

Barnstable Fire District By-Laws

(Adopted April 24, 1995)

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BARNSTABLE FIRE DISTRICT BY-LAWS

(Adopted April 24, 1995)

DEFINITIONS

Article I. Definitions

As used in these by-laws, the following quoted terms shall have the meanings as indicated in this article.

“CMR” – The Code of Massachusetts Regulations as most recently published by the Secretary of State of the Commonwealth of Massachusetts.

“District” – The Barnstable Fire District as authorized and established by special legislation of the Massachusetts General Court.

“District Meeting” – Any meeting of the District voters duly called, noticed and conducted in conformity with these by-laws.

“District’s special legislation” – The following special acts of the Massachusetts General Court: Chapter 109 of the Acts of 1926, Chapter 302 of the Acts of 1934, Chapter 151 of the Acts of 1947, Chapter 175 of the Acts of 1947, Chapter 217 of the Acts of 1953, Chapter 496 of the Acts of 1979, Chapter 81 of the Acts of 1955, Chapter 295 of the Acts of 1976, Chapter 197 of the Acts of 1983, and Chapter 443 of the Acts of 1991.

(Note: An annotated compilation of said special legislation appears as Appendix I hereto.)

“District voter” – Any person who is a registered voter of the town at a street address within the territory comprising the District as described in section one of the District’s special legislation.

“General Laws” – The General Laws of Massachusetts.

“Town” – The Town of Barnstable.

FUNCTIONS & ORGANIZATION

Article II. Authorized District Functions

As authorized by the District’s special legislation and by determinations of the District voters, the functions of the District are to provide public water supply, street lighting, construction and maintenance of sidewalks, fire-prevention services, extinguishment of fires, and emergency medical care, rescue and ambulance services for the inhabitants of the District. The District may also provide emergency aid in firefighting and medical care, rescue and ambulance services outside the boundaries of the District according to the terms of any mutual assistance plan as approved by the Prudential Committee.

(Note: Although by special legislation in 1991, the District received authority to operate a golf course, the District voters have determined against the District’s performing that function.)

Article III. District Organization, Officers and Officials

The District consists of the District voters, who make determinations regarding policies and operations of the District at annual and special meetings, the general-management officers, a fire department and a water department. The general-management officers of the District shall consist of an elected Prudential Committee of three members, an elected District Clerk and an elected Moderator. The District also has an elected Board of Water Commissioners of three members and an appointed Water Superintendent to oversee the operations of the Water Department and an appointed Fire Chief to oversee the operations of the Fire Department.

(Note: The Special legislation authorizing the District to operate a golf course provides for an appointed Board of Golf Commissioners. If the District ever decides to operate a golf course, these by-laws will need to be amended to provide for its oversight.)

Article IV. Amendment of District's Special Legislation

Any proposal or request to alter the authorized functions, organization, officers or officials of the District by means of an amendment to its special legislation shall first have been approved by affirmative vote of the District voters and of the Town Council before being submitted to the Massachusetts General Court for its consideration. Such action by the District voters may be taken either at a District meeting or by a ballot referendum.

Article V. Meetings of District Voters

Section A. Annual District Meeting

The Annual meeting of the District shall be called by the District Clerk upon written direction of the Prudential Committee and shall be held within the District on the Second Wednesday of May each year, unless by a vote of the Prudential Committee taken prior to January 31st of that year shall select an alternative date between May 1st and May 15th.

Section B. Special District Meetings

Special meetings of the District shall be called by the District Clerk upon written direction of the Prudential Committee. The Prudential Committee shall direct the call of a special District meeting upon written petition by one hundred (100) or more District voters, any such meeting to be held not later than thirty (30) days after the receipt of such petition.

Section C. Warrant for District Meetings

For every District meeting, there shall be a warrant prepared by the Prudential Committee which states the time and place of the meeting, the time and place of voting for elected officers of the District, if an election is impending, and each item of business proposed by the Prudential Committee to be acted upon at the meeting, together with its recommendation thereon. Consistently with Section 119 of Chapter 41 and Section 66 of Chapter 48 of the General Laws, the Prudential Committee shall also (I) insert in the warrant for the annual meeting any subject, together with its recommendation thereon, whose insertion is requested in writing by ten (10) or more District voters, and (II) insert in the warrant for a special District meeting any subject, together with its recommendation thereon, whose insertion is requested in writing by fifty (50) or more District voters. No action taken at a District meeting shall be valid unless the subject matter thereof is contained in the warrant for such meeting. Two or more distinct district meetings for distinct purposes may be called by the same warrant.

Section D. Notice of District Meetings

The District Clerk shall give notice of every District meeting (I) by publishing its warrant in a newspaper published within the Town of Barnstable, (II) by posting its warrant at the office of the District at 1841 Phinney's Lane, Barnstable Village, at the fire station, and (III) by filing its warrant with the Town Clerk in compliance with MGL c. 30A, s. 20.

Section E. Quorum and Voting Required at District Meetings

A quorum for taking action at an annual or special District meeting shall consist of twenty-five (25) District voters. Unless otherwise stipulated herein, a simple majority of those District voters present and voting at an annual or special District meeting shall carry a motion. The District voters present at a District meeting that lacks a quorum may act only to adjourn such meeting.

Article VI. Elected District Officers

Section A. Term of Office

The term of office for members of the Prudential Committee and members of the Board of Water Commissioners shall be three years. The term of office for the District Clerk and the District Moderator shall be three years. The term of office of each elected District officer shall begin immediately after election and the officer has been duly sworn in by the Moderator or District Clerk and shall terminate when such officer's successor has been sworn in.

Section B. Residency Qualification, Nomination Papers, Election

Each candidate for election to a District office must be a District voter and shall file nomination papers with the District Clerk, bearing signatures of at least twenty-five (25) District voters, at least thirty-five (35) days prior to the annual meeting and election. Thereupon the District Clerk shall submit the signatures to the Town Clerk for verification of the signatures, prepare printed ballots and arrange for the conduct of the election at which a District Moderator, one member of the Prudential Committee, one member of the Board of Water Commissioners, a District Treasurer and a District Clerk, together with any vacant office as per Section D of this article, shall be elected during the voting period prior to the annual meeting. The conduct of the election shall be governed by Chapter 41 of the General Laws.

Section C. Disqualification of District Employees

Any individual serving as a full-time or part-time employee or as a call firefighter of the District, full or part-time, may seek election to an elected District office, provided, however, that the employee shall, upon being sworn to such office, be thereby deemed to have resigned from employment with the District. No elected District officer shall be eligible for appointment to a position as a full-time or part-time employee or call firefighter of the District, nor shall any member of the immediate family of an elected District officer be eligible for such appointment when a conflict of interest would result therefrom.

Section D. Filling of Vacancy in Elected Office

A vacancy in any elected District office arising from the resignation, death or disability of its incumbent may be filled by voting by ballot at any District meeting called for that purpose. Or a vacancy may be temporarily filled by appointment by vote of the Prudential Committee, with the appointee to serve until the next annual election, when candidates for the unexpired portion of any term of this office shall be eligible for election. The incumbent of any elected District office who ceases to be a District voter shall thereupon be deemed to have resigned such office.

Article VII. Filling of Vacancy in Appointive Position

Section A. Notice of Vacancy

Whenever a vacancy occurs in an appointive office or position of the District, or can be anticipated by reason of retirement, the appointing authority shall forthwith cause notice of the vacancy or anticipated vacancy to be published in at least one local newspaper and posted at the office of the District at 1841 Phinney's Lane, Barnstable Village, at the fire station and at four additional publicly accessible locations within the District for not less than fourteen (14) days.

