

*Misquamicut Fire District  
Westerly, Rhode Island*



*Charter Adopted, June 11, 2016*

*By-Laws Adopted June 9, 2018*

*Michelle M. Vacca, Moderator*

*Charter Adopted, June 11, 2016*

**AN ACT**

**AMENDING THE CHARTER OF THE MISQUAMICUT FIRE DISTRICT**

(Passed at January Session of R.I. General Assembly A.D. 1993 and January Session R.I. General Assembly A.D. 2010. Voted and approved by the District Residents at the Annual Meeting held on July 13, 1993 and a Session of the RI General Assembly A.D. held on January 12, 2010, April 15, 2010 and the Session of the General Assembly held on June 22, 2015)

It is enacted by the General Assembly as follows: Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 12.1, 12.2, 12.3, 12.4, 12.5, 12.6, 12.7, 12.8, 12.9, 12.10, 12.11, 13, and 14 of An Act to Incorporate the Pleasant View Beach Fire District, as passed at the January session, 1915 as amended, Including An act passed at the January session 1929 changing the name to "Misquamicut Fire District" are hereby amended to read as follows:

**SECTION 1. General-Powers-Boundaries**

All of the following described part of the Town of Westerly is hereby incorporated into a district to be called Misquamicut Fire District.

Beginning at a point on the northerly shoreline of the Winnapaug Pond located 50 feet westerly of the southwesterly corner of the Winnapaug Golf Course, so-called, and running generally easterly and southerly bounded by the northerly and easterly shoreline of the Winnapaug Pond and the Weekapaug Breach way, so-called, to the mean high water line of the Atlantic Ocean; thence westerly bounded southerly by said Ocean to the southeasterly corner of land constituting the Watch Hill Fire District; thence northerly bound westerly by said Watch Hill Fire District to a point located 200 feet east of the centerline of Ocean View Highway, so-called; thence continuing in a general northerly direction parallel with and 200 feet distant easterly of said Ocean View Highway and crossing the Shore Road, so-called, thence continuing generally northerly bounded westerly by the easterly line of Shore Road to the southeasterly intersection of said Shore Road with Misquamicut Hills Road, so-called, at a point 500 feet northerly of the northerly line of Shore Road; thence easterly, parallel with and 500 feet distant northerly of the northerly line of said Shore Road to the westerly line of Tom Harvey Road, so-called, thence southerly along said westerly line of Tom Harvey Road and crossing said Shore Road at a point approximately 90 feet easterly of the easterly line of said Via Roma Road; thence continuing southerly 50 feet distant westerly and parallel with the westerly line of said Winnapaug Golf Course property to the northerly shoreline of Winnapaug Pond and the point and place of beginning.

Bounded westerly by the Watch Hill Fire District, northerly by the Westerly Fire District, easterly, northerly and easterly, again, by the Dunns Corners Fire District, easterly in part by the Weekapaug Fire District, and southerly by the Atlantic Ocean, or however otherwise the same may be bounded and described.

Said district may have a common seal, sue and be sued, and enjoy all the other powers generally incident to corporations including, but not limited to, those powers and authorities delineated herein and as conferred by chapter 129 of the Public Laws of Rhode Island, 1957.

## **SECTION 2. Qualifications for Electors**

Every citizen who is of the age of majority and who owns taxable real property in said district shall be eligible to vote as a qualified elector of said district in any annual or special meeting and for such other purposes as provided herein; and, notwithstanding the foregoing, any inhabitant of the town of Westerly who is qualified and registered to vote in said town's affairs and is a legal or permanent resident within the Misquamicut Fire District shall be so qualified as an elector regardless of whether such inhabitant owns such taxable real property.

## **SECTION 3. Annual Meeting**

The annual meeting of said district for the election of officers and the transaction of any other business shall be held on the second Saturday in June at 10:00 a.m. at a place, within said district, as prescribed in the call as issued by a vote of the district officers. In the event there is more than one candidate for an elected position, the meeting, after the conclusion of all legal business, shall be recessed until the following Saturday, whereupon an election for the contested position(s) shall be held. In such contested elections, voting will be by paper ballot and will be held at the Misquamicut Fire Station. The time of the voting will be as prescribed in the district by-laws. Upon completion of voting, the ballots will be counted and the result will be announced by the district clerk. Said newly elected officers shall then assume their office and the annual meeting will stand adjourned.

