

**WEST BARNSTABLE FIRE DISTRICT****BY-LAWS****Restated as of April 27, 1994****Revised April 28, 1999****Revised April 26, 2006****Revised April 29, 2009****Revised April 28, 2010****Revised April 25, 2012****ARTICLE I**  
**OFFICERS**

Section 1: The officers of the West Barnstable Fire District shall consist of a Moderator, a Prudential Committee consisting of three (3) members, and a Board of Water Commissioners consisting of three (3) members, all of whom shall be elected by ballot and shall serve three (3) year terms until their successors have been chosen and qualified. Terms of officers shall commence on July 1<sup>st</sup> of the calendar year immediately following their election and shall terminate on June 30<sup>th</sup> of the appropriate calendar year, except that the term of office of officers elected to fill a vacancy shall commence on the day following their election.

Section 2: There shall be appointed by the Prudential Committee a Fire Chief, Clerk and Treasurer who shall be appointed for three (3) year terms and upon such terms and conditions as hereinafter specified and under such other terms and conditions as may be determined by the Prudential Committee. The office of Clerk and Treasurer may be held by the same person.

Section 3: Terms of appointed officials shall commence on July 1<sup>st</sup> of any calendar year and shall terminate on June 30<sup>th</sup> of the appropriate calendar year.

Section 4: Each candidate for election to a District office shall file nomination papers with the District Clerk bearing at least thirty (30) signatures of qualified voters of the District at least thirty (30) days prior to the date of the annual election and meeting. Thereupon, the Clerk shall prepare printed ballots for officers to be elected during the advertised voting period prior to the annual meeting.

Section 5: Salaries of the elective District officers shall be determined by vote of the District at its annual meeting.

Section 6: A vacancy in any elective office occurring after the annual District election in any year shall be filled by appointment by a majority vote of the Prudential Committee. The appointee shall serve until the next annual election when candidates for the unexpired portion of the term of said office shall be eligible for election.

Section 7: Only registered voters and residents of the District are eligible for any elective office.

**ARTICLE II**  
**DUTIES OF OFFICERS**

Section 1: The duties of each elective District officer shall begin immediately following election or appointment and when he/she has been duly qualified and sworn, and shall terminate when his/her successor has been duly qualified and sworn.

Section 2: MODERATOR

- A. The Moderator shall preside at all District meetings, and shall have the same authority as the moderator of a town meeting.

Section 3: PRUDENTIAL COMMITTEE

- A. The Prudential Committee shall have general supervision of the affairs of the District but shall not override specific duties assigned to the Board of Water Commissioners by the General Laws of Massachusetts.
- B. The Prudential Committee shall act as the Appointing Authority for all appointive District officers as outlined in Article I, Section 2.
- C. The Prudential Committee shall require a written report annually from the head of each Department, Office, Board and/or Committee of the District and shall have same printed in the annual report of the District for distribution.
- D. The Prudential Committee shall supervise the preparation of the annual District financial budget and from this budget, and the reports of the various Departments, it shall make recommendations to the voters at the annual meeting.
- E. Except in cases where authority is vested in the Board of Water Commissioners, the Prudential Committee shall negotiate both financial and material contracts on behalf of the District, as authorized by vote of the District at annual or special meetings.
- F. The Prudential Committee shall act as an advisory board to the Fire Chief.
- G. The Prudential Committee shall be responsible for determining the placement of streetlights within the District. In determining the placement of streetlights, overriding consideration shall be given to street intersections, fire hydrants, and hazardous road conditions.
- H. The Prudential Committee may employ legal counsel for general purposes and shall be the agent of the District to prosecute and defend suits to which the District in its corporate capacity may be a party and as agent of the District shall have full authority to prosecute or defend all suits at law or in equity and all civil and criminal proceedings and litigations to which the District or any officer or employee in his/her official capacity is a party or in which the District's rights, duties and interests may be the subject of adjudication before any judge, magistrate, court, tribunal or agency.
- I. The Prudential Committee shall establish and administer a Personnel Code and shall have the authority to amend the same upon majority vote of the Committee and the Commissioners of the affected department.

- J. No person who is currently a member of the West Barnstable Fire Department or currently a member of any other fire department shall serve as a member of the Prudential Committee.

#### Section 4: Board of Water Commissioners

- A. The Board of Water Commissioners shall supervise the operations of the Water Department and it shall record the doings of the Water Department in the printed annual report of the District.
- B. The Board of Water Commissioners shall be responsible for the maintenance of all Water Department buildings, tanks, and equipment.
- C. The Board of Water Commissioners shall negotiate contracts for the Department for engineering assistance, the laying of water mains and their appurtenances, the erection of buildings and tanks, etc., in accordance with Article III, Section 4 of these By-Laws.

