

# **FIRE SERVICE REFERENCE BOOKLET 1**

## **CREATION OF FIRE DEPARTMENTS**

**Updated September 2023**



**STATE OF NEW JERSEY**

*Governor Phil Murphy*



**DEPARTMENT OF COMMUNITY AFFAIRS**  
**Kimberly K. Holmes, Acting *Commissioner***

**DIVISION OF FIRE SAFETY**  
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## **1. PAID AND PART PAID DEPARTMENTS**

### **N.J.S.A.40A:14-7 Creation and establishment of fire departments and forces**

The governing body of any municipality, by ordinance, may create and establish a paid or part-paid fire department and force and provide for the maintenance, regulation and control thereof, and except as otherwise provided by law, appoint 40A:14-68. a. In any municipality not having a paid or part-paid fire department and force, the governing body, by ordinance, may contract with a volunteer fire company or companies in such municipality, for purposes of extinguishing fires, upon such terms and conditions as shall be deemed proper. The members of any such company shall be under the supervision and control of said municipality and in performing fire duty shall be deemed to be exercising a governmental function; however, the appointment or election of the chief of the volunteer fire company shall remain the prerogative of the membership of the fire company as set forth in the company's certificate of incorporation or bylaws. such members, officers and personnel as shall be deemed necessary, determine their terms of office, fix their compensation and prescribe their powers, functions and duties and adopt and promulgate rules and regulations for the government of the department and force and for the discipline of its members.

## **2. VOLUNTEER DEPARTMENTS**

### **N.J.S.A.40A:14-68 Contracts by municipalities with volunteer fire companies 40A:14-68.**

In any municipality not having a paid or part-paid fire department and force, the governing body, by ordinance, may contract with a volunteer fire company or companies in such municipality, for purposes of extinguishing fires, upon such terms and conditions as shall be deemed proper. The members of any such company shall be under the supervision and control of said municipality and in performing fire duty shall be deemed to be exercising a governmental function; however, the appointment or election of the chief of the volunteer fire company shall remain the prerogative of the membership of the fire company as set forth in the company's certificate of incorporation or bylaws.

## **3. FIRE DISTRICTS**

### **N.J.S.A.40A:14-70Establishment of fire districts; boards of fire commissioners; powers; members; election; term of office; vacancies**

40A:14-70. a. In any municipality not having a paid or part-paid fire department and force, the governing body, upon application of at least 5% of the registered voters or 20 legal voters, whichever is the greater, shall consider the designation of a fire district. Upon receipt of the application, the governing body shall fix a time and place for a hearing thereon. The municipal clerk shall advertise the notice of the hearing in a newspaper circulating in the county wherein the municipality is located at least once and not less than 10 days prior to the hearing. After the hearing the governing body shall determine the question of designation of a fire district. If the governing body decides that the designation of a fire district is appropriate, it, by ordinance, shall designate a territorial location or locations for use as a fire district or fire districts and, by resolution, provide for the election of a board of fire commissioners for the district or each district, to consist of five persons, residents therein, and specify the date, time and place for the election of the first board.

b. The district or each district shall be assigned a number and the commissioners thereof and their successors shall be a body corporate, to be known as "the commissioners of fire district No. . . . . in . . . . . (name of municipality), county of . . . . . (name of county)." The said body corporate shall have the power to acquire, hold, lease, sell or otherwise convey in its corporate name such real and personal property as the purposes of the corporation shall require. All sales and leases of real and personal property shall be in accordance with the provisions of section 13 or 14, as appropriate, of the "Local Lands and Buildings Law," P.L.1971, c.199 (C.40A:12-13 or 40A:12-14). Said body corporate may adopt and use a corporate seal, sue or be sued and shall have such powers, duties and functions as are usual and necessary for said purposes.

c. If the election of the first board of fire commissioners is held at a time other than the time of the general election, the following requirements shall apply:

(1) The clerk of the municipality shall conduct the election and shall preside at the meeting until the board shall have been elected.

(2) At the first meeting of a newly elected board of fire commissioners of a district the board shall choose a chairman and fix the place for the annual election. The members of the board shall divide themselves by lot into three classes: the first to consist of two members whose terms shall expire at 12 o'clock noon on the first Tuesday in March of the year following the year in which the first board is elected; the second, two members whose terms shall expire at 12 o'clock noon on the first Tuesday in March of the second year following that year; and the third, one member whose term shall expire at 12 o'clock noon on the first Tuesday in March of the third year following that year. The terms of fire commissioners in each class, other than members of the first board, shall expire at 12 o'clock noon on the first Tuesday in March of the third year following the year in which they were elected. If the time of the annual election is moved to the time of the general election pursuant to subsection a. of section 23 of P.L.2017, c.206 (C.40A:14-72.2), the terms of the fire commissioners then in office shall be extended until 12 o'clock noon on the first Tuesday in December of the years in which their terms expire.

