

Dartmouth Fire District No. 2

By-Laws



Amended
May 14, 2018

DARTMOUTH FIRE DISTRICT NO. 2 BY-LAWS

ARTICLE 1 PURPOSE AND SCOPE

Section 1.1 Supplementation of State Law

These bylaws supplement the general laws, specials law and regulations that are applicable to the governance and operation of the District and the Department, including, without limitation, Chapters 48 and 148 of the Generals Laws, the regulations of the Board of Fire Prevention, Chapter 69 of the Acts of 2016, and Chapter 329 of the Acts of 1998. Those statutes and regulations should be consulted in order to ensure a complete understanding of the powers, duties and procedures of the District and the Department. To the extent that these bylaws are in conflict with them, those statutes and regulations shall govern, inclusive of any amendments or successor statutes or regulations to the same.

Section 1.2 District Boundaries

The geographic boundaries of the District are as follows:

Beginning at the division line between the towns of Dartmouth and Westport at Horseneck, thence running northerly in said division line to the southerly line of the Smith Mills or No. 3 District; thence running easterly in last named line to a point two hundred feet east of the east line of Tucker Road, thence running southerly in a line parallel to said Tucker Road to the center of the road at Macomber's Comer; thence running westerly to the center line of Russells Mills Road; thence running southerly in the center line of Russells Mills Road to a point two hundred feet south of the southerly line of Russells Mills Road, thence running westerly in a line parallel to said last named road and two hundred feet distant southerly from the southerly line of said road to Fresh River Bridge; thence running southerly from the easterly side of the Fresh River

Bridge in a straight line to a point in the southerly line of the Rock O'Dundee Road, two hundred feet east of the easterly line of the Potomska Road; and thence running southerly and easterly in a line parallel to the last named road and two hundred feet distance easterly from the easterly line thereof to Little River and Buzzards Bay.

ARTICLE 2 DEFINITIONS

Each of the following terms as used in these By-Laws are defined as follows. Any terms that have not been defined specifically herein shall have their normal English meanings, unless the context indicates otherwise.

1. Chief – The head of the Department.
2. Department – The fire department of the District.
3. Deputy Chief – the senior ranking Subordinate Officer, who reports directly to the Chief.
4. District – Dartmouth Fire District No. 2, the boundaries of which are provided in Section 1.2.
5. False Alarm – Whenever a Fire Alarm System is improperly activated, whether due to intentional or negligent action, mechanical failure, malfunction, faulty installation or otherwise, and such improper activation results in an on-site response by any police or fire department where no fire or smoke emergency actually exists; provided, that a Fire Alarm System shall not be considered to have been improperly activated when activation was the result of any force majeure, including, without limitation, power outages and inclement weather.
6. Fire Alarm System – Any mechanical or electronic system of any kind or description that is designed to signal the existence of a smoke or fire emergency, regardless of whether this system is designed to summon the assistance of the Department, and regardless of whether

this system contains fire suppression or protection equipment such as sprinklers or foam sprayers.

7. Illegal Burning – any open burning prohibited by, not allowed by, or in any violation of, 310 CMR 7.07, District Regulations, or Dartmouth Board of Health Regulations.
8. Fiscal Year - The fiscal year for the District shall begin on the first day of July of one calendar year and end on the last day of June of the following calendar year.
9. Official of the District – Members of the Prudential Committee, the Treasurer, and the District Clerk.
10. Subordinate Officer – Any member, whether full-time, part-time, paid or volunteer, of the Department other than the Chief, including, without limitation, the Deputy Chief and any captains, lieutenants, firefighters, recruits and any other personnel who are subordinate to the Chief.

ARTICLE 3 OFFICIALS OF THE DISTRICT

Section 3.1 Prudential Committee

Subsection 3.1.1 Composition and Term

The Prudential Committee shall consist of three (3) members, who shall be elected for terms of three (3) years, and which terms shall be staggered such that one (1) member shall be up for election annually. Each such election shall be held on the last Monday in April.

At its first meeting after the annual election the Prudential Committee shall organize for the ensuing year by choosing a Chairman and a Clerk. A majority of the Committee shall constitute a quorum for the transaction of business.

In the event that there is a vacancy on the Prudential Committee, the remaining members of the Prudential Committee may, in its discretion, call a special election in order to fill said vacancy; provided, that any such special election must be held within ninety (90) days of the occurrence of the vacancy; further provided, that any such special election shall not be called if the regular election for that position on the Prudential Committee would be held within ninety (90) days of the occurrence of the vacancy. The person who is elected at this special election shall hold office for the remainder of the unexpired term for that position on the Prudential Committee.