#### Section 5: Fire Chief

- A. Appointment
  - 1. The Prudential Committee shall appoint a Fire Chief on the basis of merit and ability for an initial probationary term of one (1) year and during that probationary term may be removed without cause. Following completion of the one (1) year probationary period, he/she may be appointed to said position by vote of the Appointing Authority. If so appointed, the appointee shall thereafter be given an annual review and may be removed at any time, but only for just cause and after a public hearing and unanimous vote by the Prudential Committee.
  - 2. The Prudential Committee shall on or before December 1<sup>st</sup> of each year prepare and submit a written evaluation of the Fire Chief's job performance for the prior fiscal year. Said evaluation shall be a public document and included in the Fire Chief's personnel file.
- B. Residency
  - 1. The Fire Chief shall at the time of any three (3) year appointment or within one (1) year of an initial appointment reside no more than a twenty (2) minute drive from the West Barnstable Fire Headquarters or at such further distance at the discretion of the appointing authority. The Fire Chief shall adhere to this requirement during his/her term in office.
- C. Mandatory Qualifications
  - 1. Shall be a minimum of thirty (30) years of age.
  - 2. Shall have substantial experience in the preparation and administration of budgets, command of firefighting operations, and command of emergency medical services operations, and not less than five (5) years' experience as a fire department officer.
  - 3. Shall be medically qualified as determined by a medical examination conducted by a physician selected by the Appointing Authority.

4. Shall be medically qualified as determined by a psychological examination conducted by a psychologist selected by the Appointing Authority.
5. Shall be a registered Emergency Medical Technician and shall maintain said certification during period of employment.

D. Desirable Qualifications

1. Possession of an Associate's Degree in Fire Science.

E. Duties

1. The Fire Chief shall be the chief executive officer of the Fire Department. He shall be responsible for fire prevention, fire inspection, the extinguishment of all fires, carrying out all rescue operations and the provision of emergency medical services within the District.
2. He shall promulgate and enforce rules, regulations, procedures and policies for the orderly and effective management and control of the Fire Department and for the delivery of fire and rescue services.
3. He shall recommend to the Prudential Committee an individual for appointment to the position of Deputy Chief.
4. He shall appoint such other officers and personnel as may be necessary and consistent with the size of the Department and its activity.
5. He shall, through appointed officers, be responsible for the care and maintenance of Fire Department facilities and all fire and rescue apparatus.
6. He shall, through appointed officers, maintain a conscientious and well disciplined Fire Department, which, through a continuous training program, shall provide the District with an adequate roster of qualified fire and rescue personnel.
7. He shall have jurisdiction over all Fire Department personnel. He shall have authority to enlist aid from persons outside the Fire Department for firefighting or for other matters involving the public safety and welfare.
8. He shall monitor all operations of the Department, keep apprised of all activities and make a final decision as to the course of action.
9. He shall expend for the purposes prescribed and funds appropriated for the use of the Fire Department, shall certify all bills against the District contracted by his authority, shall cause the preparation of the annual budget for the Fire Department as well as other articles related to the Fire Department for submission to an annual or special meeting of the District and shall annually make a full report in writing to the District concerning the Department's activities.
10. He shall be responsible for the administration and enforcement of all state and local laws relative to fire prevention, emergency medical services and public safety, and shall coordinate with town, regional, state and national organizations.
11. Should the Fire Chief not be available to respond to a fire, rescue or other emergency calls, the senior Fire Department officer present shall assume authority until properly relieved?

## Section 6: Deputy Fire Chief

### A. Appointment

1. The Prudential Committee shall, upon recommendation of the Fire Chief, appoint a Call Deputy Fire Chief for an initial probationary term of one (1) year and during that probationary term may be removed without cause. Following completion of one (1) year probationary period, he/she may be appointed to said position by vote of the Appointing Authority. Is so appointed, the appointee shall thereafter be given an annual review and may be removed at any time, but only for just cause and after a public hearing.
2. The Chief shall by June 1<sup>st</sup> of each calendar year prepare and submit a written evaluation of the Deputy Chief's job performance to the Prudential Committee for inclusion in the Deputy Chief's personnel file, as maintained by the Clerk.

