

Bonnet Shores Fire District CHARTER and Related Legislation

(Amendments Included As of 2012)

State of Rhode Island and Providence Plantations

January Session, A.D. 1932

AN ACT TO INCORPORATE THE
BONNET SHORES FIRE DISTRICT

It is enacted by the General Assembly as follows:

SECTION 1: The Charter of the Bonnet Shores Fire District shall be amended in its entirety to read as follows:

SECTION 1. All that part of the town of Narragansett, county of Washington, in the State of Rhode Island, lying between the easterly line of Boston Neck Road and Narragansett Bay, comprising approximately 400 acres in area and being more particularly described as follows:

(1) That land described in that warranty deed from Howard Johnson, et al., to Bonnet Shores, Inc., dated April 27, 1928, and recorded in book 9, pages 352 and 353 in the records of land evidence of said town of Narragansett.

(2) That land described in that warranty deed from Robert L. Walker to Bonnet Shores, Inc., dated April 28, 1928 and recorded in book 9, pages 354, 355 and 356 in the records of land evidence of said town of Narragansett.

(3) That land described in the warranty deed from Henry C. Weeks to Bonnet Shores, Inc., dated September 29, 1928, and recorded in book 9, pages 508, 509, 510 and 511 of the records of land evidence of said town of Narragansett.

(4) Lots numbered 9, 10, 11, 20, 21, 22, 23, 24, 25 and 36 together with the southerly twenty-five feet of lot 19 on that plot entitled "Bonnet Point Land Co. lots at Bonnet point in the town of Narragansett, RI Scale 1 in.—100 ft. October 22, 1914, T.G. Hazard Jr., surveyor" and recorded in the records of land evidence in said town of Narragansett in book 6 between pages 314 and 315,

is hereby incorporated into a district to be known as "Bonnet Shores Fire District." Said district may have and enjoy all lights and powers generally had and enjoyed by business corporations and fire districts in the state, including (but without limiting the generalities of the foregoing) the right to acquire, hold and dispose of real and personal property necessary for its corporate purposes; the right to have and use a common seal; the right to sue or be sued; and the right to borrow money from time to time and to issue its notes, bonds or other evidences of indebtedness theretofore. Provided, however, that the debts of said district shall at no time exceed in the aggregate per centum of the valuation of the real estate within said district as hereinafter defined.

~~SECTION 2. Every firm, corporation, unincorporated association and every person, irrespective of sex, of the age of eighteen years who is possessed in his or her own right of real estate in said district of the value of one Four Hundred (\$400) Dollars over and above all encumbrances, being an estate in fee simple, fee tail, for the life of any person, or an estate in reversion or remainder, the conveyance of which estate shall if by deed, have been recorded at least ninety (90) days, shall thereafter have a right to vote at all meetings of the corporation. Any such firm, corporation or unincorporated association having title to real estate as aforesaid, shall be entitled to cast one (1) vote through its duly authorized representative for such purposes. The duly authorized representative shall present to the Clerk before casting its vote and obtaining a ballot, an authorization by the firm, corporation or unincorporated association, which authorization shall be notarized and clearly identify the person authorized to vote on behalf of said firm, corporation or unincorporated association holding title to real estate.~~

Every person, of the age of eighteen years who is a Citizen of the United States of the age of eighteen years or over who has had residence and home in the Bonnet Shores Fire District for thirty (30) days next preceding the time of voting, who has resided thirty (30) days in the Bonnet Shore Fire District, and whose name shall be registered at least thirty (30) days next preceding the time of voting shall have the right to vote for all offices to be elected and on all questions submitted to the electors. In addition, every person, who (1) is possessed in their own right of real estate within the District which is taxed as residential by the District, and (2) who has resided in the District for ninety (90) days next preceding the time of voting, shall have the right to vote in the same manner and on the same basis as all resident voters. Part time and seasonal residents who wish to seek authorization to vote on this basis shall have the burden to prove to the Clerk of the Election, by a preponderance of the evidence, that they meet each of the qualifications to vote. The Clerk of the Election shall have the authority to determine whether a given a part time or seasonal resident qualifies to vote in the District's elections in the first instance. This determination shall be subject to appeal to the District Council. The District Council shall retain an Attorney admitted to practice law in the State of Rhode Island with demonstrated election law experience and who shall have no other affiliation with the District to serve as the Clerk of the Election. District Council shall determine the compensation for the Clerk of the Election.

