



**Fire Districts** - approximately 917 statewide – A political subdivision located within a town, with an elected governing body.

**Fire Protection Districts** – a geographical area of a town which receives contract fire protection from other fire service entity. A town board can create a fire protection district, consolidate adjoining fire protection districts, alter the boundaries of a fire protection district, or dissolve a fire protection district on its own motion or by petition.

**Fire Department** - In cities and villages, fire protection is commonly provided by a municipal fire department, composed of career and/or volunteer firefighters.

**Fire Companies** - Fire companies are subunits of a fire department.

**Not-For-Profit Fire Corporations** - A special not-for-profit corporation formed to provide fire protection to a fire district, fire protection district or village under contract with the governing body and are under the control of the city, village, fire district or town authorities having control over fire protection in such areas.

**Joint Fire Districts** - Joint fire districts are created by the town board(s) and the board(s) of trustees of a village.

#### Establishing a Fire Protection District

- Review the area of the Town that is not located within an existing fire district or districts.
- The Town Board may decide to identify more than one fire protection district
- Find a fire protection provider to furnish fire protection, which may be a fire district, village, city or not-for-profit fire corporation
- Develop and execute a contract to provide fire protection within the specified area
  - When it comes to an independent provider such as a NFP, the Town must provide compensation coverage that makes the provider responsible for the safety of the town.
- The Town Board should be concerned with the provider's needs are in providing service to the fire protection district and if the provider is able to provide satisfactory service.
- Fire protection district contracts are normally reviewed annually for renewal.

#### Establishing a New Fire District According to Statute

Statutory requirements contained in Article 11A of Town Law

- You should seek legal counsel representation to execute the formation of the district
- New district must be OUTSIDE of any Village or City
- The expense of proceedings to form a fire district shall be borne by the Town.
- Any expense incurred by petitioners may be refunded from district funds once established, if a district is not established there can be no refunds.
- Initiation of a Fire District – getting started 2 possible pathways;
  - Path 1 – by petition of the persons who own 50% of the assessed valuation of the real property to be located in the proposed district.
  - Path 2 – Proceedings initiated by motion of the Town Board
- Once this gateway attained – prepare map by licensed engineer or surveyor to be presented with the Petition or motion of the Town Board defining the area of the proposed district.
- Exception: if a fire protection district or fire district contains land within the Adirondack Park, consent from the State Comptroller is required.
- The Town Board shall have commenced proceedings under the State Environmental Quality Review Act (SEQRA)
  - Normally a coordinated review
  - Usually takes approximately 35 days to complete a SEQRA review

- Process needs to be complete before an order is made establishing the proposed District
- **Next Step – give notice of a Public Hearing**
  - Publish a Legal Notice one time in newspaper of general circulation in the area or the proposed district.
  - Not less than 10 days and not more than 20 days before the date of the Public Hearing
  - The notice of Public Hearing must be posted on the Town signboard not less than 10 days and not more than 20 days before the date of the Public Hearing or at other location as directed by the Town Board
  - The notice shall state the purpose of the hearing, the time, date and place where the hearing shall be held.
- **At the Public Hearing**
  - All interested parties may participate
  - Parties outside of the proposed district may express desire to be included in the new district
- **Following the Public Hearing, the Town Board must make at least four (4) determinations;**
  - 1. Is the petition properly executed and does it contain the signatures of the persons who own 50% of the assessed valuation of the real property to be located in the proposed district
  - 2. Will all of the properties and property owners located within the proposed fire district benefit by its creation
  - 3. Are all the properties and property owners who will benefit from the creation of a fire district be included in it
  - 4. Is it in the public interest to form the fire district
- If 1 and 2 have been met but 3 has only partially been met, a new public hearing shall be scheduled, published, posted and held on less than 15 days or more than 25 days after the first determination.
- If the Town Board finds that all four determinations have been met, it may adopt a resolution establishing a fire district.
  - Following adoption of such resolution the Town Clerk shall file a certified copy of the resolution in the office of the County Clerk in which the district is situated.
  - Upon filing with the County Clerk the resolution becomes presumptive evidence that all proceedings were regular and taken according to law. This presumption becomes final and conclusive unless a proceeding contesting the actions taken by the Town Board including the passage of the resolution is commenced within 30 days of the time of the recording with the County Clerk.
  - Within 10 days of the resolution a certified copy shall be filed with the Office of the State Comptroller (OSC) in Albany.
    - At the same time submit a written application for permission to create the new Fire District with OSC.
    - The application shall be signed and sworn to by the Supervisor or other Officer of the Town to include a certified copy of the petition and an itemized state of the existing indebtedness of the Town.
    - Also a statement of the aggregate assessed valuation of the taxable real property located within the proposed district and if a petition was filed a statement of the proportion of the assessed valuation owned by the resident owners who signed the petition.
  - Five days after receiving the application OSC is to notify the Board of Supervisors or the County Legislature that such an application has been received after which this body has 15 days to file an objection.
    - While OSC is waiting for the 15 day objection period to expire, the Comptroller shall determine if the formation of the fire district is in the public's interest
    - The Comptroller must also determine if the cost of creating the district in its operation shall be an undue burden on the real property located within the district.
    - Once the 15 day objection period expires, the Comptroller may make an order upon his determination granting or denying the creation of the district
    - The Comptroller must file one copy of his order with his Office and the other in the office of the Town Clerk where the proposed district is located.
- At the next meeting following the receipt of said order from the Comptroller, the Town Clerk shall present same to the Town Board.
- If approved by the State Comptroller the Town Board may adopt an order establishing the fire district.