Section B. Application to Fill Vacancy

Such notice shall contain a description of the duties of the office or position, and a listing of the necessary or desirable qualifications, and the date by which and person desiring appointment to fill the vacancy may file with the appointing authority a statement of qualifications. The last date that a person may file a statement of qualification with the appointing authority shall not be less than fourteen (14) days from the date the notice is first newspaper published. No appointment to fill a

vacancy shall be effective until at least twenty-one (21) days have elapsed following such first newspaper publication.

Article VIII. Dismissal from Appointive Position; Hearing

Section A. Procedures

A written notice of the vote of an appointing authority's determination to remove or suspend an appointed officer or official of the District together with a statement of the cause or causes therefor shall be given by certified mail addressed to the residence of the affected individual. Within thirty (30) days following delivery of said notice, the individual involved may request a hearing to appeal such determination by submitting a written request therefor to the appointing authority and filing a copy of said request with the District Clerk. If no hearing has been requested within thirty (30) days of said notice, the removal or suspension shall be deemed effective immediately upon expiration of such period.

Section B. Hearing

A hearing, scheduled and conducted by an impartial body designated by the District Moderator, shall be held not less than fourteen (14) nor more than ninety (90) days following the date of receipt of a request therefor. (Examples of impartial bodies which the District Moderator may designate include the American Arbitration Association, the Massachusetts Board of Conciliation and Arbitration, the Town's Personnel Committee or an individual versed in Mediation and/or arbitration of employment disputes.) The District Clerk shall provide the individual and the appointing authority involved written notice of the date of such hearing not less than seven (7) days before such hearing date. The individual and the appointing authority involved shall have the right to call and examine witnesses and to introduce evidence at the hearing. The District Clerk shall make a record of the hearing consisting of an audio tape and written summary thereof.

Section C. Decision on Appeal and Notice Thereof

The impartial body that conducts the hearing referred to in Section B shall make a decision on the individual's appeal within fourteen (14) days following the close of the hearing thereon and communicate the same in writing to the individual and the appointing authority involved.

Section D. Relation to Probationary Period and Collective Bargaining Agreement

The provisions of this article shall not apply to an individual who has not completed an applicable probationary period nor to any instance where they would conflict with requirements of an applicable collective bargaining agreement.

GENERAL MANAGEMENT

Article IX. Prudential Committee

Section A. Authority and Duties

1. The Prudential Committee shall have general supervision of all the affairs of the District not otherwise assigned to the Board of Water Commissioners or the Fire Chief by law or by these by-laws.
2. The Prudential Committee shall have responsibility for the fiscal condition of the District and shall prepare and present the annual District financial budget to the District voters and make its recommendations thereon to the District voters at the annual District meeting, with such recommendations to contain sufficient data and analysis as will enable the voters to make informed and prudent decisions on matters on which they must act. Said Committee shall establish guidelines and procedures for the District's operating departments to participate in and

contribute to the preparation of the annual budget. The provisions of this paragraph shall also apply to any supplementary budget which may be needed during the course of a year.

3. The Prudential Committee shall prepare a written annual report regarding the operations of the District during each fiscal year and require the same from each department of the District and from the District Clerk and the District Treasurer and have all the same printed in the annual District report for distribution to the District voters.
4. The Prudential Committee shall negotiate both financial and material contracts on behalf of the District, as authorized by vote of the District, except in cases where such authority is vested in the Board of Water Commissioners by law or by these by-laws. The Prudential Committee shall have responsibility for determining the liability insurance coverage to meet the needs of the District and to contract for same. The Prudential Committee shall designate a chief procurement officer for the District who shall be responsible for assuring compliance with the General Laws relative to the District's purchasing activities.
5. The Prudential Committee shall arrange for an annual audit by a certified public accountant of the financial records and operations of the District and include a report of such audit in the annual report of the District.
6. The Prudential Committee shall have responsibility for negotiating and approving District employee contracts and collective bargaining agreements except in instances where such authority is vested in the Board of Water Commissioners by law or by these by-laws.
7. The Prudential Committee shall have responsibility for ensuring District compliance with federal, state and local regulations pertaining to equal employment opportunity, employment of handicapped, affirmative action, discrimination and other applicable laws, rules and regulations.
8. The Prudential Committee shall appoint legal counsel for the purposes of the District and shall be responsible for establishing guidelines for obtaining opinions from, or using the services of, legal counsel by District officials.
9. Unless otherwise provided in these by-laws, the Prudential Committee shall be the agent of the District to prosecute and defend suits to which the District in its corporate capacity may be a party and as agent of the District shall have full authority to prosecute or defend all lawsuits and all civil and criminal proceedings and litigation to which the District, or any officer or employee thereof in an official capacity, is a party or in which the District's rights, duties and interests may be the subject of adjudication before any judge, magistrate, court, tribunal, arbitrator or agency.
10. The Prudential Committee shall, with advice from the Board of Water Commissioners and the Fire Chief relative to the circumstances of employees of their respective departments, prepare, establish and administer a code of personnel-management policies and practices for District employees and may amend the same from time to time as may seem desirable.
11. The Prudential Committee shall have responsibility for supervising the location, installation and maintenance of streetlights within the District.
12. The Prudential Committee shall establish a schedule of fees to be charged for providing emergency medical, ambulance and other services and determine billing and collection procedures therefor.

Section B. Meetings

A regular monthly meeting of the Prudential Committee for the transaction of current District business shall be held at which there shall also be in attendance the District Clerk, the District Treasurer, a member of the Board of Water Commissioners, the Fire Chief, and, if consideration of plans for a District meeting is on the agenda, the District Moderator, in compliance with MGL c. 30A, s. 20. Meetings of the Prudential Committee shall be open to District voters, provided that the Prudential Committee may adjourn to executive session as permitted by law. Nothing in this section shall be construed to prevent the Prudential Committee from holding special meetings as it may deem necessary, provided that notice of any such special meeting is duly provided and posted as aforesaid.

Article X. District Clerk

1. The District Clerk shall give notice of the annual and all special District meetings under a warrant issued by the Prudential Committee and in accordance with Article V, Section D of these by-laws.
2. Unless otherwise provided in these by-laws, the District Clerk shall make a record of actions taken at all District meetings and all meetings of the Prudential Committee and shall keep the same and all other District records available at the District office at 1841 Phinney's Lane, Barnstable Village, for examination at all reasonable times by District voters.
3. The District Clerk shall perform all other duties assigned to said office by law or by these by-laws.

Article XI.

1. The District Moderator shall preside at all District meetings and perform all other duties assigned to said office by law or by these by-laws and shall have the same authority as the moderator of a town meeting.
2. Unless otherwise provided by law or by determination of the District voters, the District Moderator shall appoint the members of any special committee established by the District.

Article XII. District Treasurer

1. The District Treasurer shall give bond to the District in the amount and surety required by law, the premium for such bond to be paid by the District.
2. The District Treasurer shall have the authority and responsibility for making expenditures from District funds and shall keep a complete account of all moneys received and of all moneys expended by the District and submit a detailed report of those transactions immediately after the close of the fiscal year, and incorporate this report in the next annual District report.
3. The District Treasurer's records shall be maintained and made available at all reasonable times for examination by District voters at the District office at 1841 Phinney's Lane, Barnstable Village.

Article XIII. Finances

Section A. Fiscal Year

The fiscal year of the District shall begin on July first and run until the following June thirtieth. Funds appropriated at an annual meeting shall not be available for use until the following July first.