Any qualified voter of the District, whether a resident or a qualified non-resident, shall have the right to challenge the qualification of any qualified non-resident to vote in District elections by filing a request for a challenge with the Clerk of the Election. Said request shall include a brief statement identifying the basis of the challenge. The Clerk of the Election shall provide notice to the non-resident voter whose qualification is subject to challenge. A voter who brings such a challenge shall have the burden to prove, by a preponderance of the evidence, that the qualified non-resident does not meet one or more of the qualifications listed in this Charter. The District Council shall hear all challenges no more than sixty (60) days after the date on which the Clerk of the Election gives notice to the non-resident voter, and shall issue a decision within thirty (30) days of the hearing. Non-resident voters subject to a challenge shall retain the ability to vote in any scheduled District meetings while the challenge is pending. The Council shall have the power to consolidate multiple challenges brought against the same person or household, and to summarily dismiss challenges which it finds to be repetitive of challenges previously heard by the Council regarding the same qualifications for the same persons.

Every person ~~or firm~~ qualified to vote as aforesaid shall vote in person, ~~except that a person in common ownership to real estate may vote as the proxy of the other person who has been verified as being in common ownership in said real estate, provided that such proxy shall be in writing and filed with the Clerk at the meeting at which such proxy shall be used. The proxy shall be in a form to be furnished by the Clerk or otherwise approved by the Clerk.~~ All voting shall be by ballot, unless waived by unanimous consent of those present at the meeting and qualified to vote, and the action of a majority at any meeting at which a quorum is present shall bind the District.

SECTION 3. The first meeting of the district shall be held at some convenient place within the district on the second Wednesday in May, 1932, at 7 o'clock P.M., eastern standard time (or 8 o'clock P.M. daylight saving time). The annual meeting of the district (if established) to be held in 1933 shall be held on the second Wednesday in May in that year, and thereafter the annual and special meetings of the district shall be held in said Town of Narragansett at such time as shall be specified in the by-laws of the district. Notice of the first meeting shall be given by two or more of the persons qualified to vote within the district and said notice shall state the time and place of meeting and shall be published in some newspaper published in the city of Providence, once a week for two successive weeks, the last publication to be at least five days next before the date of said first meeting.

Notice of subsequent annual meetings of the district shall be given in a manner as prescribed in the by-laws of the district. A quorum at the first meeting of the district and at any subsequent meeting, whether annual or special, shall consist of at least fifty-one hundred (100) voters qualified as aforesaid, present in person, ~~or by proxy (as to those cases where voting by proxy is permitted in accordance with the provisions of Sec. 2 hereof).~~ All voting shall be by ballot unless waived by unanimous consent of those present at the meeting, and qualified to vote, and the action of a majority at any meeting at which a quorum is present shall bind the district.

This act shall take effect upon its passage and all acts or parts of acts inconsistent herewith are hereby repealed.

SECTION 4. At the first meeting of the district the following proposition shall be submitted: "Shall Bonnet Shores Fire District be established according to the act of incorporation passed by the general assembly of the state?" If, (a quorum being present), the majority of ballots cast be in the affirmative said district shall be established according to the provisions of this act, otherwise this act shall become null and void.

SECTION 5. The district may adopt such rules, regulations, ordinances and by-laws as may be reasonably necessary to enable it to fulfill its corporate purposes and may provide a penalty for the breach of such rules, regulations, ordinances or by-laws which for each offence shall be a fine not exceeding fifty-one hundred (100) dollars, one-half of the fine imposed to be for the use of the district, ~~or imprisonment for a term of not exceeding thirty days,~~ which penalty ~~ies~~ may be imposed, upon complaint of the district or any of its officers, by the Municipal Court for the Town of Narragansett. Rules, regulations, ordinances or by-laws may also prescribe the powers and duties of officers and committees of the district; the conduct and control of the district inhabitants and the guarding, destruction" or removal of property in times of conflagration or other casualty; the regulation, protection or maintenance of water pipes, hydrants, safety valves,

electric wires, poles and similar apparatus and equipment, and the maintenance or use of drains or sewers; the suppression of nuisances; and the protection of life and property.