- Once the order is made the Town Clerk shall file a certified copy of the order with the County Clerk in which the fire district is located.
- Once recorded with the County Clerk unless a proceeding to review such a determination to establish a district is brought within 30 days, then no further challenges can be made on the creation of the district.
- Within 10 days after the adoption of the final order by the Town Board, the Town Clerk shall file a certified copy of the order in the Office of the State Comptroller in Albany.

#### **Once the Fire District Is Established**

- At this point the Town Board shall appoint five (5) fire district commissioners and a treasurer.
  - These persons will hold their respective offices until the 31<sup>st</sup> day of December next succeeding their appointment.
  - Each person appointed shall be notified by the Town Clerk as of their appointment and the time, date and location of the first meeting, and shall not be held more than 10 days after appointment.
- At the first organizational meeting;
  - The appointed treasurer shall preside until a chairman is chosen.
  - The treasurer is not a voting member of the Board.
  - The Board shall appoint a secretary who will hold office until the 31<sup>st</sup> day of December following the first election of Fire District Officers.
- The first election of Fire District Officers shall be held on the second Tuesday of December next succeeding the establishment of the Fire District. Thus the appointed commissioners serve one year prior to running for election.
  - At the first election commissioners will be chosen for terms ranging from one year to five years. The person with the most votes receives the five year term and so on.
  - Commissioners shall receive no compensation but a commissioner acting as the secretary may be compensated.
  - Fire District commissioners may not be the treasurer.
  - Fire District commissioners may not be the fire chief or assistant chief of the fire district.
  - At the first meeting
    - the bond of the Treasurer should be established
    - The official newspaper selected
    - A bank account opened and
    - The fire company of the district established
    - Call for nominations from the membership for the offices of Chief and Assistant chief
    - Other organizational matters would include consideration of the budget, securing apparatus and equipment and setting up a financial policy.
    - Fire District Treasurers and Secretaries shall take the constitutional Oath of Office and file same with the Town Clerk.

#### **Establishing a Joint Fire District in Towns and Villages**

Statutory requirements include Town Law Article 11A, §189a, 189b & 189c

The Town Board and the Village Board of Trustees may establish a Joint Fire District when it appears to be in the public's best interest, provided that all of the territory in the Joint Fire District is contiguous.

Steps to be taken per Town Law;

1. Board the Town and Village Boards shall hold a joint meeting within the territory of the proposed joint fire district for the purpose of proposing the establishment of the joint district.
2. If, at the joint meeting, it is decided by majority vote of each board to propose a joint fire district, the town and village boards must within thirty (30) days after the joint board meeting hold a joint public hearing.
3. Notice of the hearing must be;
  - a. Published at least once in a newspaper having a general circulation within the town and village.
  - b. Posted in five (5) conspicuous places within the area of the town outside of the village (posting on the district's website would qualify for one of the postings) and;
  - c. Post in five public conspicuous places in the village and;
  - d. Mail notices to members of the town and village boards.