Section B. Notes and Bonds; Bidding, Votes and Signatures Required

Notes or bonds of the District shall be issued only through the published, public-bidding process and only as authorized by a two-thirds (2/3) majority vote of District voters present and voting at an annual or special District meeting. All such notes or bonds shall be signed by the District Treasurer and countersigned by the Prudential Committee.

Section C. Approval of Payments from District Funds

Except for repayment when due of District notes and bonds and the interest on same, no money shall be paid from District funds by the District Treasurer without endorsement by the Prudential Committee pursuant to authorization by the vote of the District.

Section D. Compensation of Officers

Salaries of all District officers, both appointed and elected, shall be determined by vote of the District at its annual meeting.

Section E. Lapse of Appropriations

Any appropriation or transfer of funds voted under any specific warrant article shall lapse at the expiration of three (3) years following the effective date of such vote unless otherwise provided in such vote. The District voters, at an annual or special meeting may, prior to the expiration of such terms of years, provide for an extension of time during which the funds shall continue to be available for the purpose specified in such vote. The District Treasurer shall notify the annual District meeting as to which accounts are due to expire, and the funds in such accounts shall be applied to that year's budget or used in any other manner as voted by the District voters.

FIRE DEPARTMENT

Article XIV. Fire Department

Section A. Responsibilities of Fire Department

1. The Fire Department shall be responsible for fire-prevention services, extinguishment of fires, and emergency medical care, rescue, ambulance and other related services.
2. The Fire Department shall be responsible for the maintenance of the fire station and its appurtenances, for maintenance of all fire and rescue apparatus and for preparation and maintenance of full appropriate records of Department operations.

Section B. Fire Chief and Deputy Fire Chief: Appointment, Review, Removal

1. Appointment of Fire Chief

The Prudential Committee shall appoint the Fire Chief on the basis of merit and ability for an initial probationary period of one (1) year during which removal may be without cause. Following completion of a one (1) year probationary period, the Fire Chief may be appointed to a regular position by vote of the Prudential Committee. If so appointed, the appointee shall be given a three (3)-year term whereupon the Fire Chief shall be given an annual review by the Prudential Committee and may be removed for just cause by the Prudential Committee at any time after a hearing as set forth in Article VIII of these by-laws. The appointing authority shall set the residency requirement for the Fire Chief at the time of position posting. Upon initial appointment, the Fire Chief shall be deemed

qualified for all of the same benefits available to other employees of the Fire Department and such other benefits as the Prudential Committee or the District voters may deem appropriate.

2. Appointment of Deputy Fire Chief

The Prudential Committee shall appoint a Deputy Fire Chief subject to the same provisions as in paragraph 1 of this section.

Section C. Duties of Fire Chief

1. The Fire Chief shall have full authority and responsibility for the administration of the Fire Department and shall have and exercise all the powers and discharge all the duties conferred or imposed on him by the General Laws and State Regulations and these by-laws. He shall represent the Fire Department in all dealings with Town departments and officials, with other fire departments in the town, and with regional, national and state fire-service organizations. He shall have authority to enlist aid from outside the District for fighting fires or for other matters involving the public welfare.
2. Should the Fire Chief fail to respond to a call of fire or other emergency, the Deputy Fire Chief or any other department officer who first arrives at the scene of emergency shall assume authority and exercise all the powers, duties and responsibilities of the Fire Chief.
3. The Fire Chief shall have supervisory authority over all personnel of the Fire Department and be responsible for planning, directing and administering their day-to-day activities. He shall approve payrolls, prepare and submit an annual report of department operations to the District, and prepare or delegate preparation of other required reports.
4. The Fire Chief shall, with the approval of the Prudential Committee, appoint officers and firefighters selected by him and determine their compensation.
5. The Fire Chief shall publish and enforce policies, procedures and regulations to assure maximum readiness and response to the District's particular needs; shall continually evaluate department effectiveness and recommend changes contributing to improved operations. The Fire Chief shall assure that department personnel receive training and drilling in modern firefighting techniques and equipment operation, evaluate their performance and assure maximum utilization of each employee's skills and talents.

Article XV. Disability Retirement & Compensation for Call Firefighters

The Prudential Committee and the Fire Chief shall retire from active service any call firefighter who becomes permanently disabled, mentally or physically, by injuries sustained through no fault of his, while in the line of duty, and thereby unable to perform the usual duties of his regular occupation.

A person so retired shall receive an annual compensation equal to seventy-two percent (72%) of the rate of pay of a regular or permanent Firefighter/Emergency Medical Technician-Basic at Step 1 of the pay scale in effect when the injury occurred. This amount shall be adjusted on July first (1st) of each year to reflect any increases in such Basic-Step 1 annual compensation. If a call firefighter is killed in the line of duty, or dies as a direct result of injuries sustained from a line-of-duty injury, the surviving spouse and/or dependent children shall receive annual compensation equal to seventy-two percent (72%) of the rate of pay of a regular or permanent Firefighter/Emergency Medical Technician-Basic at Step 1 of the pay scale in effect when the death occurred. This amount shall be adjusted on July first (1st) of each year to reflect any increases in such Basic-Step 1 annual compensation.

All amounts payable under this article shall be paid at the same time and in the same manner as, and for all purposes shall be deemed to be, the regular compensation of, a regular or permanent firefighter.

WATER DEPARTMENT

Article XVI. Board of Water Commissioners

Section A. Authority and Duties

1. The Board of Water Commissioners shall supervise the operation of the Water Department according to the authority of the District's special legislation and in compliance with the General Laws and applicable regulations, and it shall record the doings of the Water Department in the District's annual report.
2. The Board of Water Commissioners shall be responsible for maintenance of all pumping stations, mains, piping, tanks and other equipment of the Water Department, together with maintenance of the District building at 1841 Phinney's Lane.
3. The Board of Water Commissioners shall employ a Water Superintendent licensed in accordance with Chapter 310 CMR Section 22.11B. The Board shall also employ a Collector Clerk and all other department personnel as needed and shall determine the wages and work schedules of such employees. The records of the Water Department shall be maintained by the Collector Clerk and kept available at the District office at 1841 Phinney's Lane, Barnstable Village, for examination at all reasonable times by District voters.
4. The Board of Water Commissioners shall by regulation establish just and equitable rates for the use of water and for water-service installation, and shall prescribe the time and manner of payment of same. The amounts of such rates shall be fixed in compliance with Section 5H of the District's special legislation to defray the operating expenses of the Water Department and interest charges and payments on the principal of any District bonds or notes issued in compliance with the District's special legislation to pay for additions and improvements to the District's waterworks. Any surplus remaining after providing for the aforesaid expenses, charges and payments shall be used to reduce the water rates proportionately.
5. The Board of Water Commissioners shall negotiate contracts for engineering assistance, the laying of water mains and their appurtenances, the installation of pumping equipment, and the erection of building, tanks and other facilities for the operation of the Water Department in accordance with paragraph 1 of this section.

Section B. Rules and Regulations

The Board of Water Commissioners may adopt rules and regulations relative to the administration of the Water Department's operations, provision of services and charges therefore, including but not limited to: location and installation of water services, fire-service lines, and water meters; addition to, extension of and relocation of water mains; testing of cross connections, use of curb stop, seasonal water service, and fire hydrants and fire hydrant meter rental.