SECTION 6. The district may elect a clerk, ~~three-an~~ assessors of taxes, a collector of taxes, one or more elections canvassers, a district council or not less than three and no more than seven qualified voters, one or more fire wardens, ~~one or more police officers~~ and such other officers and committees as said, district may require for its corporate purposes. Such officers and committees may be elected at the first meeting of the district to hold office until the first annual meeting thereafter; and at such annual meeting and at each subsequent annual meeting of the district officers and committees may be elected in such manner and for such terms of office as may be prescribed in the by-laws. If the by-laws shall so provide, the members of the district council may be divided into groups, one group to be elected annually to hold office for not more than three years. Vacancies in any office may be filled at any annual meeting of the district, or at any special meeting called for that purpose. The district council shall have general supervision and management of the business and affairs of the district and, together with other officers and committees, shall have such further powers and duties as may be created or imposed in the by-laws of the district. The fire wardens shall have such powers and duties as are generally exercised in fire districts within the state, with such additional powers and duties as may be created or imposed in the by-laws of the district.

SECTION 7. The district may raise money by taxation of real estate, and buildings or improvements upon leased real estate within the district, provided, that the tax assessed and payable in any one (1) year under the provisions of this act shall not exceed seven (7) mills on each dollar of valuation as hereinafter defined. The District may assess taxes on real estate, and on buildings or improvements upon leased real estate, at different rates for real estate which the Town of Narragansett has designated as residential or as commercial, provided that neither tax rate may exceed the aforementioned limitation.

In addition, the District may impose and collect a flat fee on all transfers and sales of real estate located within the District, as well as other real estate-based fees.

Taxation may be for any or all of the following purposes:

The maintenance, upkeep and improvement of existing private streets, walks and ways; the establishment and maintenance of additional private streets, walks and ways; the regulation and policing of the same in such manner as to assure the lawful use thereof and to maintain order and preserve peace within the district;

The establishment and/or maintenance, within the district, of a water supply system for domestic use and fire prevention; a fire, police or life saving department; a lighting system; a garbage removal system, or any similar system deemed necessary for the protection of lives and property within the district or for the general improvement; upbuilding and beautifying of district property;

The purchase and/or lease of land for the establishment and maintenance within said district of a private beach and/or bathing facilities;

The purchase and/or construction or erection of any building for recreational purposes for the fire district; and for recreational programs and activities for the benefit of the taxpayers of the Bonnet Shores Fire District

The purchase and/or lease of land, waters and water rights, buildings and building materials, implements, equipment, apparatus and property of any other kind deemed necessary or desirable for corporate purposes.

SECTION 8. The valuation of taxable property within the district for debt limit purposes and for purposes of district assessment and taxation, shall be that made by the assessors of the town of Narragansett as of December 31st in each year. The district assessors shall assess taxes on all taxable inhabitants and taxable property within the district as of December 31st in each year and the same shall be payable on the first business day of the succeeding October 15th in each year. District taxes shall constitute a lien upon the property assessed and if not paid when due shall carry an interest penalty at the rate imposed from time to time by the town of Narragansett. The owner of assessable land, where on a lessee shall have erected a movable building or improvement shall be liable for the district tax assessed against such building or improvement. If any person against whom a district tax has been assessed shall establish, in manner as provided by law, that the valuation placed upon his assessable property within the district by the town tax assessors is excessive and that in consequence the town must refund or rebate a portion of its tax thereon, such person shall be entitled to receive and shall receive from the district a refund or rebate of his district tax in like proportion. In the assessment and collection of district taxes its officers shall follow generally the practice and procedure adopted by corresponding officers in the town of Narragansett. Provided, however, that the district may adopt such reasonable by-laws with respect to the assessment, collection and payment of taxes as it deems proper.

