

## **Organizing for Fire Protection\***

Because buildings constructed close to each other are particularly vulnerable to fire, New York has long recognized that protection against fire could not be left to individual responsibility. Fire protection services therefore came to be viewed as an essential governmental function in populated areas. Early on, cities as well as many villages made provisions for fire departments and the organization of fire companies using both career and volunteer services. This did not happen in towns, however, where sparse development made fire, while no less catastrophic to the individuals involved, a more personal than a communal threat. Traditional fire protection in rural areas consisted of close neighbors forming bucket brigades. Following the era of the bucket brigade there developed a loosely-knit group which accumulated rudimentary firefighting equipment from which sprung the modern-day volunteer fire companies which have developed a high degree of organization and capability.

For many years volunteer fire companies supplied reasonably effective fire protection to rural areas without government assistance or support. Gradually, however, greater demands for fire protection service, the high cost of modern and specialized equipment, and the need for giving volunteers economic security in the event of duty-connected death or injury, forced the independent fire services to look to the government for help.

In towns, the answer came (as in the case of other services) not on a town-wide basis, but through the establishment of districts on an area-by-area basis. These districts took two basic forms: fire districts, which were true district corporations and enjoyed autonomy from town government; and other types of districts, including fire protection districts, fire alarm districts and certain water supply districts, which were little more than assessment areas within towns where fire protection was provided.

### **Fire Districts**

A fire district is a public corporation established for the purpose of providing fire protection and response to certain other emergencies. The New York State Constitution recognizes that fire districts have certain characteristics of general purpose municipal corporations. A fire district has the power both to incur indebtedness and to require the levy of taxes. A fire district is an almost completely autonomous political entity; it has its own elected governing body, its own administrative officers, and it must observe its own expenditure limitations, it is dependent upon the parent town or towns as a means to its initial creation,

extension and dissolution; and, generally, fire district taxes are levied by the county and collected by the town or towns where the district exists.

There were 858 fire districts in New York (as of December 31, 1997). They are of varying sizes, including smaller districts with annual budgets of several thousand dollars and large districts, sometimes featuring departments which have both career and volunteer firefighters and annual budgets of several million dollars.

**Establishment.** A fire district is created to provide fire protection to an area of a town outside villages (villages usually provide fire protection on their own). There is however, authority, to establish joint town-village fire districts.

A town board may establish a fire district on its own motion or upon receipt of a petition from owners of 50 percent of the resident-owned taxable assessed valuation in the proposed district. Whichever method is used, the town board must hold a public hearing and determine that all properties which will be included will benefit, that all properties which benefit have been included, and that the creation of the district is in the public interest.

If the town board decides to establish a district and proposes to finance an expenditure for the district by the issuance of obligations, it must apply to the State Comptroller, who, before approving such establishment, must determine that the public interest will be served by the creation of the district and that the cost of the district will not be an undue burden on property in the district. If approval from the State Comptroller is not required, a certified copy of the notice of hearing must then be filed with the Comptroller.

After a fire district has been established, the town board appoints the first temporary board of five fire commissioners and the first fire district treasurer. At the first election, five commissioners are elected for staggered terms of one to five years, and at each subsequent election one commissioner is elected for a full term of five years. The fire district treasurer is elected for three years, although the office may subsequently be made appointive for a one-year term. A fire district secretary is appointed by the board of fire commissioners for a one-year period.

**Operational Organization.** After establishment and initial appointments by the town board, the fire district becomes virtually autonomous from the town in its day-to-day operations.

A fire district has only those powers that are expressly granted by statute, or which are necessarily implied by the statute. Unlike towns, villages, cities and counties, a fire district does not possess home rule powers.

The powers granted to a fire district board are extremely specific and narrowly limited. A listing of some of the more important and general powers granted to the board of fire commissioners in section 176 of the Town Law serves as a quick synopsis of many of the important areas of operation for fire districts:

- They shall have the powers to make any and all contracts for the purposes authorized within the appropriations approved by the taxpayers or within the specified statutory limitations;
- They may organize, operate, maintain, and equip fire companies;
- They may adopt rules and regulations governing all companies and fire departments in the district, prescribe the duties of the members, and enforce discipline;
- They may purchase apparatus and equipment for the extinguishing and prevention of fires and for the purpose of the emergency rescue and first aid squads and the fire police;
- They may acquire real property and construct buildings for preservation of equipment and for social and recreational use by firefighters and residents of the district;
- They may construct and maintain fire alarm systems;
- They may purchase, develop, or contract for a supply of water for firefighting purposes; and,
- They may contract to provide firefighting services outside the fire district where such outside services can be supplied without undue hazard to the fire district.

**Financing.** Fire districts have neither the constitutional debt nor taxing limits that most municipal corporations have. They do, however, have statutory limitations on their spending and financing authority.