Section C. Meetings

A regular monthly meeting of the Board of Water Commissioners for the transaction of current business shall be held in compliance with MGL c. 30A, s. 20. Meetings of the Board of Water Commissioners shall be open to District voters, provided that the Board of Water Commissioners may adjourn to executive session as permitted by law. Nothing in this section shall be construed to prevent the Board of Water Commissioners from holding special meetings as it may deem necessary, provided that notice of any such special meeting is duly provided and posted as aforesaid.

PERTAINING TO BY-LAWS

Article XVII. Adoption and Severability of By-Laws

Acceptance of these by-laws shall void all previous by-laws of the District and any other District enactments inconsistent herewith. The provisions of these by-laws are severable. If any provision of these by-laws is held invalid, the other provisions of the by-laws shall not be affected thereby. If the application of these by-laws or any of their provisions to any person or circumstance is held invalid, the application of the by-laws and their provisions to other persons and circumstances shall not be affected thereby. Any reference in these by-laws to one gender shall be construed to include the other gender.

Article XVIII. By-Law Committee

There may be a standing by-law committee appointed by the Moderator consisting of one member of the Prudential Committee designated by said Committee, one member of the Board of Water Commissioners designated by said Board, the District Clerk, *ex officio* with no vote in its determinations, who shall make and preserve records of such committee's meetings and determinations, three (3) District voters who are not members of the Prudential Committee or Board of Water Commissioners. The Moderator shall serve on such committee *ex officio* with no vote in its determinations and preside at its meetings. Such committee shall meet for the purpose of considering possible amendments or additions to the District by-laws or special legislation. Notice of any meeting of such committee shall be duly provided by the District Clerk and posted as required for special meetings of the Prudential Committee. Such committee may file a written report of recommendations for inclusion in the annual District report.

Article XIX. Amendment of By-Laws

These by-laws may be amended by two-thirds (2/3) majority vote of the District voters voting at any annual or special meeting called in whole or in part to take such action, or by ballot in any annual or special District election.

Article XX. Taking Effect of By-Laws; Transitional Provisions

These by-laws shall take effect forthwith upon the date of their adoption by a vote of the District, provided, however, that

- (1.) the incumbent, elected Chief Engineer on such effective date shall, on and after such effective date, be deemed (I) to hold the position of Fire Chief as if initially appointed pursuant to the provisions hereof, (II) to have satisfied all probationary service provided for herein, and (III) to be entitled to retain all benefits accrued in such former elected office; and
- (2.) the incumbent, elected First Assistant Engineer and Second Assistant Engineer on such effective date shall, for the balance of their respective elected terms of office, be entitled to serve as acting deputy fire chiefs without compensation as such, performing such duties as may be assigned to them by the Fire Chief, and continuing to receive the same compensation and benefits to which they were respectively entitled by reason of their election to such offices.

FIRE SERVICE BY-LAWS

Article XXI. Fire Alarms; False Alarms; Penalty

Section A. Fire Alarms to be Maintained in Good Operating Condition

Any person who maintains, or permits to be maintained, a mechanical or electronic fire alarm device designed to transmit an alarm signal indicating that it has detected a fire or condition inherently characteristic of a fire in order to summon the Fire Department to the premises, shall be responsible to keep such an alarm device, or cause the same to be kept, in good operating condition so as not to signal a false alarm as described in Section B.

Section B. Notice of False Alarms

Any false indication of a fire or fire-like condition to the Fire Department by transmission of an alarm signal from such an alarm device (i.e., a false alarm) shall be reported by the Fire Department to the occupant of the premises from which such false alarm was transmitted. Notice of a false alarm to the person responsible for such alarm device shall be delivered by the leaving of written notification by Fire Department personnel at the premises where such alarm device is located.

Section C. Penalty for False Alarms

Any person who maintains, or permits to be maintained, any such mechanical or electronic fire alarm device that transmits more than three false alarms within a period of twelve (12) consecutive months after written notification by the Fire Department of a false alarm from such alarm device shall be punished by a fine of fifty dollars (\$50) for the fourth (4th) false alarm, a fine of seventy-five dollars (\$75) for the fifth (5th) false alarm, a fine of one hundred dollars (\$100) for the sixth (6th) false alarm, and for each subsequent false alarm a fine of twenty-five dollars (\$25) multiplied by the total number of false alarms resulting from any such alarm device for which such person is responsible. In no event, however, shall a fine exceed three hundred dollars (\$300) for any single false alarm.

Section D. Limitations of Liability

Neither the District nor any of its officers shall be under any obligation or duty to an alarm user or to any other person by reason of this article. The District expressly disclaims liability for any damages which may result from failure to respond to a fire alarm.

Section E. Administrative Rules

The Fire Chief may promulgate such rules as may be necessary for the administration of this article.

Section F. Exclusions

The provisions of this article shall not apply to alarm devices owned or controlled by the District, the Town or Barnstable County.

Article XXII. Key Box for Fire Alarm and Fire Protection Systems; Penalty

Any building other than a residential building of less than six (6) units which has a fire alarm system or other fire protection system, shall provide a secure key box that is accessible to the Fire Department in case of emergency. Such key box shall contain keys to operate or service fire protection systems. The key box shall be of a type approved by the Fire Chief and shall be located and installed as determined by the Fire Chief. Any building owner violating this by-law shall be subject to a fine of fifty dollars (\$50).

WATER SERVICE BY-LAWS

Article XXIII. Additions to Water-Distribution System

Section A. Extension of Water Mains

1. Extension of water mains of the District, which the Board of Water Commissioners deems necessary to accomplish a physical improvement to the water-distribution system and for which the Board recommends the District should pay, shall require approval of the District voters.
2. Extension of water mains into new streets or areas of the District may be negotiated by the Board Water Commissioners, without approval of the District voters, with any person, corporate or individual, which has made application to the Board for such mains, provided no expenditure of District funds is involved.
3. Minor alterations in the water-distribution system, the cost of which shall not exceed three thousand dollars (\$3,000), may be made at the discretion of the Board of Water Commissioners, when funds are available for such a purpose.

Section B. Procedures for Extension of Water Mains for Subdivisions

1. An applicant for additional water mains for a subdivision shall pay the entire cost of extending the existing main(s) within such subdivision, starting from the nearest or most practicable existing water main.
2. An approved plan shall be prepared and the applicant shall provide all the specific pipe, valves, hydrants, fittings and other appurtenances as shall be requested by the Water Superintendent or the civil engineers of the Water Department.
3. Installation shall be done by an approved waterworks contractor under the general supervision of the Water Superintendent, and, upon his written acceptance of the completed structures, they shall become the property of the District.
4. The applicant shall furnish the District with a bill of sale, an easement and a guarantee of maintenance of the water mains for one year after acceptance, on forms satisfactory to the Board of Water Commissioners.

Article XXIV. Mandatory Water-Use Restrictions

Section A. Purpose

The purpose of this article is to protect, preserve, and maintain the public health, safety and welfare whenever there is in force a state of water-supply emergency by providing for the enforcement of any restrictions, requirements, provisions or conditions duly imposed by the District and included in the District's plan approved by the Department of Environmental Protection to abate the emergency.

Section B. Definitions

As used in this article, the following quoted terms shall have the meanings respectively shown therefor:

“person” – any user of water supplied by the District Water Department

“state of water-supply emergency” – a condition declared by the Department of Environmental Protection pursuant to Section 160 of Chapter 111 of the General Laws, or by the governor.