4. The notice and posting must be accomplished at least ten (10) days before the joint public hearing.
  - a. The notice must contain a brief description of the boundaries of the proposed district and of the objects and purposes for which the district is proposed to be established and must specify the date, time and place of the hearing.
5. After the public hearing, if the town and village boards determine that the establishment of a joint fire district is in the best interest (subject to a permissive referendum 30 day notice and waiting period) then, by resolution adopted by a majority of each board, the joint fire district will be established. Upon establishing a joint fire district, the respective boards shall by local law dissolve the existing fire district or protection districts and establish and define the new joint fire district.
6. Once the joint fire district has been established, the property and affairs of the district shall be under the management and control of a board of fire commissioners which may have from three to seven members (normally five). The board of commissioners may be appointed by the Town and Village Boards in a joint session or may be elected in the manner provided in Article 11 § 175 of Town Law. The determination of whether the board of commissioners is appointed or elected is made during the joint board meeting by resolution adopted at the meeting for the establishment of the fire district.
7. **What happens to the Apparatus or Buildings?**

Pursuant to Section 189-b. of the Town Law the board of trustees of a village or the commissioners of a fire district, all of the territory of which is embraced within the boundaries of a joint fire district established or extended pursuant to Article 11-A of the Town Law, may by resolution authorize the sale or transfer of a firehouse (including the plot of land on which the building or fire district is situated), fire apparatus and fire equipment owned by such village or by such fire district to said joint fire district with or without consideration and, upon such terms and conditions as to such board of trustees or board of fire commissioners may deem fitting or proper. So basically they can sell or give the assets of the village fire department to the newly formed or expanded joint fire district. If there is some indebtedness typically the newly formed fire district will have a referendum to enter into a bonded indebtedness to pay off whatever is owed on the property, equipment or apparatus to be transferred; if nothing is owed the village often will just transfer the property, equipment or apparatus.

#### **Advantages of Forming a Fire District**

- It's in the best interest of the residents to eliminate differing tax rates; rate is based on combined assessed valuation. All residents within the District will pay the same rate.
- Tax levies by the fire district will free up town or village property tax revenues
- Consistent and stable budget for the fire district will allow the department to implement long range planning and purchases.
- Eliminates the instability of funding from year to year due to annual negotiations with different jurisdictions which may be financially stressed due to the tax cap.
- Provides transparency as they operate under state laws and regulations for governance under the watchful eye of the Office of the State Comptroller.
- Provides for self governance, positive morale and a focal point of responsibility.
- District is an individual governmental entity, governed by state laws.
- Provides stable governance and management, not subject to the fiscal pressures of others
- Can concentrate on the sole mission the provision of fire protection.
- Village and Town politics removed from fire district governance and operations.
- The State has greater oversight over fire districts unlike village controlled departments or fire protection districts, there is increased accountability. That includes annual audits and a host of regulations laid out in state statute.
- All voters would have greater influence over fire protection spending by electing commissioners and voting on all debt incurred.
- If the Town reduces funding for contracted areas covered by a Village, the Village in turn may reduce service to the Town requiring the Town to find additional funding.
- Exposure for VFBL coverage is transferred to the fire district
- Budget accountability, separate from town or village, taxpayers see where money is going
- Fire Districts are required to establish taxpayer approved reserve funds.
- Districts save on interest costs by use of reserve funds for large purchases.
- Creates a legal mechanism for residents to participate in capital project referendums

- Creates a legal mechanism for residents to have equitable ownership of fire protection assets for which they fund.
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- Operation of Districts is based in Statute, Town Law and General Municipal Law et al, which Boards must follow.

**Negative Aspects of Forming a Fire District:**

- *Perceived* loss of control, by Towns that Contract for fire protection.
- Opposition by local elected officials
- Differences in union contracts, wages, retirement systems or benefits
- Turf wars
- Potential of loss of membership due to consolidation or elimination of station

## **RESOURCES**

**“How to” Consolidate Fire Protection in Fire Districts, Fire Protection Districts and Villages**

**Download Available At:**

[www.dos.ny.gov/LG/publications/Fire\\_District\\_Consolidation.doc](http://www.dos.ny.gov/LG/publications/Fire_District_Consolidation.doc)

[https://www.dos.ny.gov/lg/publications/Fire\\_District\\_Consolidation\\_Brochure.pdf](https://www.dos.ny.gov/lg/publications/Fire_District_Consolidation_Brochure.pdf)

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