## **SECTION 4. District Officers**

Said qualified voters, at each annual meeting and any other meeting, when vacancies occur, may elect officers to serve for one (1) year or until the next annual meeting and until others be chosen in their stead: which officers shall consist of: one (1) moderator, one (1) clerk, one (1) treasurer, one (1) tax collector, one (1) tax assessor, (1) fire chief, two (2) members-at-large, whose duties and powers in said district shall be such as like officers of towns in this state have in their respective towns or as prescribed in the district by-laws.

## **SECTION 5. Special Meetings**

Special meetings may be convened which, as well as the annual meeting, in such manner as the district by-laws shall prescribe, with notice in such manner and it shall be the duty of the district clerk to call. Special meetings may be called (1) at the request of the moderator, (2) on the vote of a majority of the district officers or (3) upon receipt of a petition signed by two hundred and fifty (250) qualified taxpayers as are entitled to vote.

## **SECTION 6. Powers and Purposes for Taxing**

Said district may raise money by tax on the real and tangible personal property within said district for the purchasing and procuring of equipment and apparatus, used in the training of personnel for fire suppression, prevention, and the protection and preservation of life and property endangered by fire or any other emergencies involving life and property that may occur within the boundaries of the district; for the payment of such police force as it may deem necessary for the protection of the property and inhabitants of said district from fire, for the purpose of providing for the collection and disposal of garbage, for the purpose of improving property of said district and purchasing additional property, for the purpose of sites for, and for the erection and repair of, district buildings, for the purpose of carrying on such operations as may be necessary to abate and prevent the erosion of the shoreline of the Atlantic Ocean within the district, for all necessary charges and expenses, whatsoever, arising within the district, incidental or not to the above.

**SECTION 7. Tax Assessor**

Taxes shall be assessed by the assessors of taxes of said district on the taxable inhabitants and property therein, according to the last valuation made by the assessor(s) of the Town of Westerly next previous to the assessment adding, however, any taxable property which may have been acquired: and in all cases where the town assessors have included property within the district and property without the district in one(1) valuation, the assessors of the district shall make an equitable valuation of that portion of the same lying within the district, and in assessing and collection of such taxes such proceedings shall be had by the officers of said district, as near as may be, as are required to be had by the corresponding officers of towns in assessing and collection of such taxes such proceedings shall be had by the officers of said district, as near as may be, as are required to be had by the corresponding officers of towns in assessing and collecting town taxes.

**SECTION 8. By-Laws, Regulations**

Said district at any legal meeting shall have power to make by-laws prescribing the duties of firewards, and other officers, and the inhabitants of said district, in times of conflagration, and for the purpose of enforcing obedience to the commands of the firewards for suppressing disorder and tumult, guarding and removing property, or rendering other service in the time of fire; and also for the protection of the water pipes, hydrants, safety valves, water gates, hose, electric light wires, poles or other apparatus or property of the district, and also such other rules and regulations as it may prescribe for the use of its drains and sewers by any person; to prevent any person disrobing in any motor vehicle within the district on public and private property; for the care and management of parks and grounds belonging to the district; and, generally, all other ordinances, regulations and by-laws for the well ordering , managing and direction of the prudential affairs of the district; and, generally, all other ordinances, regulations and by-laws for the well-governing, managing and directing of the affairs of the district not repugnant to the laws of the state or the Town of Westerly, Rhode Island, and not over any matter over which the Town of Westerly shall pass ordinance; and the district may impose penalties for the violation of any such ordinances, by-laws and regulations, not exceeding in the amount of one hundred dollars (\$100), to be received to the use of the district, or imprisonment not exceeding ten (10) days and to be prosecuted before the town of Westerly municipal court by same officer appointed for that purpose, or any state or town officer, and in all such prosecutions the officer bringing the same shall be exempt from furnishing recognizance or surety for costs.