SECTION 9. This act shall take effect from and after its acceptance by ballot as aforesaid and when there shall have been filed with the secretary of state a certificate of the clerk of the district which shall disclose such acceptance.

In the event that said district shall be established as provided in section 4 hereof, no amendment of this act shall be effective as to said district unless and until the same shall be accepted by the affirmative vote of a majority of the qualified voters of said district present (~~or represented by proxy as provided in section 2 hereof~~) at an a special ~~or~~ annual meeting of said district duly held within two years after the passage of such amendment, at which meeting a quorum shall be present, and in the notice of which meeting there shall be contained the statement that the acceptance or rejection of such amendment is to be voted upon, and until there shall have been filed with the secretary of state a certificate of the clerk of the district that such amendment has been accepted as aforesaid.

SECTION 10. The Bonnet Shores Fire District Council is hereby authorized and empowered to appoint a harbormaster and to ordain and establish such by-laws, rules, regulations, fees and compensation as such council may deem necessary and expedient for carrying out the provisions hereof. The jurisdiction, powers and duties of such harbormaster shall include but not be limited to the regulations of speed, management, and control of all vessels and the size, type, location and use of all anchorages and moorings within the waters immediately adjacent and contiguous to the Bonnet Shores Fire District including, without limiting the generality of the foregoing, the

authority and power to regulate and control water skiing in such confines. Such harbormaster shall have such other and additional powers and jurisdiction as may be granted from time to time by the town of Narragansett. The jurisdiction boundaries of the harbormaster's authority shall be from the most easterly point of land of the Bonnet Shores Fire District, a boundary line shall be drawn northerly and southerly, taking the northern most point of said District, taking a line due easterly from that point and further taking a point from the furthest southern extension of the said district drawing a line due easterly and due westerly where said lines shall intersect all areas bounded therein.

SECTION II. The amendments to this act shall take effect from and after their acceptance by ballot by the residents and qualified voters of the Bonnet Shores Fire District, and when there shall have been filed with the secretary of state a certificate of the Clerk of the District which shall disclose such acceptance. The election to approve or reject these amendments shall be conducted in the following manner:

A. **Electorate:** The electorate for this election shall include:

1. Every Citizen of the United States of the age of eighteen years or over, who has had residence and home in the Bonnet Shores Fire District for thirty (30) days preceding the time of voting, who has resided thirty (30) days in the Bonnet Shores Fire and whose name shall be registered at least thirty (30) days next preceding the time of voting, and;
2. Every person, who (1) is possessed in their own right of real estate within the District which is taxed as residential by the District, and (2) who has resided in the District for ninety (90) days next preceding the time of the voting.

The electorate shall not include:

1. Corporations, trusts, partnerships, LLCs, or other corporate entities, or;
2. Individuals who do not reside in the District and who do not otherwise qualify as individual voters.

B. **Date:** The election shall be held during a regular meeting of the District, no later than one year from passage of this Act.

C. **Other Elections in Same Meeting:** The provisions which shall govern the election to approve or reject these amendments shall also govern any other elections for District offices held at the same regular meeting.

Considerations for Drafting a Recall Provision:

1. Which offices shall (and shall not, if any) be subject to recall?
2. How many voters will it take to initiate a recall?
 - a. Should it be a percentage of the electorate that voted on that office?
 - b. Should it be an absolute number?
 - c. Should there be a minimum absolute number on top of a higher maximum?
3. How will voters express their desire for a recall? (Signature petitions are the method we are most familiar with, but there could be others.)
4. Assuming the Commission chooses to use signature petitions, what information do you need about the people collecting the signatures?
5. Likewise, what information do you need the voters to provide on the petition form?
6. Will BSFD create and supply a form for recall petitions?
7. Who will verify the signatures on the recall petitions, or otherwise verify the method to be used to initiate the recall?
 - a. What methods will they use, or what standards will they apply?
 - b. How much time will they have to complete their process?
 - c. Should there be any consequence for delay on the District's part? Should a recall petition be deemed accepted if no action is taken?
 - d. How should disputes about this entire process be resolved?
8. For each of the above considerations, what are the tolerances for variance from your rules, if any?
9. Does BSFD need to receive advance notice of the *intent* to collect signatures and initiate the recall process? For example, by requiring persons to go and pick up forms created by BSFD to collect signatures?
 - a. If yes, do you wish to limit the amount of time petitioners have from the start to the end of the recall process?
 - b. If no, how old may signatures be before they become "stale?" Or if signatures are not deemed to go stale, will the District verify that the voter has not changed their mind since signing, and if so, how?
10. What time limit, if any, should there be between the time BSFD receives a (purportedly) completed recall petition and the time the recall election takes place?
11. What kinds of notices, if any, will go out to the community to alert them of the recall election?
12. Should the recall election be a strict recall election ("Should John Doe be removed from office as a member of the District Council? Yes/No), or should it also include a parallel election for the person replacing the recalled official?
 - a. If the elections will be parallel, how will candidates put themselves in contention?
 - b. If the elections will be separate, how long between the recall and the replacement election?
13. May a recalled official run as a candidate in the election to replace themselves?
 - a. May a recalled official run as a candidate in subsequent elections?
 - i. If not, for how long? Are they barred from other offices too?
14. Is there a time period before or after an election during which recall petitions will not be heard?
 - a. For example, if a recall petition were turned in three weeks before an election, that may be so close to the election that it is impossible, or just impractical, to

hold a special election meeting, such that it makes more sense to wait until the election.

- b. Additionally, it may make sense to say that someone who has just won office should not be subject to recall for some period of time after an election.

15. Which parts of these concerns should be addressed in by-laws rather than in the Charter?

Considerations for Drafting a Voter Approval for Extraordinary Expenditures Provision:

1. We need some information first:
 - a. What is BSFD's budget?
 - b. In a typical year, how many extraordinary expenditures are there? Or, say, in a typical five years or ten years?
 - c. What do ordinary expenditures look like now?
2. How should "exceptional" be defined?
 - a. Absolute number?
 - b. Percentage of the overall budget?
 - c. Amount over standard expenditures?
 - d. Anything not already budgeted for during a specified budget period?
3. Should there be a special procedure for the Council to approve a special election to approve or reject an expenditure?
 - a. Passage of a resolution with particular language, for example.
 - i. If this, what should the particular language be?
4. How much time should be required from the time the Council determines a large expenditure ought to be made and initiates the approval process, to the time of the special election?
5. Should there be a period of time before an election during which the election to approve or deny an expenditure will be "merged" into the regular elections?
6. What kinds of notice should be given to the District's voters about a special meeting to approve expenses?
 - a. How many notices?
 - b. How far in advance?
 - c. What forms should the notices take?
 - d. What do the notices have to say about the expenditure?
 - e. What do the notices have to say about the language on the ballot?
7. What constitutes an emergency?
 - a. Natural disasters?
 - b. Catastrophic failure of infrastructure? (For example, a water main into BSFD bursts and causes damage to BSFD's infrastructure.)
 - c. Any time the Council thinks it is an emergency?
8. How should emergencies be determined?
 - a. Governor's declaration of an emergency?
 - b. Council's declaration of an emergency?
 - c. Should there be a strict list of events which would constitute an emergency?
 - d. Should there be a set of standards guiding future councils in declaring emergencies?
9. Who should enforce the definition of "emergency," and how?

- a. Most likely default is that a resident would have to go to court to seek a declaration that there was no emergency. However, variations may be available.
 - b. Will the Councilors who voted in favor of the expenditure be liable to replace the money out-of-pocket?
10. Would these elections require anything more than a majority of voters to approve an expenditure?
11. Once an expenditure is rejected, should there be any hard limits on the Council's ability to seek that expenditure again?
12. Once an expenditure is rejected, should that create any hard limits on the Council's ability to make the same expenditure in an emergency?
 - a. On the one hand, it may be that there is a problem which the Council was right about and the voters were wrong about, so to speak, so there could potentially be cases where the Council might be required to make an emergency expenditure very much like an expenditure the voters rejected.
 - b. On the other hand, this is also (potentially) ripe for abuse. You can rely on a norm against it, until someone wants something and does not care about the norm.
 - c. This may be a tough question with no right answers.