Under section 176(18) of the Town Law fire districts have a basic spending limitation of \$2,000, plus one mill for each dollar of full valuation of district taxable real property in excess of one million dollars. There are several important exemptions from this spending limitation, such as certain insurance costs, salaries of career firefighters, most debt service and contracts for fire protection or water supplies. The basic spending limitation may be exceeded only if a proposition

for the increase is approved by the voters of the district. Further, many capital expenditures proposed for a fire district which would exceed the spending limitation would also require voter approval. Certain expenditures which are not chargeable to the spending limitation may be subject to voter approval under other provisions of law (e.g., General Municipal Law §6-g, relative to capital reserve funds).

A fire district may incur debt by issuing obligations, subject to the provisions of the New York State Local Finance Law. Fire districts are subject to a statutory debt limit (generally three percent of the full valuation of taxable real property in the fire district) and mandatory referendum requirements.

Within the statutory constraints, however, the district enjoys general autonomy in developing its budget. When completed, the budget is filed with the town budget officer of each of the towns in which the district is located. The town board can make no changes in a fire district budget but must submit it with the town budget to the county for levy and spreading on the town tax roll. When the taxes are collected, the town supervisor must “immediately” turn over to the district treasurer all taxes levied and collected for the fire district.

In 1956, the Volunteer Firefighters’ Benefit Law was enacted to provide benefits similar to Workers’ Compensation for volunteer firefighters injured in the line of duty or for those who die from the effects of injury in line of duty. Cities, towns, villages and fire districts finance these benefits through their annual budgets.

**Fire Department Organization.** The board of fire commissioners exercises general policy control over its fire department, while the chief of the department exercises full on-line authority at emergency scenes. The fire department of a fire district encompasses all fire companies organized within the district, together with career employees whom the board of fire commissioners may appoint. Fire companies usually are, but need not be, volunteer fire companies incorporated under the provisions of the Not-for-Profit Corporation Law. They can be formed within the fire district only with the consent of the board of fire commissioners and, thereafter, new members can only be admitted with board consent.

All officers of the fire department must be members of the department, residents of the state and, if required by the board of fire commissioners, residents of the fire district. Officers are nominated by ballot at fire department meetings, and appointments by the board can be made

only from the candidates so nominated.

**Joint Fire Districts in Towns and Villages.** Article 11-A, of the Town Law § 189-a through § 189-l, and Article 22-A, of the Village Law, § 22-2210 and § 22-2212, allow for the establishment of joint fire districts in one or more towns and one or more villages. Under the provisions of the Town Law, if it appears to be in the public interest, the town board(s) and village board(s) shall hold a joint meeting for the purpose of jointly proposing the establishment of a joint fire district. If, at the joint meeting, it is decided by majority vote of each board to propose a joint district, the boards must hold, upon public notice, a joint public hearing at a location within the proposed district. If, after the public hearing, the town board(s) and village board(s) determine that the establishment of the joint fire district is in the public interest, each board may adopt a separate resolution, subject to a permissive referendum, establishing the joint fire district.

The new joint fire district is governed by the provisions of Article 11 of the Town Law to the extent that article is not inconsistent with the provisions of Article 11-A. Management of the affairs of joint fire districts is under a board of fire commissioners of not less than three nor more than seven members, chosen by the participating town boards and/or village boards of trustees in joint session, or elected as provided in Article 11 of the Town Law.

Contemporaneously with the establishment of the joint district, the town board and the village board of trustees of each participating municipality shall by local law dissolve any existing fire, fire alarm or fire protection districts contained within the joint fire district. The Board of Trustees of a village or the Board of Commissioners of a fire district, all of the territory of which is embraced within the boundaries of a joint fire district, may by resolution authorize the sale or transfer of any firehouse, land or apparatus owned by the village or district to be transferred to the joint district, with or without consideration and subject to terms and conditions deemed fitting and proper by the board of trustees or Board of Commissioners.

### **Fire Protection and Fire Alarm Districts**

Fire protection districts and fire alarm districts are not public corporations. Both of these types of districts may be described as assessment areas within which a town can provide limited

services and assess the cost back against the taxable properties within the district.

Fire protection districts are established for the sole purpose of providing fire protection by contract. After establishing a fire protection district, a town board may contract with any city, village, fire district or incorporated fire company maintaining suitable apparatus and appliances to provide fire protection to the district for a period not exceeding five years. A town may also acquire apparatus and equipment for use in the district and may contract with any city, village, fire district or incorporated fire company for operation, maintenance and repair of the apparatus and equipment and for the furnishing of fire protection in the district. The cost of the contracted services, together with certain other expenses incurred by reason of the establishment of the district, is then levied against the properties of the district on the annual tax roll.

Fire alarm districts are formed primarily to finance the installation and maintenance of a fire alarm system. However, a town board can contract for fire protection for these districts in a similar manner as for fire protection districts.

\* This section is excerpted from the NYS DOS Local Government Handbook, Chapter IX (Special Purpose Units), pages 8-12.