**SECTION 9. Water from Outside District**

Said fire district is hereby authorized to receive water from the Town of Westerly or the Westerly Fire District upon such terms as may be agreed upon between them, or to construct and maintain its own water works, mains, and other necessary apparatus for supplying water within its limits for fire, domestic, commercial and manufacturing purposes.

**SECTION 10. Police Power**

If any person shall maliciously destroy or injure any drain pipe, aqueduct, conduit, machinery, wires, poles, lights, or other property belonging to said district and used for any of the purposes provided for in this act, such person or persons shall each forfeit to said district twice the amount of damages which shall appear to have been sustained thereby; to be recovered in an appropriate civil action and to make such recovery as the appropriate court shall lawfully dictate.

**SECTION 11. Authority to Borrow**

The district may, without special statutory authority therefore, incur any debt not in excess of three percent of the taxable property of the district, but the giving of a new note or bond for pre-existing debt or for money borrowed and applied to the payment of such pre-existing debt is excepted from the provisions of this section, and the amount of any sinking fund shall be deducted in computing such indebtedness.

**SECTION 12. Authority to Borrow**

The Misquamicut Fire District is hereby authorized and empowered from time to time to have a sum not exceeding twenty-five thousand dollars, and to issue its notes or bonds, or either, therefore, and to renew any such notes from time to time as they shall become due and payable.

- (a) The treasurer of said fire district shall cause any bonds or notes issued by authority hereof to be issued for such times, and conditions as shall be authorized by the fire district, except that upon notes maturing not more than one year from their date, the time and the discount or interest rate may be fixed by the treasurer of the fire district. The fire district shall annually appropriate the sum necessary to pay the interest on such bonds or notes so issued, and a further sum sufficient for the redemption or payment of one-tenth (1/10) of the principal of the said bonds or notes hereby authorized when and as the same may become due and payable.
- (b) The notes or bonds, or either, hereby authorized shall be signed by the treasurer of the fire district and countersigned by the moderator and clerk of the fire district.

That act passed at the January session, 1915, entitled "An Act to Incorporate the Pleasant View Beach Fire District", as amended, Including an Act passed at the January session 1929 changing the name to "Misquamicut Fire District" is hereby amended by adding thereto the following section:

**SECTION 13. Indemnity**

The district hereby indemnifies any and all elected or appointed fire district official, fire district employees, members of boards, agencies and commissions appointed by the district, from all loss, cost, expense and damage, including legal fees and court costs, if any, arising out of any claim, action, compromise, settlement or judgment by reason of any alleged error or misstatement or action or omission or neglect or violation of the rights of any person under federal or state law which imposes personal liability or any district individual, if such neglect was acting within the scope of his or her duties or employment. Such indemnification shall not extend to any error, misstatement, act of omission or neglect if the same resulted from willful, wanton or malicious conduct of the part of such district individual. The district, acting through the district solicitor, will provide legal counsel at the expense of the district, and/or the reimbursement for reasonable attorneys' fees and other expenses incurred in connection with the conduct of such defense, including payment of the judgement thereon. The district solicitor is further authorized to pay any such expenses in advance of the final disposition of such claim upon receipt of a written undertaking by or on behalf of such district individual to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified hereunder.

The act passed at the January session A.D. 1915, entitled "An Act to Incorporate the Pleasant View Beach Fire District", as amended, Including an Act passed at the January session A.D. 1929 changing the name to "Misquamicut Fire District" is hereby amended by adding the following section:

**SECTION 14. Committees**

The moderator of the district shall appoint the following standing committees:

- (i.) Finance
- (ii.) Fireman's Incentive
- (iii.) Insurance
- (iv.) Improvements and any other committees authorized in the district's bylaws or approved at a meeting of the district

a.) Each committee shall define their duties, relative to the needs of the district.

APPROVED AT THE ANNUAL MEETING JULY 13, 1993

CHARTER ADOPTED 6/11/2016

BY-LAWS ADOPTED 6/9/2018

*By-Laws Adopted September 4, 1993 and June 9, 2018.*

*Changes to these By-Laws may be proposed at any legally called District Meeting and voted on at the next legally called District Meeting by a majority vote of the qualified voters present.*

## MISQUAMICUT FIRE DISTRICT BY-LAWS

### **Article 1. VOTERS**

Qualified voters in the Misquamicut Fire District shall include owners of taxable real property, permanent residents in the District who are registered to vote in the Town of Westerly, and Corporations and Representative Entities owning property in Misquamicut which may designate no more than two persons entitled to vote and who must be present to vote.