Section C. Notification of Water-Supply Emergency; Violation of Plan to Abate Same

Following notification by the Board of Water Commissioners of the existence of a state of water-supply emergency, no person shall violate any condition, provision, requirement or restriction included in a plan approved by the said Department of Environmental Protection which has as its purpose the abatement of a water-supply emergency. Notification of any condition, provision, requirement or

restriction with which users of water supplied by the District Water Department must comply pursuant to such a plan shall be sufficient for purposes of this article if it is publicized in a newspaper that circulates in the District or by such other notice as is reasonably calculated to reach and inform all such users.

Section D. Penalty for Violation

Any person who violates this article shall be liable to fine in the amount of fifty dollars (\$50) for the first violation and one hundred dollars (\$100) for each subsequent violation which fines shall inure to the District. Fines shall be recovered by indictment or on complaint before the District Court. Each separate instance of noncompliance following the issuance of any warning or citation pursuant to this section shall constitute a separate violation.

Section E. Right of Entry

Agents of the Board of Water Commissioners may enter any property for the purpose of inspecting or investigating any violation of this article or enforcing against the same.

Article XXV. Cross Connection Control

Section A. Purpose

The purposes of this article are:

- (I) to protect the public potable water supply served by the District from the possibility of contamination or pollution by isolating such contaminants or pollutants as could backflow or backsiphon into the District water system;
- (II) to promote the elimination or control of cross connections between the District water system and customer's nonpotable water systems; and
- (III) to provide for the maintenance of a continuing program of cross connection control which will effectively prevent the contamination or pollution of all potable water systems by cross connection.

Section B. Authority

As provided in the Federal Safe Drinking Water Act of 1974, Public Law 93-523, and the DEP Drinking Water Regulations, 310 CMR 22.00, the District has the primary responsibility for preventing water from unapproved sources or any other substances from entering the public potable water supply system. Section 2 of the District's special legislation gives it authority to regulate the use of water it supplies. The Massachusetts Department of Environmental Protection (DEP) or its Designee has the authority to determine the type of backflow prevention device required for each individual installation and to issue permits therefor. Such permitting is required of all facilities served by the Water Department, including fire protection systems.

Section C. Prohibition of Cross Connections; Control of Cross Connections

No person shall maintain a cross connection upon premises which they own or occupy unless the installation has been reviewed and approved by the Water Department and a permit therefor issued by DEP. Although the District has not authorized the Water Department to request delegation from DEP as a Designee for the issuance of permits for cross connections and requisite backflow prevention devices, the Water Department shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or back siphonage of contaminants or pollutions. If, as a result of a survey of the premises of a customer, the Water Department determines that an approved backflow prevention device is required at the Water Department's water-service connection or as in-plant protection on such customer's premises, the Water Department, or its delegated agent, shall issue a cross connection violation form requiring such customer to install approved backflow prevention devices. The customer shall, within a time frame

determined by the Water Department, install such approved device or devices at the customer's own expense, and failure or refusal or inability on the part of a customer to install such device or devices within such time frame shall constitute a ground for discontinuing water service to such premises until such device or devices have been properly installed.

Section D. Definitions

As used in this article, the following quoted terms shall have the meanings respectively shown therefor:

“approved” – accepted by a reviewing authority as meeting an applicable specification or as suitable for the proposed use.

“back siphonage” – a form of backflow due to reduced or subatmospheric pressure within a water system..

“backflow” – the flow of water or other liquids, mixtures or substances into the distribution or service pipes of a potable water supply from any source other than the intended source.

“backflow prevention device” – a method to prevent backflow.

“certified tester” – an individual who holds a valid Massachusetts Backflow Prevention Device Tester's Certificate issued by DEP.

“CMR” – the Code of Massachusetts Regulations published by the Secretary of State of the Commonwealth of Massachusetts.

“contaminant” – any physical, chemical, biological or radiological substance or matter.

“cross connection” – any actual or potential physical connection between a distribution pipe of potable water from the public water system and any unapproved source.

“cross connection violation form” – a form, designed by DEP, delineating cross connection violations and a procedure for corrective action.

“DEP” – the Massachusetts Department of Environmental Protection.

“in-plant protection” – the location of approved backflow prevention devices in a manner which provides simultaneous protection of the public water system and the potable water system within the premises of a customer.

“owner” – any person maintaining a cross connection or owning or occupying premises on which a cross connections exists.

“permit” – a document issued by DEP which allows a cross connection.

“person” – any individual, corporation, company, association, trust, partnership, the Commonwealth, a municipality, district or other subdivision or instrumentality of the United States.

“reduced pressure backflow preventer” – an approved backflow prevention device incorporating two or more check valves, an automatically operating differential relief valve located between the two check valves and two shutoff valves together with necessary appurtenances for testing.

“reviewing authority” – DEP, its Designee, or the Town Plumbing Inspector responsible for the review and approval of the installation of an approved backflow prevention device.

“test” or “testing” or “retesting” – the physical examination and operation of an installed backflow prevention device to verify that the device is functioning properly.

“unapproved source” – the source or distribution system for any water or other liquid or substance which has not been approved by DEP as being of safe and sanitary quality for human consumption, including but not limited to any waste pipe, soil pipe, sewer, drain or non-acceptable potable water system material.

Section E. Cross Connection Control Program Requirements

1. Water Department

- (a) The Water Department shall operate an active cross connection control program to include the keeping of necessary records, which fulfills the requirements of DEP’s Cross Connection Regulations, 310 CMR 22.22, and is approved by DEP.
- (b) The Water Department will perform surveys of customer water systems serviced by the District to determine if cross connections exist and that all cross connections are properly protected by an appropriate device.
- (c) On new water-service installations, the Water Department will provide on-site evaluation and/or inspection of plans in order to determine the type of backflow prevention device, if any, that will be required and notify the owner of plan-approval requirements by the appropriate reviewing authority.
- (d) The Water Department will not allow any cross connection to remain unless it is protected by an approved backflow prevention device and covered by a permit.
- (e) If the Water Department determines at any time that a serious threat to the public health exists due to a cross connection, the water service to such installation may be terminated immediately.
- (f) The Water Department may require containment on the water-service entrance to any customer who, as a result of any unprotected cross connection, could contaminate the public water system.
- (g) The Water Department shall not allow a cross connection to exist within the public water supply system unless the Water Department determines that such connection is necessary and all applicable approvals and permits therefor have been issued.
- (h) The Water Department shall have on its staff an employee who is a certified tester.

2. Owner

- (a) The owner shall allow his property to be inspected for cross connections and follow the provisions of the Water Department’s cross connection control program and DEP regulations.
- (b) The owner shall be responsible for the elimination or protection of all cross connections on his premises.
- (c) The owner shall be responsible for obtaining, and renewing as necessary, all approvals and permits required for the maintenance of cross connections and installation of backflow prevention devices.
- (d) The owner shall have any backflow prevention device that fails a test repaired by a licensed plumber as provided in paragraph 3 of Section G. of this article.
- (e) The owner shall inform the Water Department of any proposed or modified cross connection and also any existing cross connection of which the owner is aware but which has not been found by the Water Department.
- (f) The owner shall not install a bypass around any backflow prevention device unless there is a device of the same type on the bypass. Owners who cannot shut down operation for testing of a backflow prevention device must supply an additional such device necessary to allow testing to take place.

