ought to adopt Robert's Rules as its own procedural rules. The committee elects its own officers, including a chair, but there is no reason for the chair to refuse to vote except to make or break a tie; the chair can vote on any motion and may even make motions, according to Robert's.

For an introduction to the handling of motions at an annual or special meeting, consult [A Handbook for Vermont Moderators](#) (2008), published by the Secretary of State

For more on the open meeting law, contact the [Secretary of State](#).

### **Abatement of taxes**

The fire district board for the abatement of taxes consists of the prudential committee, the clerk and the justices of the peace and town listers residing within the fire district. The provisions of [24 V.S.A. § 1535](#) apply. The board may abate in whole or in part the taxes of persons who have removed from the state, persons who have died insolvent, persons who are unable to pay their taxes, when there is a manifest error or mistake of the listers, or when property is lost or destroyed during the tax year. A written decision is required, following a hearing and a vote by a majority of those members present and voting, as long as there is a majority of the total board present to make a quorum.

### **Providing water**

The laws governing how a fire district conducts its water business are found in [24 V.S.A. Ch. 89](#). "Fire district" is not mentioned expressly in this chapter; the name "municipal corporation" is used to define the entity running a water business. Otherwise the law is pretty straightforward.

[Section 3301](#) lists the basic authority of a municipal corporation running a water system. This includes the right to construct, maintain and repair an artesian well, reservoir, pumps, engines and apparatus. It includes the right to purchase reservoirs, wells, ponds, springs, streams, water courses, Real estate, water rights, flowage rights, and necessary easements within the limits of the district, and the right to acquire these by the exercise of eminent domain. The district may also purchase or acquire by eminent domain land surrounding or adjacent to a fire district to protect and preserve the quality of the water. It may erect fences to protect the water supply; it may enter any land or water to make surveys; it may erect dams and reservoirs, and lay pipes and aqueducts. The district may not, however, take water or a spring of water owned by a person who is using it for domestic use or for the watering of animals, except by purchase. A district may open the ground in streets and public grounds, returning them to their original condition after finishing. [24 V.S.A. §3302](#).

The purchase or taking by eminent domain of rights or properties of persons or corporations engaged in the business of a water company is conditioned by the statute as subject to the provisions of [section 108 of Title 30](#). Turning to Title 30, it's clear that the legal reference has changed since the law on water works was written and that the section is now codified as section 109. This section prohibits a water

company from selling or leasing more than ten percent of its property except after a hearing before the Public Service Board and the issuance of a certificate of consent. [30 V.S.A. § 109](#).

The eminent domain process is laid out in section 3303 of Title 24. If the fire district can agree with the landowner on the price of the land, easement or other right, a deal may be made without the involvement of other parties. If no agreement can be found, or when the owner is an infant, insane, absent from the state, unknown, or the owner of a contingent interest, then the fire district and the owner must bring the matter before the superior court. The presiding judge arranges the proper notice to alert persons interested and then appoints three disinterested persons as commissioners to examine the property, hear the parties, and assess and award damages, for the taking. Their report is submitted to the presiding judge, who accepts it unless he finds just cause not to do so. Within sixty days of the taking, the fire district must file a description of the property with the town clerk. [24 V.S.A. § 3304](#).

Water may also be provided by a fire district by contract or lease with another municipality although the agreement may not cover a period of more than forty years. [24 V.S.A. § 3305](#).

When a person interferes with a water supply of a fire district, the law provides criminal penalties and treble damages as sanctions. [24 V.S.A. § 3307](#).

The prudential committee may appoint or remove a superintendent. [24 V.S.A. § 3313](#).

Fire district ordinances relating to water works are adopted by vote of the electorate at a duly-warned Annual or Special Meeting of the district. [24 V.S.A. § 3315](#).

### **Water rents, rates, fees and taxes**

Those who use the water of a fire district must pay for the service. That's not a radical idea. Those who use it without authority may be taken to court for recovery of damages, and the charges, rates or rents charged to a user become a lien against the property in the same way as delinquent taxes. [24 V.S.A. § 3306](#).