### **Article 2. MISQUAMICUT BOARD OF OFFICERS**

The members of the Misquamicut Fire District Board elected to serve for one year are voting members: Moderator, Clerk, Treasurer, Tax Collector, Fire Chief, Tax Assessor, two Members At Large; and nonvoting member: Solicitor. In order to grant the District taxpayers proper representation on the Board, no Officer may hold more than one elected position.

The Board is responsible for the operation of the District between annual meetings. The Board shall prepare a detailed list of the fixed assets of the District.

The Board shall serve as the committee on Fire Protection, Police Protection and Sanitation and maintain all of the district property.

### **Article 3. MEETINGS AND ELECTIONS**

The Misquamicut Fire District shall hold its Annual Meeting at 10:00 a.m. on the second Saturday in June at the Misquamicut Fire Station, or at another site within the District at the discretion of the Moderator, to elect District Officers, approve the budget, set beach parking fees and transact any other District business. All provisions of the Rhode Island Open Meetings act shall be followed.

If there is more than one candidate for an office, the Annual Meeting, after completion of all other business, shall be recessed and on the next Saturday an election by paper ballot for contested position(s) will be held from 8:00 a.m. to 2:00 p.m. at the Fire Station. There shall be no other items of business at this meeting. The Clerk shall direct all aspects of the election. If the position of Clerk is contested, the Moderator shall designate a qualified person to supervise the election. Upon completion of the voting, the ballots will be counted, the Clerk will announce the results and the meeting will stand adjourned or recessed at the discretion of the Moderator.

Special Meetings may be called by the Board if necessary as prescribed in the Charter. Notice for Annual and Special meetings shall be sent to the District taxpayers by mail at least ten days prior to the meeting, posted in at least three places in the District and advertised in THE WESTERLY SUN. Notice is not required for meetings recessed to a definite time unless voters request it before the recess.

If the majority of voters present request a paper ballot on a question pending, the same shall be allowed.

Board meetings shall be called by the Moderator. In the event the Moderator does not call a meeting, a majority of the District Officers may call a Board meeting by filing a written request to the Clerk, stating the items to be considered at the meeting.

**Article 4. DUTIES OF THE OFFICERS**

**The Moderator shall**

Be the chief executive officer of the Misquamicut Fire District.  
Preside at District and Board meetings.  
Sign all necessary legal documents.  
Represent the District at hearings.  
Be responsible for all District property.  
Direct all District activities except firefighting.  
Engage all paid personnel other than elected Officers.  
Appoint all committees.  
Appoint District Officers if vacancies occur.  
Fill vacancies on committees.  
Process invoices for payment.  
Sign pay orders.  
Receive bank statements and after review, transmit to Treasurer.  
Sign checks if the Treasurer and Tax Collector are unavailable.

**The Clerk shall**

Keep minutes of all meetings.  
Notify taxpayers of meetings as prescribed in Article 3 of the By-laws.  
Handle all District correspondence.  
Coordinate District elections.  
Sign legal documents as required by the Charter.  
Sign pay orders.  
Preside at District and Board meetings in the absence of the Moderator.  
Keep the seal of the District.

**The Treasurer shall**

Keep accurate records of all District funds.  
Deposit District funds in an FDIC insured bank within five business days.  
Pay all bills after obtaining signed pay orders.  
Sign checks.  
Borrow funds when authorized at a District or Board meeting.  
Pay all state and federal taxes.  
Supply records to the auditors on a timely basis, including lists of accounts payable.  
Be bonded at District expense.

**The Tax Collector shall**

Maintain records of property owners and taxes due and paid.  
Engage a service to prepare tax bills.  
Mail tax bills to all taxpayers at least ten days before the tax collection period.  
Sign checks if the Treasurer is unavailable.  
Sign pay orders if the Moderator or Clerk is unavailable.  
Charge interest on past due accounts at a rate set by the Board.  
Hold a tax sale on any property for which taxes are in arrears.  
Deposit tax receipts in an FDIC insured bank within five business days.  
Transmit to the District Treasurer bank certified record of deposit within three business days.  
Be bonded at District expense.  
Supply needed information to the auditors on a timely basis.