- (g) The owner shall install only backflow prevention devices approved by DEP for use in Massachusetts and install the same in a manner approved by DEP and the Water Department.
- (h) The owner shall notify the Water Department in writing no later than thirty (30) days prior to the removal from service of any permitted backflow prevention device and such notification shall include the reason for removal and indicate if the cross connection has been eliminated.
- (i) The owner shall notify the Water Department in writing no later than thirty (30) days prior to a proposed change of ownership of the premises and such notification shall include the name and address of the proposed new owner.
- (j) Any owner of industrial, commercial or institutional premises having a private well or other private water source must have a cross connection permit if such well or source is cross connected to the District's public water supply system. Permission for a cross connection may be denied by the Water Department. The owner may be required to install a backflow prevention device at the water-service entrance if a private water source is maintained, even if it is not cross connected to the District's public water supply system.
- (k) The owner of any residential premises having a private well or other private water source will not be allowed a physical connection with the District's public water supply system.

Section F. Existing Backflow Prevention Devices

Any existing backflow prevention device shall be allowed by the Water Department to continue in service unless the degree of hazard becomes such as to supersede the effectiveness of the present backflow prevention device or result in an unreasonable risk to the public health. Where the degree of hazard is increased, as in the case of a residential installation converting to a business establishment, any existing backflow prevention device must be upgraded to a reduced pressure backflow preventer, or a reduced pressure backflow preventer must be installed in the event that no backflow prevention device was present.

Section G. Testing and Repair of Backflow Prevention Devices

1. Water Department

The Water Department shall test reduced pressure backflow preventers semi-annually and double check valve assemblies annually. Backflow prevention devices may be tested by the Water Department more frequently in systems with a record of repeated test failure and whenever the Water Department determines that circumstances warrant additional testing.

2. Owner

Independent of testing by the Water Department, reduced pressure backflow preventers and double check valve assemblies must be tested annually for the owner by a certified tester.

3. Repair or Replacement of Defective Devices

Any backflow prevention device which fails during a test must be repaired or replaced by a licensed plumber. Whenever repairs are necessary, upon completion of the repair, the device must be retested by the Water Department, at the owner's expense, to ensure proper operation. Situations of high hazard as determined by the Water Department shall not be allowed to continue unprotected if the backflow prevention device fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than fourteen (14) days after the test date will be established. The owner shall be responsible to furnish spare parts, repair tools, or a replacement device.

Section H. Records and Reports

1. Records

The Water Department shall maintain the following records:

- (I) master files on customer cross connection tests;
- (II) master files on approved cross connection installations; and
- (III) copies of all reports submitted to DEP.

2. Reports

The Water Department shall submit all reports required by DEP including:

- (I) initial listing of high-hazard cross connections;
- (II) initial listing of low-hazard cross connections;
- (III) annual update of master files referred to in items (I) and (II) of paragraph one of this section; and
- (IV) annual summary of cross connection inspections and surveys.

Section I. Service Fees

Owners shall pay fees as scheduled by the Board of Water Commissioners for all inspections, tests and other services performed by the Water Department as required by this article or by any regulation of DEP.

Article XXVI. Optional Separate Metering Systems

Section A. Purpose

The purpose of this article is to provide for a method by which persons in the District who are connected to the town sewer system may separately measure water uses that do not discharge into the town sewer system, to provide that a property owner is not charged by the town of uses that do not utilize the town sewer system.

Section B. Definitions

As used in this article, the following quoted terms shall have the meanings indicated below:

“Commissioners” – The Board of Water Commissioners of the District.

“Domestic water use” – Any water use that discharges into the town sewer system.

“Owner” – Any individual, corporation, partnership or entity having ownership of property within the boundaries of the District.

“Separate meter” – A device for measuring water uses that do not discharge into the town sewer system.

Section C. Application and Requirements

1. In order to qualify for separate metering, a property must be connected to the town sewer system and the property’s plumbing configuration must provide that the inlet of the non-sewered water uses can be completely isolated from all other domestic water uses.
2. An owner who desires a separate meter must apply in writing to the Commissioners on a form provided by the Water Department.
3. The Commissioners shall, within sixty (60) days from receipt of the application, review the application and respond to the owner in writing.
4. The Water Department shall determine the size of the separate meter to be used, provided that it shall not exceed the size of the existing water meter on the water-service line to the property.
5. The separate meter shall be purchased from the Water Department. Maintenance and replacement schedule, and shall coincide with the Water Department’s maintenance and replacement schedule, and shall be charged to the owner in accordance with rates established from time to time by the Commissioners.
6. All installations, alterations and connections required to effect an optional separate metering system shall be made by a plumber licensed by the Commonwealth of Massachusetts. Prior to the

installation of a separate meter, the system shall be inspected and approved by the Water Department and the Town Plumbing Inspector.

Section D. Enforcement

The Water Department or its agents and the Town Superintendent of Public Works or his designee may enter any property for the purposes of inspecting an optional metering system to assure its compliance with this article.

Section E. Miscellaneous

All separate meters shall be read by the Water Department at the time of its regularly scheduled water-service meter readings.

Section F. Penalties

Violation of any provision of this article will result in the immediate removal of the separate meter from the optional metering system, and the property will no longer be eligible for optional metering.

Appendix I

Barnstable Fire District Special Legislation

SECTION 1. District Boundaries

The inhabitants of the town of Barnstable liable to taxation in said town and residing within the territory enclosed by the following boundary lines, to wit: -

Beginning at a point at Barnstable Harbor on the dividing line between the towns of Yarmouth and Barnstable; thence running southerly on said boundary line to the northerly boundary of the Hyannis Fire District; thence running westerly by the northerly line of said Hyannis Fire District to the northerly line of State Highway Route 132; thence running westerly by the northerly line of said highway, in its present reconstructed location, to the southerly boundary of Precinct One; thence running westerly by the southerly line of Precinct One to the easterly boundary of the West Barnstable Fire District; thence running northerly by the easterly boundary of the West Barnstable Fire District to a point on said easterly boundary line two thousand feet distant from the southerly line of Old County Road, now in part a state highway known as Route 6A; thence running westerly on a line parallel with and two thousand feet distant southerly from said Route 6A to a line in range of the stone wall forming the easterly boundary of Sandy Street Cemetery, so called, said line parallel with Route 6A also being a portion of the northerly boundary of the West Barnstable Fire District; thence running northerly on an extension both north and south of the line of said stone wall to Barnstable harbor, said line also being a portion of the easterly boundary of the West Barnstable Fire District; thence running easterly by said Barnstable Harbor to the point of beginning, - shall constitute a body corporate, known as the Barnstable Fire District, which shall be a fire and water district, and said corporation, except as herein otherwise provided, shall have all the powers and be subject to all the duties and liabilities set forth in all general laws now or hereafter in force relating to such districts.

Note: SECTION 1 above was inserted by Acts, 1955 – Chapter 81. The previous SECTION 1, as inserted by Acts, 1947 – Chapter 175, Section 1, read as follows:

SECTION 1. The inhabitants of the town of Barnstable liable to taxation in said town and residing within the territory enclosed by the following boundary lines, to wit: - Beginning at a point at Barnstable Harbor on the dividing line between the towns of Yarmouth and Barnstable; thence running southerly on said boundary line to a point two thousand feet distant southerly from the southerly line of the Old County Road, now in part a Massachusetts state highway, in the village of Barnstable; thence running westerly on a line parallel with and two thousand feet distant southerly from the southerly line of said county road or highway to Braggs Lane; thence running southerly by Braggs Lane, Gull Hill

Road and Fresh Hole Road to the northerly boundary line of the Hyannis Fire District; thence running westerly by the northerly line of said Hyannis Fire District to State Highway Route 132; thence running northwesterly by said high way to Old Rabbit Swamp Road; thence running northerly by Old Rabbit Swamp Road to its intersection with Old Jail Lane; thence running northerly by Old Jail Lane to a point two thousand feet distant southerly from the southerly line of Old County Road, now in part a state highway; thence running westerly and southwesterly on a line parallel with and two thousand feet distant southerly from said road or highway to the line of the stone wall forming the easterly boundary line of the cemetery situated at the westerly end of the village of Barnstable near the house now or formerly of John Maki; thence running northerly on an extension of said boundary line to Barnstable Harbor; thence running easterly by said Barnstable Harbor to the point of beginning, - shall constitute a body corporate, known as the Barnstable Fire District, which shall be a fire and water district, and said corporation, except as herein otherwise provided, shall have all the powers and be subject to all the duties and liabilities set forth in all general laws now or hereafter in force relating to such districts.