Subsection 3.1.2 Meetings

There shall be regular meetings of the Prudential Committee at least once per month at times and dates to be scheduled by the Prudential Committee; provided, that nothing shall preclude the Chair of the Prudential Committee from calling additional meetings.

Subsection 3.1.3 Additional Powers and Duties

In addition to any other powers and duties that are provided by general or special law, or state regulation, the Prudential Committee shall:

- A. Hire an outside expert, whether an individual or a firm, to audit the accounts of the District and the Department; provided, that the Prudential Committee may not hire the Chief, any Subordinate Officer, the Moderator, or any Official of the District for this purpose. Such audits shall take place at least annually.
- B. Have full control of the maintenance and upkeep of all real property and buildings of the District.
- C. Develop, in consultation with the Chief, a long range capital plan related to acquiring, maintaining and improving the District's land, buildings and equipment.

- D. Adopt guidelines for implementing and maintaining the long range capital plan.
- E. Establish and appoint such advisory committees as it determines in its discretion to be necessary or useful.

Section 3.2 Treasurer

Subsection 3.2.1 Additional Powers and Duties

In addition to any other powers and duties that are provided by general or special law, or state regulation, the Treasurer shall:

- A. Keep a full and complete report of all receipts and expenditures of the District and shall make an annual report thereon to the Prudential Committee.
- B. For each regular monthly meeting of the Prudential Committee, prepare the treasury warrant to be acted upon, along with a summary of the payments to be made pursuant to the same. All bills against the District shall be clearly itemized for review by the Prudential Committee. No such payments shall be made until the treasury warrant has been approved by the Prudential Committee.
- C. Ensure that no notes, bonds or other debt instruments are issued until and unless the same has been authorized by the District Meeting, and countersigned by the Prudential Committee.

Subsection 3.2.2 Treasurer's Bond

The District shall bear the expense of the premium on the Treasurer's bond.

Section 3.3 District Clerk

Subsection 3.3.1 Additional Powers and Duties

In addition to any other powers and duties that are provided by general or special law, or state regulation, the District Clerk shall:

A. Keep a record of all actions that are taken at all annual and special District Meetings.

Towards that end, the District Clerk shall attend every District Meeting and shall record the same using an electronic voice recorder.

B. Prepare the warrant for every District Meeting as directed, and only as directed, by the Prudential Committee.

C. Receive the annual reports of the Chief, the Treasurer and the Prudential Committee, and prepare them for publication in a consolidated Annual Report of the District.

Section 3.4 Compensation

The Officials of the District, as well as the Moderator, shall receive only such compensation as the District Meeting may appropriate for each such position from time to time, but in no event more than is otherwise provided by the employment contract for the particular Official.

Section 3.5 Restrictions on being Official of the District

Subsection 3.5.1 Residency and Registration

No one may be elected to the Prudential Committee without being both a registered voter and a resident of the District. These prerequisites must be met at the time of nomination and must continue to be met through election and during the term of office. If, at any time after being elected as a member of the Prudential Committee, an individual ceases to be either a registered voter or a resident of the District, this change of status automatically shall constitute said individual's resignation from the position, which position shall be vacant thereafter.

Subsection 3.5.2 Multiple Positions

No person may hold the offices of more than one Official of the District, except that the same person may be both the Treasurer and the District Clerk. No person may be both Moderator and an Official of the District.

Subsection 3.5.3 Department Restrictions

Neither the Chief nor any Subordinate Officer may be Moderator; provided, that nothing shall preclude the Chief or any Subordinate Officer from seeking election or appointment as Moderator; further provided, that the acceptance of such office after election or appointment shall constitute the automatic resignation from the position of Chief or Subordinate Officer accordingly. For the purposes of this provision, acceptance of the office of Moderator shall be demonstrated by undertaking the duties as Moderator at the applicable District Meeting after being so chosen.

ARTICLE 4 DISTRICT MEETINGS

Section 4.1 Contents of Warrant

Any voter petition for the inclusion of an article on the warrant for any annual or special District Meeting must be submitted to the Prudential Committee forty-five (45) days prior to the date of said District Meeting.

Section 4.2 Notice of District Meetings

In accordance with M.G.L. c. 48, § 66, the Prudential Committee shall direct the warrant for every annual and special District Meeting to District Clerk. The District Clerk forthwith shall provide at least fourteen (14) days' prior notice of the District Meeting to the public in the following manners:

1. By posting attested copies of the warrant at the Engine House of the Department, and the Dartmouth Town Hall;
2. By posting attested copies of the warrant at two other buildings within the District that are accessible to the public, which buildings may be designated by the Prudential Committee from time to time; and
3. By causing notice of the time, place and purpose of the District Meeting to be published as a display advertisement in any newspaper of at least weekly circulation within the District, as determined by the Prudential Committee.