Rates are established by the prudential committee. The rates may be set by water used, as-shown by water meter, or at an annual rate. The rates may be changed at any time by the prudential committee and advance payment may be required. [24 V.S.A. § 3311](#).

Taxes are voted by the electorate of the fire district against the real and personal property within the district that appears on the town grand list. [24 V.S.A. § 3308](#).

Capital improvements to the water system may be financed by a vote and issuance of bonds. 24 V.S.A. §§ [3310](#), [3314](#). See also [24 V.S.A. Chapter 53](#) on bonds and bond votes.

### **Sewers**

The prudential committee of a fire district that includes among its powers the operation of a sewage disposal system has the authority to take, purchase and acquire real estate and easements for its purposes. It may enter land to conduct surveys. [24 V.S.A. § 3502](#). It may contract with the State or federal government, any town, corporation or individual to dispose of its waste. Contracts are limited to forty years in length by law. 24 V.S.A. §§ [3503](#) & [3611](#). It may establish rates for rent, with rules for the system's control and operation, and it may appoint a superintendent to serve at its pleasure to manage the works. [24 V.S.A. § 3507](#).

The prudential committee may also require the owners of buildings, subdivisions and developments abutting a public street or highway to connect all sewers from those buildings to the sewage system of



the district [24 V.S.A. § 3509](#). On the other hand, the municipality has no legal obligation to provide unlimited sewage capacity or to provide sewage disposal services on demand. *Bryant v. Town of Essex*, 152 Vt. 29, 39, 564 A2d 1052 (1989). The decision to extend a sewer line is discretionary with the district. An application for a connection, however, without the need for extension of the line, must be treated on its own merits, according to the same terms and conditions as other applicants. It may not be done unreasonably, capriciously or arbitrarily. *Corcoran v. Village of Bennington*, 128 Vt. 482, 491-92, 266 A2d 457 (1970).

Allocation of sewage capacity is a delicate matter. Unfortunately for fire districts these municipalities do not have independent authority to decide how allocations are made. This is the business of a village or town, through an ordinance or bylaw. [24 V.S.A. § 3625](#).

For purposes of building a sewage disposal plant or laying pipes and sewers, a fire district may enter on and use land, highways and public grounds, provided that the land or highways that are disturbed are left in as good condition as before the construction began. [24 V.S.A. § 3603](#). Landowners may challenge the decision of a fire district to use land for this purpose through a petition to a superior judge, if the landowner and the district cannot agree on their own. The judge holds a hearing and determines the "necessity" of the use. [24 V.S.A. §§ 3601, 3604-3607](#).

After taking any property, franchise, easement or right, the fire district must file a description of the taking with the town clerk. [24 V.S.A. § 3610](#).

The prudential committee may also adopt ordinances relating to the operation of the sewage system. The formal process of adopting an ordinance begins with a vote to adopt by the prudential committee, followed by the publication of a notice describing the ordinance, the process by which voters may petition the committee for a vote to disapprove it, and where copies of the ordinance and answers on its details can be found. Voters equal to five percent of the checklist have forty-four days from the date of the vote to adopt to petition for such a vote; if no petition comes in, the ordinance takes effect sixty days from the date of the vote to adopt. If a petition is received, then the prudential committee warns a Special Meeting to vote on whether the ordinance should be disapproved. If the vote fails, the ordinance takes effect immediately. See [24 V.S.A. §§ 1971-1976](#).

Unlike a town, a fire district exercising its authority to operate a sewage system is run by the prudential committee. With the exception of the vote to bond, to levy taxes and an initial decision on whether to construct a sewage disposal plant, all decisions may be made by the prudential committee. [24 V.S.A. § 3618](#).

### **Sewer rents, rates, fees and taxes**

The cost of a sewage system is usually paid through sewage disposal charges. The prudential committee has full power to decide how and when these charges should be paid. Annual charges may cover bond repayment, fixed operations and maintenance costs (not dependent on actual use), and variable operations and maintenance cost dependent on flow. Charges can be based on the metered flow of water, the number of equivalent units connected to the system, the presence of wastes stronger than household wastes, the appraised value of the premises, the number and kind of plumbing fixtures or persons using the fixtures, or a combination of these criteria. The prudential committee should review these charges annually. [24 V.S.A. § 3615](#).