### B. Mandatory Qualifications

1. The Deputy Fire Chief shall have not less than five (5) years experience as a call Fire Captain or Call Fire Lieutenant.
2. Shall be medically qualified as determined by a medical examination conducted by a physician selected by the Appointing Authority.
3. Shall be psychologically qualified as determined by a psychologist selected by the Appointing Authority.
4. Shall be a registered Emergency Medical Technician and shall maintain said certification during period of employment.

### C. Duties

1. The Deputy Fire Chief shall serve under the direction of the Fire Chief.
2. He shall perform the duties and responsibilities as delegated by the Fire Chief.

## Section 7: District Clerk

### A. Qualifications

1. Experience in office management and record keeping including word processing software programs, and ability to read and understand State statutes and District By-Laws relating to duties and responsibilities of District Clerk.

### B. Duties

1. Supervise all District elections in the District. Prepare ballots for District elections, oversee and swear in staff at polling places, monitor election day activities, assure the security of ballots and no improper disenfranchisement, and supervise tabulation of results. Certify election results to the Secretary of the Commonwealth. Administer oath of office to District Moderator. Attest all official District documents with the District seal.
2. Serve as custodian of District records and Seal and certify official copies of records upon request.

3. Serve as Clerk to all District meetings and maintain official records of meeting activities.
4. Submit newly voted by-laws to State Attorney General's office for approval. Publish and post all approved by-laws.
5. Supervise the preparation of reports to various Town, County, State and Federal agencies as required by law.
6. Provide information and assistance to the general public and to District employees and officials regarding statutory requirements.
7. Any duties relating to the position as determined by the Prudential Committee.

#### Section 8: District Treasurer

##### A. Qualifications

1. Experience demonstrating thorough knowledge of governmental accounting and treasury management, professional accounting and financial management principles including knowledge or experience in computer spreadsheet software programs, and ability to direct a financial management program OR graduation from a college or university with a degree in accounting, financial management or related fields and some experience in a financial management program OR any combination of experience and education demonstrating above knowledge and ability to perform the above duties.

##### B. Bond

1. The District Treasurer shall give Bond to the District in the amount and surety required by the General Laws of the Commonwealth of Massachusetts. Premium of said Bond shall be paid by the District.

##### C. Duties

1. Prepare payroll and bill warrants and sign check s issued by the District, disallowing any fraudulent or unlawful claims. Maintain Treasurer's cash book and serve as custodian of all funds deposited in the District treasury.
2. In accordance with State law, invest District funds in a manner sufficient to provide necessary funds to cover District expenditures. Confer with Prudential Committee regarding upcoming District projects and with banks concerning interest rates and options to invest. Determine most appropriate method of investing District funds.
3. Review project expenditures and revenues, return on investments and determine when borrowing of funds will be necessary. Determine amount to be borrowed, contact banks, solicit bids and award bids subject to approval by the Prudential Committee. Draw up loan notes for certification by the State Bureau of Accounts.
4. Maintain custody of District trust funds, securities, checkbooks and maintain accurate records of bank deposits and interest earned.
5. Prepare interest and maturing debt budget.
6. Supervise the preparation of a variety of accounting reports required by applicable law and the Prudential Committee such as weekly tax withholding, quarterly tax reports and

monthly cash balance reports. Oversee deposits for Federal withholding and State withholding. Investigate any discrepancies and assure that all reports meet requirements.

7. Perform any other duties relating to the position as determined by the Prudential Committee.

#### Section 9: Temporary Clerk/Treasurer

- A. If the Clerk/Treasurer is prevented from performing his/her official duties, or if the office is vacant, the Prudential Committee may, in writing, appoint a temporary Clerk/Treasurer and who, in the position of Treasurer, shall give Bond in like manner as the Treasurer, and shall hold his/her office until another is chosen.

#### Section 10: Vacancy and Dismissal of Appointed Officials

##### A. Notice of Vacancies

1. Whenever a vacancy occurs in the District, or when by reason of death, disability or retirement a vacancy can be anticipated, the Appointing Authority shall forthwith cause public notice of the vacancy or impending vacancy to be published in at least one local newspaper and posted on the District bulletin board for not less than ten (10) days. Such notice shall contain a description of the duties of the office or position and listing of the necessary or desirable qualifications. Any person desiring appointment to the vacancy may, within ten (10) days following the date the notice is posted, file with the Appointing Authority a statement setting forth his/her qualifications for the position. No permanent appointment to fill a position shall be effective until at least fourteen (14) days have elapsed following such posting. This section shall not apply to positions in conflict with the requirements provided under the terms of a collective bargaining agreement.