Note: As originally enacted in Acts, 1926 – Chapter 109, SECTION 1, read as follows:

SECTION 1. The inhabitants of the town of Barnstable liable to taxation in said town and residing within the territory enclosed by the following boundary lines, to wit: - On the north by Barnstable Harbor; on the east by the boundary line between the towns of Yarmouth and Barnstable; on the south by a line parallel with, and two thousand feet distant southerly from, the southerly line of the old county road, now in part the Massachusetts state highway, in the village of Barnstable, and on the west by the line of stone wall forming the easterly boundary line of the cemetery situated at the westerly end of the village of Barnstable near the house of John Maki, extended northerly to Barnstable Harbor and southerly to said southerly line of said district; the same being about the present boundaries of precinct number one, so-called, in the town of Barnstable, - shall constitute a fire district, and are hereby made a body corporate by the name of Barnstable Fire District; and said corporation, except as herein otherwise provided, shall have all the powers and be subject to all the duties and liabilities set forth in all general laws now or hereafter in force relating to fire districts.

Note: Chapter 295 of the Acts of 1976 authorizes the Barnstable Fire District, by agreement made with the Centerville-Osterville Fire District or the Cotuit Fire District, to sell water to said other districts or to individuals therein.

SECTION 2. Contracts for Performance of Certain Functions; Operation of Golf Course

The said district may make contracts for the purchase of engines and other apparatus and articles necessary for the extinguishment of fires, for hydrant and water service, for lighting its streets and other public places with gas or electricity, for the construction and maintenance of sidewalks and for any other thing that may lawfully be done by said district. It may also supply itself and its inhabitants with water for the extinguishment of fires and for domestic and other purposes, may establish fountains and hydrants, relocate or discontinue the same, and may regulate the use of such water and fix and collect rates to be paid for the use of the same. Said district may also operate a golf course until such time as the Prudential Committee determines such operation is no longer feasible or until such time as the Board of Water Commissioners determines that such golf course is needed for water supply or protection purposes.

Note: Originally enacted in Acts, 1926 – Chapter 109 The second sentence was inserted by Acts, 1934 – Chapter 302, Section 1. The last sentence, underlines, was inserted by Acts, 1991 – Chapter 443, Section 1.

Note: Chapter 295 of the Acts of 1976 authorizes the Barnstable Fire District, by agreement made with the Centerville-Osterville Fire District or the Cotuit Fire District, to sell water to said other districts or to individuals therein.

SECTION 3. Employment of Patrolmen Authorized; Approvals Required for Expenses of Water Supply System and Golf Course

The Prudential Committee of the said district may employ and pay policemen and watchmen for the protection of property and persons and for patrolling the streets of said district. No money shall be drawn from the treasury of said district to pay any expense of, or to discharge any liability incurred on account of, its system of water supply unless and until approved in writing by a majority of the Board of Water Commissioners hereinafter provided for and authorized by a majority of said Prudential Committee. No money shall be drawn from the treasury of said district to pay any expense of, or to discharge any liability incurred on account of, its golf course unless and until approved in writing by a majority of the board of golf commissioners hereinafter provided for and authorized by a majority of said Prudential Committee.

Note: Originally enacted in Acts, 1926 – Chapter 109 The second sentence was inserted by Acts, 1934 – Chapter 302. The last sentence, underlined, was inserted by Acts, 1991 – Chapter 443, Section 3.

SECTION 4. District Meetings May Raise Money by Taxation

Said district may, at meetings called for the purpose, raise money by taxation for any of the purposes for which fire districts may, under general laws now or hereafter in force, raise money, and for all other purposes necessary or proper under the provisions of this act.

Note: Originally enacted in Acts, 1926 – Chapter 109.

SECTION 5. Original District Meeting

The first meeting of said district shall be called on petition of five or more legal voters therein by warrant from the selectmen of the town of Barnstable, or from a justice of the peace directed to one of the petitioners requiring him to give notice of the meeting by posting copies of said warrant in two or more public places in said district seven days at least before the time of the meeting. One of the petitioners shall preside at the meeting until a clerk is chosen and sworn, and the clerk shall preside until a moderator is chosen. The meeting may then proceed to act on the other articles contained in the warrant.

Note: Originally enacted in Acts, 1926 – Chapter 109.

SECTION 5A. Authority to Obtain, Hold and Furnish Water; Advice and Approval of State Department of Health Required

For the purposes set forth in the second sentence of Section 2, said district, acting by and through its Board of Water Commissioners hereinafter provided for, may contract with any municipality, acting through its water department, or with any water company, or with any water district, for whatever water may be required, authority to furnish the same being hereby granted, and/or take by eminent domain under chapter seventy-nine of the General Laws, or acquire by lease, purchase or otherwise, and hold, the waters, or any portion thereof, of any pond, brook, spring or stream or of any ground water sources by means of driven, artesian or other wells or filter galleries, within the limits of the town of Barnstable, not already appropriated for purposes of a public water supply, and the water rights connected with any such water sources; and also may take as aforesaid, or acquire by purchase or otherwise, and hold, all lands, rights of way and easements necessary for collecting, storing, holding, purifying and treating such water and protecting and preserving the purity thereof and for conveying the same to any part of said district; provided, that no source of water supply and no lands necessary for protecting preserving the purity of the water shall be so taken or used without first obtaining the advice and approval of the State Department of Public Health, and that the location and arrangement of all dams, reservoirs, wells or filter galleries, filtration and pumping plants or other works as may be necessary in carrying out the provisions of Sections 5A to 5H, inclusive, shall be subject to the approval of said department.

Said district may construct and maintain on the lands acquired and held under the authority of said sections proper dams, wells, reservoirs, pumping and filtration plants, buildings, standpipes, tanks, fixtures and other structures, including also the establishment and maintenance of purification and treatment works which shall be subject to the approval of said department, and may make such

excavations, procure and operate machinery and provide such other means and appliances and do such other things as may be necessary for the establishment and maintenance of complete and effective water works; and for that purpose may construct, lay and maintain aqueducts, conduits, pipes and other works under or over any lands, water courses, railroads, railways and public or other ways, and along any such way in said district in such manner as not unnecessarily to obstruct the same; and for the purpose of constructing, laying, maintaining, operating and repairing such aqueducts, conduits, pipes and other works, and for all other proper purposes of said sections, said district may dig up or raise and embank any such lands, highways or other ways in such manner as to cause the least hindrance to public travel thereon; provided, that all things done upon any such way shall be subject to the direction of the selectmen of said town. Said district may enter upon any lands for the purpose of making surveys, test pits and borings, and may take or otherwise acquire the right to occupy temporarily any lands necessary for the construction of any works or for any other purpose authorized by said sections. Said district shall not enter upon, construct or lay any aqueducts, conduits, pipes or other works within the location of any railroad corporation except at such time and in such manner as it may agree upon with such corporation or, in case of failure so to agree, as may be approved by the department of public utilities.