**The Tax Assessor shall**

Annually certify the tax roll prepared by the Town of Westerly for all real property in the District.  
Represent the District taxpayers on the Board.  
Recommend the annual tax rate to the Board.

**The Members At Large shall**

Represent the District taxpayers on the Board.  
Assist the Tax Assessor in determining the annual tax rate.

**The Fire Chief shall**

Be state certified to inspect properties in the District.  
Be responsible for the maintenance of all firefighting equipment and serve with the Moderator as Custodian of the Fire Station.  
Appoint Deputies, Engineer and Building Custodian with the advice and consent of the Moderator.  
Recruit and train volunteer fire fighters.  
Transmit invoices to the Moderator for payment.

**The Solicitor (nonvoting) shall**

Attend District meetings and Board meetings if requested by the Moderator.  
Review all contracts and other legal documents.  
Render legal opinions as requested by the Moderator or the other Officers.  
Attend hearings and present recommendations of the District.

**Article 5. VACANCIES**

**Moderator:**

If the Moderator resigns or is unable to serve, the Board shall select one of its members to finish the unexpired term. The provisions of Article 2 shall apply.

**Other Offices:**

The Moderator is empowered to fill all vacancies that occur between Annual Meetings on the Misquamicut Fire District Board or on any committees.

**Article 6. COMMITTEES**

The Moderator shall annually appoint a Finance Committee to prepare a recommended budget for submission to the Fire District Board of Officers. The Committee shall consist of at least three (3) members. No District Officer shall serve on this Committee. The Moderator shall appoint the following standing committees:

- i.) Finance Committee
- ii.) Fireman’s Incentive Committee
- iii.) Insurance Committee
- iv.) Improvement Committee
- v.) Any other committees authorized in the districts bylaws or approved at a meeting of the district.

Each committee shall define their duties, relative to the needs of the district.

**Article 7. FISCAL REQUIREMENTS**

The fiscal year of the Misquamicut Fire District shall be from July 1 through June 30 of the next year.

The collection period when taxes are due shall be:

- In 1994, from October 15-31
- In 1995 and thereafter, from September 15-30

The budget shall be presented for adoption at the Annual Meeting. In the event of an emergency the Board, by majority vote, may transfer funds from one account to another to provide funds for emergency repairs.

A pay order signed by the Moderator and the Clerk is required for any disbursement of District funds. The Tax Collector may sign if the Moderator or Clerk is not available.

The Board shall solicit bids for any expenditure in excess of \$10,000. The procedure shall require a legal advertisement detailing the item(s) needed. Upon receipt of the bids a public opening and reading of the bids will be held by the Officers. Bids shall not be required for any sole source item or if it becomes necessary to perform emergency repair(s). If no bids are received in response to a public advertisement, the Board may obtain the needed item(s) by seeking quotations.

The Moderator is authorized to spend up to \$10,000 for expenses necessary or required for the District to carry out the business of the District without taxpayer or board approval.

The Board of Officers of the Misquamicut Fire District is empowered to add any fiscal requirements to strengthen the financial operation of the District.

A Certified Public Accountant, an individual or firm, shall conduct an annual agreed-upon procedures engagement in accordance with attestation standards established by the American Institute of Certified Public Accountants on a cash basis of District financial records. There shall be a cash audit only whenever there is a change of office of the Treasurer or the Tax Collector.

**Article 8. RECORDS**

Permanent records of the District shall be kept at the Fire Station.

Records of the District shall be transferred immediately from one Officer to another in the same office.

**Article 9. SEAL**

The seal of the District shall bear the words "Misquamicut Fire District, Inc. 1915". The seal shall be kept by the Clerk.

**Article 10. QUORUM**

At least twenty-five qualified voters of the District shall constitute a quorum.

**Article 11. AMENDMENT**

Changes to these By-laws may be proposed at any legally called District Meeting and voted on at the next legally called District Meeting by a majority vote of the qualified voters present.

Adopted September 4, 1993 and June 9, 2018.