##### B. Required Vote

1. No vote to terminate employment of any appointed elected official, except for a vote to terminate the Fire Chief, shall be effective unless it carries a majority vote of the Appointing Authority.

##### C. Dismissal Procedures and Right to a Hearing

1. A written notice of the vote of the Appointing Authority to remove or suspend and a statement of the cause or causes therefore, shall be delivered via Registered Mail, Certified Mail, or Return Receipt Requested to the affected appointed official at his/her last known address.
2. With five (5) days following delivery of said notice, the person involved may request a public hearing by submitting, in writing, a request therefore to the Appointing Authority and by filing a copy of said request with the District Clerk.

3. A public hearing, at a time and place designated by and presided over by the District Moderator, shall be held by the Appointing Authority not less than seven (7) and not more than fourteen (14) days following the date of receipt of a request therefore.
4. The person involved shall be given not less than five (5) days written notice of such public hearing. The person involved shall have the right to be represented by counsel at such hearing, to call witnesses, to examine witnesses and to introduce evidence at the public hearing.
5. Not more than fourteen (14) days following the public hearing, those holding the public hearing shall take final action on the removal or suspension and shall, forthwith, notify the person involved.
6. If no public hearing has been requested with five (5) days, the removal or suspension shall be deemed effective forthwith upon expiration of the five (5) day period.
7. The above paragraphs, one through six (1-6), are applicable only with respect to removal for cause.
8. Nothing in this section shall entitle or require a hearing, or a showing of cause for removal during a probationary period, or in the event of non-appointment, following the expiration of a probationary period.

#### D. Probationary Appointees

1. A probationary appointee, meaning and intending any appointee occupying a position during a "probationary period", may be removed without cause.
2. During the period of time that any appointed official is occupying a position on a probationary basis (the "probationary period") such appointee may be removed without cause upon notice from the Appointing Authority and nothing in this section, or elsewhere in these by-laws, shall require a hearing or a showing of cause prior to removal or, in the event of non-appointment, following a probationary period.

### **ARTICLE III** **FINANCES**

Section 1: The fiscal year shall begin on July 1<sup>st</sup> and run until the following June 30<sup>th</sup>. Funds raised and appropriated at an annual District meeting shall not be available for use until the following July 1<sup>st</sup>.

Section 2: Notes or bonds of the District shall be issued only as authorized by a 2/3rds majority vote of those present and voting at an annual or special District meeting. All such notes or bonds shall be signed by the District Treasurer and countersigned by the Prudential Committee.

Section 3: No money shall be paid from the District treasury, except for repayment, when due, of notes or bonds issued as above and the interest of same, without endorsement by the Prudential Committee or by vote of the District and according to its order. Further exception for minor and recurrent monthly expenses may be made from time to time by vote of the Prudential Committee.



Section 4: The Prudential Committee may, upon the request of the Fire Chief or Board of Water Commissioners, sell or otherwise dispose of surplus equipment which has an estimated value of one thousand dollars (\$1000) or less.

#### **ARTICLE IV** **MEETINGS**

Section 1: The Annual Meeting of the West Barnstable Fire District shall be called by the Clerk upon request of the Prudential Committee and shall be held within the District on the last Wednesday of April each year. The warrant for the annual meeting and for special meetings shall state the business to be acted upon and the time and place of voting for the officers of the District, if an election is impending. The warrant shall be posted in at least two public places within the District and published in a newspaper published in the Town of Barnstable at least seven (7) days prior to the meeting.

Section 2: Special meetings of the District shall be called by the District Clerk upon written request of the Prudential Committee or the Board of Water Commissioners or by written petition of at least one hundred (100) qualified voters of the District or so many as may be specified by the provisions of Chapter 48, Section 66 of the Massachusetts General Laws and as they may be from time to time amended. The special District meeting shall be held not later than thirty (30) days after the verification of such request and the Prudential Committee shall insert in the warrant all articles that shall have been requested by petition. The Prudential Committee may call a special District meeting upon a majority vote of its members.

Section 3: The Prudential Committee shall insert in the warrant for the annual meeting all articles with their recommendation thereon and also, all articles that have been requested of them by ten (10) or more voters of the District.

Section 4: A quorum for conducting an annual or special District meeting shall consist of twenty-five (25) registered voters qualified to vote in West Barnstable Fire District elections. Unless otherwise stipulated, or by applicable law, a simple majority of those present and voting at an annual or special District meeting shall carry a motion.