Section 4.3 Date of Annual Meetings

The annual District Meeting shall be held on the second Monday of May in each year.

Section 4.4 Quorum

The quorum for transacting business at any annual District Meeting shall be fifteen (15) registered voters of the District; provided, that a lesser number may adjourn from time to time. Any notice of a continued District Meeting after adjournment shall be given as provided in Section 4.2.

The quorum for transacting business at any special District Meeting shall be twenty-five (25) registered voters of the District; provided, that a lesser number may adjourn from time to time.

Any notice of a continued District Meeting after adjournment shall be given as provided in Section 4.2.

Section 4.5 Use of Voting List

At any annual or special District Meeting, ten (10) registered voters of the District may call for the use of the official voting list of the District, as provided in M.G.L. c. 48, § 67, in voting on any or all motions, resolutions or other matters that are before said District Meeting. In such cases, said official voting list shall be preserved by the District Clerk as part of the record for all such votes at said District Meeting.

Section 4.6 Use of Secret Ballot

At any annual or special District Meeting, a secret ballot shall be used for voting on any or all motions, resolutions or other matters that are before said District Meeting if at least twenty-five percent (25%) of the registered voters of the District present at the Meeting call for the use of a secret ballot.

Section 4.7 Use of Town Meeting Time

Except to the extent that other procedures are mandated by statute, or are otherwise provided by these bylaws, the operations of the District Meeting shall be governed by Town Meeting Time: A Handbook of Parliamentary Law, by Johnson, Trustman and Wadsworth; Third Edition (2001).

ARTICLE 5 FIRE DEPARTMENT

Section 5.1 Additional Powers, Duties and Requirements of the Chief

In addition to any other powers and duties that are provided by general and special law, the Chief shall have the following powers and duties:

Subsection 5.1.1 Responding outside of the District

Subject to, and in accordance with, the provisions, conditions and restrictions of M.G.L. c. 48, § 59A, the Chief shall have the power to authorize the Department to provide aid to any other governmental entity within the Commonwealth of Massachusetts or any other state adjoining thereto.

Subsection 5.1.2 Full-Time

The Chief shall be a full-time employee of the District.

Subsection 5.1.3 Residency

The Chief shall become a resident of the District within nine (9) months of his/her appointment by the Prudential Committee, and shall retain this residency throughout the remainder of this appointment and any reappointment. This residency requirement may be waived by the Prudential Committee, upon a unanimous majority vote of the Prudential Committee.

Subsection 5.1.4 Schedule of Fees

The Chief shall periodically, but not less than annually, publish a schedule of fees, which shall contain the fees for all permits and licenses that are issued by the Department, and regardless of whether those fees are set by these By-Laws, or by the Prudential Committee or the Chief in accordance with state law.

Section 5.2 Additional Powers and Duties of the Deputy Chief

In the temporary absence of the Chief, including as a result of suspension by the Prudential Committee, the Deputy Chief shall temporarily execute the powers and duties of the Chief

ARTICLE 6 FEES AND CHARGES

Section 6.1 Permit and License Fees

The following permit and license fees are set by by-law in accordance with M.G.L. c. 48, § 13, and c. 148, §§ 9 and 13. This Section does not provide an exhaustive list of such fees, more of which are set by the Prudential Committee and the Chief in accordance with state law. The Department's Schedule of Fees should be consulted for a review of all such fees.

Section 6.2 Fire Watch Details

The detailing of the uniformed Subordinate Officers for non-emergency fire- or explosives-related purposes may be obtained by an individual or business through an application to the Chief. The minimum length of any such detail shall be 4 hours, and shall be charged shall be in accordance with Department's Schedule of Fees.

Section 6.3 Charges for Chapter 21E Response

Whenever the Department responds to any real property in accordance with the provisions of M.G.L. c. 21E, § 4, the owner of said real property shall be charged the costs of said response as follows:

Subsection 6.3.1 Apparatus Costs

The combined charge for all apparatus responding to the incident shall be in accordance with Department's Schedule of Fees.

Subsection 6.3.2 Miscellaneous Supplies Costs

The charges for miscellaneous supplies shall be in accordance with Department's Schedule of Fees.

Section 6.4 Illegal Burning

Any illegal burn shall be subject to fines in accordance with Department's Schedule of Fees.

ARTICLE 7 RESTRICTIONS ON FIRE ALARM SYSTEMS

Fire Alarm Systems may be installed, maintained and operated only in accordance with the following requirements:

Section 7.1 Recordation of Alarm Activation

Whenever a Fire Alarm System is activated, by whatever means and for whatever reason, with the result that there is an on-site response by any police or fire department, a record of this activation and response, and whether it constituted a False Alarm, shall be made and kept by the Department.