(3) Any vacancy in the membership shall be filled by the remaining members until the next succeeding annual election held on the third Saturday in February, at which time a resident of the district shall be elected for the unexpired term.

d. If the election of the first board of fire commissioners is held at the time of the general election, the following requirements shall apply:

(1) The election shall be conducted in accordance with the procedures provided for the general election in Title 19 of the Revised Statutes, except as otherwise provided pursuant to N.J.S.40A:14-70 et seq.

(2) The annual election shall be held at the time of the general election on the first Tuesday after the first Monday in November, and shall be conducted in accordance with the procedures provided for the general election in Title 19 of the Revised Statutes, except as otherwise provided pursuant to N.J.S.40A:14-70 et seq.

(3) The term of a member of a board of fire commissioners shall commence at 12 o'clock noon on the first Tuesday in December.

(4) At the first meeting of a newly elected board of fire commissioners of a district, the board shall choose a chairman. The members of the board shall divide themselves by lot into three classes: the first to consist of two members whose terms shall expire at 12 o'clock noon on the first Tuesday in December of the year following the year in which the first board is elected; the second, two members whose terms shall expire at 12 o'clock noon on the first Tuesday in December of the second year following that year; and the third, one member whose term shall expire at 12 o'clock noon on the first Tuesday in December of the third year following that year. The terms of fire commissioners in each class, other than members of the first board, shall expire at 12 o'clock noon on the first Tuesday in December of the third year following the year in which they were elected.

(5) Any vacancy in the membership shall be filled by the remaining members until the next succeeding annual election held at the time of the general election, at which time a resident of the district shall be elected for the unexpired term.

### **N.J.S.A.40A-14-70.1 Fire districts; establishment of or contract with volunteer fire company**

40A:14-70.1. a. Any persons desiring to form a volunteer fire company to be located within or otherwise servicing the area encompassing a fire district or other type of volunteer organization which has as its objective the prevention of fires or regulation of fire hazards to life and property therein shall first present to the board of fire commissioners a written application for the organization of such company. Such application shall be in the form of a duly verified petition signed by them stating the kind of company which they desire to organize, the name or title thereof, the number and names of the proposed members thereof, and their places of residence. The board of fire commissioners, after considering such application and approving the members of the proposed company, may by resolution grant the petition and constitute such applicants a volunteer fire company of the district.

b. The board of fire commissioners of a fire district not having a paid or part-paid fire department and force may contract with a volunteer fire company or companies for the purpose of extinguishing fires, upon those terms and conditions as shall be deemed proper. The members of the company shall be under the supervision and control of the board of fire commissioners and in performing fire duty shall be deemed to be exercising a governmental function; however, the appointment or election of the chief of the volunteer fire company shall remain the prerogative of the membership of the fire company as set forth in the company's certificate of incorporation or bylaws.

#### **4. INTERMUNICIPAL DEPARTMENTS AND MUTUAL AID**

##### **N.J.S.A.40A:14-67 Intermunicipal fire departments and forces**

The governing bodies of 2 or more adjoining municipalities, by reciprocal ordinances, may provide for the establishment and maintenance of a joint fire department and force, or for their contributions for the maintenance and operation of a volunteer fire company serving such municipalities. The said governing bodies, by mutual agreement, may allocate their respective contributions for such maintenance and operation upon such terms and conditions as shall be deemed necessary.

Nothing herein contained shall affect the employment or continuance in office or tenure or pension rights of any paid fireman in any such municipality.

## N.J.S.A. 40A:14-156.1 Agreements between municipalities for mutual police or fire aid in emergency

1. The governing bodies of two or more municipalities may by reciprocal ordinances enter into agreements with each other for mutual police or fire aid in case of emergency. Such agreements may provide for:

- a. The reimbursement of the municipality or municipalities rendering such aid, for any damage to police or fire equipment or other property, and for payment to any member of a police force or fire department and force or volunteer fire company for injuries sustained while serving pursuant to such agreements or to a surviving spouse or other dependent if death results;
- b. A joint meeting of the municipalities entering into such agreements, for the selection of necessary officers or personnel, or for such other matters as are mutually deemed necessary; and
- c. The acquisition of lands, and the establishment and maintenance of a central office. Real and personal property so acquired shall be held by such municipalities as tenants in common.

The governing body of a municipality may enter into an agreement with any authority created pursuant to an interstate compact for mutual police or fire aid in case of emergency. The agreement may contain provisions similar to the provisions in agreements between municipalities as provided above.

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