#### **ARTICLE V** **RECALL**

Section 1: Any elected officer of the West Barnstable Fire District may be recalled by the REGISTERED voters of the District. Recall procedures shall be instituted by a petition signed by at least five (5) per cent of the registered voters of the District with charges attached thereto specifying alleged acts of misconduct. The petition shall be presented to the Prudential Committee.

Section 2: Thereupon the Prudential Committee shall give written notice to the Clerk for a special meeting as outlined in Article IV, Sections 1 and 2, or at an annual meeting.

Section 3: For recall of an officer the District may do so only by a two-thirds majority vote, an at annual or special District meeting.

Section 4: If recall is voted the unexpired term of the vacated office can be filled as governed by Article II, Section 10 of these by-laws.

**ARTICLE VI**  
**FIRE DEPARTMENT AGE RESTRICTIONS**

Section 1: The minimum age for fire department personnel shall be eighteen (18) years of age. The maximum age of firefighters, fire officers and the fire chief shall be sixty-five (65) years of age.

**ARTICLE VII**  
**BY-LAWS**

Section 1: Acceptance of these By-Laws, by two-thirds majority vote of those present and voting an annual District meeting, shall void all previous By-Laws of the West Barnstable Fire District.

Section 2: These By-Laws may be amended at any District meeting by a two-thirds vote of those present and voting, provided an article has been included in the warrant for said meeting fully stating the stipulations of the proposed amendments.

**ARTICLE VIII**  
**FIRE ALARM AND FIRE PROTECTION SYSTEMS**

Section 1: All structures or facilities that have a fire alarm, medical alarm or fire protection system that automatically summons the fire department shall install a key holding device (lock box). The type and location of said device shall be approved by the Fire Department and shall be of sufficient capacity to hold all materials needed to gain access and/or take control of the alarm or suppression system.

Section 2: The owner of such alarm systems or fire protection systems that automatically summons the Fire Department shall install the required lock box at the time the system is installed. As to any alarm system or fire protection system that was installed prior to the effective date of this by-law and for which a lock box was not and has not been installed, the owner shall install the required lock box within one (1) year of the effective date of this by-law.

Section 3: Any owner who receives a written notice from the fire chief or his or her designee and who fails or refuses to comply with this by-law within thirty (30) business days after receipt of such notice shall be punished by a fine of fifty dollars (\$50) per day until the lock box is installed.

**ARTICLE IX**  
**MECHANICAL AND ELECTRONIC FIRE ALARMS; FALSE ALARMS; PENALTY**

Section 1: Any person maintaining, or permitting to be maintained, a mechanical or electronic fire alarm device that transmits an alarm stimulus indicating that it has detected a fire or a condition inherently characteristic of a fire in order to summons the Fire Department to the property, shall maintain the device, or cause the device to be maintained, in good operating condition.

Section 2: Any false report of a fire made to the Fire Department as a result of the transmission of an alarm stimulus shall be reported to the occupant of the premises by the Fire Department. Notice to the person maintaining or permitting the device to be maintained shall be deemed delivered by the leaving of a written notification by Fire Department personnel at the premises where the mechanical or electronic fire alarm device is located.

Section 3: Any person who maintains or permits to be maintained, any mechanical or electronic fire alarm device which transmits more than three (3) false reports of fire within any consecutive twelve (12) month period, after written notification by the Fire Department, shall be punished by a fine of fifty dollars (\$50) for the fourth offense, one hundred dollars (\$100) for the fifth, one hundred fifty dollars (\$150) for the sixth and each additional offense.

Section 4: The Fire Chief shall have the right to waive the penalty provisions of this section for cause upon satisfactory proof that the false alarm was not due to failure to maintain the system in good operating condition.

**TRANSITIONAL PROVISIONS**

This By-Law shall take effect with ninety (90) days upon the effective date of the enabling legislation authorizing the same.

Any person holding an office or position in the District at the time of the adoption of these By-Laws (including an office or position in the Fire Department or Water Department) which is to be an appointive office or position under these By-Laws, shall on and after the effective date hereof be deemed to hold such office or position as if initially appointed pursuant to the provisions of this By-Law, and any such appointee who immediately prior to such appointment and for a minimum of one (1) year prior thereto has held the position of District Clerk, District Treasurer, Chief or Deputy Chief of the Fire Department, shall be conclusively deemed to have satisfied any and all probationary service prerequisites prescribed by these By-Laws, shall retain all benefits and prerequisites accrued in the former appointive position to the extent such retention is not inconsistent with the newly appointed position or the provisions of applicable law, and shall thereafter be subject to annual review and removal only as provided in these By-Laws.

END