Section 7.2 False Alarms

Whenever four (4) or more False Alarms occur at the same real property within a calendar year, the owner(s) and manager(s) or custodian(s) of said real property shall each be subject to fines as set forth in the Department's Schedule of Fees.

ARTICLE 8 RECALL ELECTIONS

Section 8.1 Introduction

A holder of an elective office in Dartmouth Fire District #2 may be recalled therefrom by the registered voters of the district who reside in the territory comprising said district as hereinafter provided.

Section 8.2 Recall Petition

Any thirty registered voters of Dartmouth Fire District #2 may initiate a recall petition by filing with the district clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for such recall. Said district clerk shall thereupon deliver to the voters who filed such affidavit a sufficient number of copies of petition blanks demanding such recall, printed forms of which said clerk shall keep on hand. The blanks shall be issued by said district clerk with his signature and official seal attached thereto, they shall be dated and addressed to the prudential committee of said district and shall contain the names of all persons to whom issued, the number of blanks so issued, the name of the person sought to be recalled, the grounds for such recall as stated in the affidavit, and they shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of the district clerk. Said recall petition shall be returned and filed with said clerk within twenty days after filing of the affidavit and shall have been signed by at least one hundred and fifty registered voters of said district. To every signature shall be added the place of residence of the signer, giving the street and number. The district clerk shall, within twenty-four hours of receipt thereof, submit the signed petition to the registrars of voters for the town of Dartmouth, and the registrars shall, within five business days certify thereon the number of signatures which are the names of registered voters in said district.

Section 8.3 Approval of Recall Petition; Scheduling of Recall Election

If the petition shall be found and certified by the district clerk to be sufficient, said district clerk shall submit the same with his certificate to the prudential committee within ten business days and said prudential committee shall, within ten business days, give written notice of the receipt of said certificate to the officer sought to be recalled and shall, if such officer does not resign

within five days thereafter, thereupon order an election to be held on a date fixed by said committee, not less than sixty-five days nor more than ninety days after the date of the certificate of the district clerk that a sufficient petition has been filed; provided, however, that if any other district election is to occur within one hundred days after the date of such certificate, said prudential committee may, in its discretion, postpone the holding of such recall election to the date of such other election. No person shall be subject to recall if his term of office expires within ninety days of the date of such certificate. If a vacancy occurs in said office after a recall election has been so ordered, the election shall nevertheless proceed as provided in this section.

Section 8.4 Incumbent Participation in Recall Election; Recall Election Procedure

An officer sought to be recalled may be a candidate to succeed himself and, unless such officer requests otherwise in writing, the district clerk shall place his name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election, and the conduct of the same shall be in accordance with the provisions of law relating to elections, unless otherwise provided herein.

Section 8.5 Duties Pending Recall Election; Possible Recall Outcomes

The incumbent shall continue to perform the duties of his office until the recall election. If not recalled, such incumbent shall continue in the office for the remainder of his unexpired term, subject to recall as before, except as provided in this act. If such officer is not re-elected in the recall election, he shall be deemed removed upon the qualification of his successor who shall hold office during the remainder of the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

Section 8.6 Recall Ballots; Recall Vote

Ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall of (name of officer)

Against the recall of (name of officer).

Immediately at the right of each proposition, there shall be a square in which the voter, by making a cross (X) or by indicating his intentions by suitable mechanical means, may vote for either of said propositions. Under the propositions shall appear the word "Candidates", the directions to voters required by section forty-two of chapter fifty-four of the General Laws, and the names of candidates nominated as hereinbefore provided. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected; provided, however, that at least one hundred of those entitled to vote in the election shall have voted. If a majority of votes on the question is in the negative, the ballot for the candidates need not be counted.

Section 8.7 Limitations on Filing Recall Petition; Effect of Recall or Resignation

No recall petition shall be filed against an officer within six months after he takes office nor, in the case of an officer subject to a recall election and not recalled thereby, until at least six months after the election at which his recall was submitted to the voters. No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against him shall be appointed to a district office within two years after such removal or resignation

Section 8.8 Restrictions on Amendment

The substantive provisions of Sections 8.1 through 8.7, being enacted by Chapter 329 of the Acts of 1998, shall not be amended except through an Act of the General Court of the Commonwealth of Massachusetts.

ARTICLE 9 NON-CRIMINAL DISPOSITION

All fines that are issued for any violation of these bylaws shall be subject to the non-criminal method of disposition as provided by M.G.L., c. 40, § 21D.

ARTICLE 10 SEVERABILITY

The provisions of these By-Laws are severable. If any court of competent jurisdiction determines that any provision is in violation of the laws, constitutions or regulations of the Commonwealth of Massachusetts or the United States of America, the remaining provisions shall not be affected thereby and shall continue in full force and effect.