Note: SECTION 5A was inserted by Acts, 1934 – Chapter 302, Section 3. The words “the town of Barnstable” in the first sentence were inserted in lieu of the words “said district” by Acts, 1953 – Chapter 217, Section 1.

SECTION 5B. Board of Water Commissioners to Manage Waterworks for District’s Benefit

The land, water rights and other property taken or acquired under Sections 5A to 5H, inclusive, and all works, buildings and other structures erected or constructed thereunder, shall be managed, improved and controlled by the board of water commissioners hereinafter provided for, in such manner as they shall deem for the best interest of the district. All authority vested in said commissioners by this section shall be subject to the provisions of Section 5G.

Note: SECTION 5B was inserted by Acts, 1934 – Chapter 302, Section 3.

SECTION 5C. Damages for District Takings of Property

Any person sustaining damage in his property by any taking under Sections 5A to 5G, inclusive, or any other thing done under authority thereof, may recover damages from said district under said chapter seventy-nine; provided, that the right to damages for the taking of any water, water source or water right, for any injury thereto, shall not vest until water is actually withdrawn or diverted by said district under authority of said sections.

Note: SECTION 5C was inserted by Acts, 1934 – Chapter 302, Section 3.

SECTION 5D. \$100,000 of Borrowing for Waterworks Authorized

For the purpose of paying the necessary expenses and liabilities incurred or to be incurred for the system of water supply under the provisions of sections 5A to 5H, inclusive, other than expenses of maintenance and operation, said district may borrow from time to time such sums as may be necessary, not exceeding, in the aggregate, one hundred thousand dollars, and may issue bonds or notes therefor, which shall bear on their face the words, Barnstable Fire District Water Loan, Act of 1934. Each authorized issue shall constitute a separate loan, and such loans shall be payable in not more than thirty years from their dates. Indebtedness incurred under said sections shall be subject to chapter forty-four of the General Laws.

Note: SECTION 5D was inserted by Acts, 1934 – Chapter 302, Section 3.

SECTION 5E. Town of Barnstable to Assess Taxes to Repay Loans to District

Said district shall, at the time of authorizing said load or loans, provide for the payment thereof in accordance with the provisions of Section 5D; and when a vote to that effect has been passed a sum which, with the income derived from the water rates, will be sufficient to pay the annual expense of operating its water works or the purchasing of water, as the case may be, and the maintenance of its pipe lines, and the interest as it accrues on the bonds or notes issued as aforesaid, and to make such

payments on the principal as may be required under the provisions of Sections 5A to 5H, inclusive, shall without further vote be assessed upon said district by the assessors of the town of Barnstable annually thereafter in the same manner as other taxes, until the debt incurred by the said loan or loans is extinguished.

Note: SECTION 5E was inserted by Acts, 1934 – Chapter 302, Section 3.

SECTION 5F. Liability for Polluting Water or Injuring Waterworks

Whoever willfully (sic) or wantonly corrupts, pollutes or diverts any water obtained or supplied under Sections 5A to 5H, inclusive, or willfully (sic) or wantonly injures any dam, well, reservoir, pumping or filtration plant, building, standpipe, tank, fixture or other structure, or other property owned, held or used by said district under authority and for the purposes of said sections, shall forfeit and pay to said district three times the amount of damages assessed therefor, to be recovered in an action of tort, and upon conviction of any one of the above willful (sic) or wanton acts shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than one year.

Note: SECTION 5F was inserted by Acts, 1934 – Chapter 302, Section 3.

SECTION 5G. Election of Board of Water Commissioners with Authority over Waterworks Subject to District Votes

Said district shall, after its acceptance of Sections 5A to 5H, inclusive, either at the same meeting at which they are accepted or at a meeting thereafter called for the purpose, elect by ballot three persons to hold office, one until the expiration of three years, one until the expiration of two years, and one until the expiration of one year, from the day of the next succeeding annual district meeting, to constitute a board of water commissioners; and at every annual district meeting subsequent to such next succeeding annual district meeting one such commissioner shall be elected by ballot for the term of three years. All the authority granted to said district by said sections, except Sections 5D and 5E, and not otherwise specifically provided for, shall be vested in said board of water commissioners, who shall be subject, however, to such instructions, rules and regulations as said district may impose by its vote. A majority of said commissioners shall constitute a quorum for the transaction of business. Any vacancy occurring in said board from any cause may be filled for the remainder of the unexpired term by said district at any annual district meeting called for the purpose. Any such vacancy may be filled temporarily in the manner provided by section eleven of chapter forty-one of the General Laws, and the person so appointed shall perform the duties of the office until the next annual meeting of said district or until another person is qualified.

Note: SECTION 5G was inserted by Acts, 1934 – Chapter 302, Section 3.

SECTION 5H. Board of Water Commissioners to Set Water Rates to Defray Operating Expenses and Repay Bonds for Waterworks; Annual Operating and Fiscal Reports Required

Said commissioners shall fix just and equitable prices and rates for the use of water, and shall prescribe the time and manner of payment. The income of the water works shall be appropriated to defray all operating expenses, interest charges and payments on the principal as they shall accrue upon any bonds or notes issued under authority of Section 5D. If there should be a net surplus remaining after providing for the aforesaid charges it may be appropriated for such new construction as the water commissioners, with the approval of the district, may determine upon, and in case a surplus should remain after payment for such new construction the water rates shall be reduced proportionately. All authority vested in said commissioners by the foregoing provisions of this section shall be subject to the provisions of Section 5G. Said commissioners shall annually, and as often as said district may require, render a report upon the condition of the works under their charge and an account of their doings, including an account of receipts and expenditures. Any and all funds heretofore or hereafter raised by assessment of charges determined by the said commissioners from time to time to fairly and reasonably reflect the cost of equipment necessary to provide water to new customers within said District (sic), shall be accounted for by said commissioners separately and, notwithstanding any of the restrictions on income from the water works as provided for in this section, shall only be appropriated

for such new construction or capital improvements to the water system, as said commissioners, with the approval of the District (sic), may determine upon, or for the payment of principal and interest on long or short term debt incurred in connection with any such capital improvements or new construction.

Note: SECTION 5H was inserted by Acts, 1934 – Chapter 302, Section 3. The last sentence was inserted by Acts, 1979 – Chapter 496.

SECTION 5I. Appointment of Board of Golf Commissioners

The Prudential Committee shall appoint three persons who are residents of the district to constitute a board of golf commissioners. The initial appointments shall be for one, two and three years terms respectively, but the initial appointments shall run until the date of the second annual district meeting following said appointments. At every annual district meeting subsequent to the above described meeting, one such commissioner shall be appointed for a term of three years. If at any time the Prudential Committee determines that it is no longer feasible to run a golf course or if at any time the board of water commissioners shall require the land for water purposes and shall so notify the Prudential Committee, the board of golf commissioners shall be dissolved by the Prudential Committee.

Note: SECTION 5I was inserted by Acts, 1991 – Chapter 443, Section 3.

SECTION 5J. Board of Golf Commissioners to Oversee Operation of Golf Course Subject to Prudential Committee

The board of golf commissioners shall oversee the operation of the golf course and shall report at least monthly to the Prudential Committee. They shall fix membership rates and golf course fees, subject to the approval of the Prudential Committee.

Note: SECTION 5J was inserted by Acts, 1991 – Chapter 443, Section 3.