All properties, including those that are otherwise tax exempt (state properties as well), are liable for these charges. Where appraised value is the basis of the charges, the town listers are responsible for appraising the property. [24 V.S.A. § 3615](#).

The charges, rates or rents for a sewage system are a lien on the real estate that is furnished with the service in the same way as delinquent taxes are a lien, and a fire district may use any of three methods



of delinquent tax collection to collect this money. If the assessments remain unpaid for thirty days, the fire district treasurer may issue a warrant, which gives the delinquent tax collector the authority to use any of the methods of collection used for delinquent taxes. If the assessments remain unpaid for two years, the fire district may enforce the lien, as provided in [32 V.S.A. §§ 5061-5078](#). The district may also use the water and sewer disconnect procedures provided in [24 V.S.A. §§ 5141-5151](#). This involves the mailing of a uniform notice, limits on the time when water and sewer may be disconnected, and a formal process of appeals before the Selectboard. [24 V.S.A. §§ 3504 & 3612](#).

The rates and receipts of the fire district must be used and applied to pay the interest and principal on any sewage system bonds of the district, the expense of maintenance and operation of the sewage system, and for dedicated fund payments. [24 V.S.A. § 3507](#).

Voters may approve the issuance of bonds for sewage system purposes, using the bond procedures of [24 V.S.A. Chapter 53](#). Bonds for these purposes are outside the bond limits established by [24 V.S.A. § 1762](#), however, and may be issued for more than thirty years. Voters are then obliged to pay the principal and interest on these bonds through the tax rate of the district. [24 V.S.A. § 3613](#).

The prudential committee may establish a dedicated fund to finance major rehabilitation, major maintenance and upgrade costs for the sewer system, and set aside as much as fifteen percent of the normal operations, maintenance and bond payment costs. Before establishing the fund, the prudential committee will need to adopt an ordinance (using the provisions of [24 V.S.A. Chapter 59](#)) authorizing and controlling the funds. The fund cannot exceed the costs of future construction and must be insured at a level provided by FDIC. Withdrawals may be made only for the purposes for which the fund is authorized. [24 V.S.A. § 3616](#).

## **Fire protection**

Rank is critical in fighting fires. The chief engineer, or the assistant engineers in the order of their rank, have responsibility for the apparatus for fighting fires and of the companies and persons assisting at the fire site. When on duty, an engineer must wear a badge of office with the rank inscribed on it [20 V.S.A. §§ 2671 & 2673](#). Firefighters may remove goods and effects from a building or place threatened by fire and may, on order of the superior officer present at the scene, pull down, blow up or remove such buildings as deemed necessary to prevent the spread of the fire. The officer may also require the assistance of inhabitants of the district, suppress disorder, and direct and control traffic in the absence of a law enforcement officer. Where there is a threat of a fire or explosion, the ranking officer is also in charge, but must surrender responsibility to the appropriate police department in the threat of a bombing. [20 V.S.A. § 2673](#). Refusing to obey a lawful order of an engineer may result in a \$25.00 fine. [20 V.S.A. § 2675](#).

## **Last thoughts**

Trying to include everything an officer of a fire district needs to know in one booklet is crazy. We haven't tried to do more than the highlights of the law here, with the hope that officials will take the time to look into the green books of Vermont law found in every town clerk's office to see what the law is and how it works. Too often fire districts are run as if they are private organizations, and that is simply dangerous to the fiscal health of the district and its officers. Like it or not, there is a law covering most everything the fire district can do. Knowing it thoroughly is essential to avoid unnecessary court action or liability. If you can't find the law or understand what it means (a natural reaction in some cases shared by all of us), please call the Secretary of State's Office at 800-439-8683. We'd be happy to help.

This guidance sheet and related environmental information are available electronically via the internet. For information visit VT DWGWPD directly at <http://drinkingwater.vt.gov/>

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