



**BY-LAWS**  
**of**  
**WESTERN BERKS FIRE DEPARTMENT**  
**(a Pennsylvania nonprofit corporation)**

Adopted

May 20, 2009 (ver 1.0)

Revised

January 18, 2011 (ver 2.0)

April 19, 2011 (ver 3.0)

*The Western Berks Fire Department is dedicated to protecting the life, property and the environment within the community through a proactive program of education, prevention, and emergency response while recognizing the importance of a constant commitment to excellence.*

**Western Berks Fire Department**  
**111 Stitzer Ave.**  
**Wernersville, PA 19565**  
**Phone (610) 678-1332**  
**Fax (610) 898-4280**

<http://www.westernberksfire.org>

# WESTERN BERKS FIRE DEPARTMENT

## By-Laws

### ARTICLE I - NAME AND PURPOSE

**Section 1.01 Name** The name of the corporation is the Western Berks Fire Department (hereinafter called "Fire Department"), incorporated as a non-stock, nonprofit corporation under the Pennsylvania Nonprofit Corporation Law of 1988 on April 1, 2009.

**Section 1.02 Background** The Corporation has been formed to create a combined fire department to serve the Townships of South Heidelberg and Lower Heidelberg and the Boroughs of Sinking Spring and Wernersville and shall be a "local agency" in accordance with the Pennsylvania Right to Know Act, as set forth in 65 P.S. §67.102. The Corporation contemplates that it will receive certain of the assets of its former founding fire companies: Liberty Fire Company No. 1 of Sinking Spring, Pennsylvania; Citizens Hose Co. #1, Wernersville, Pennsylvania; Community Fire Company of Fritztown, Pennsylvania, and Lower Heidelberg Township Volunteer Fire Company (collectively referred to as the "Founding Companies"). All assets, debts and liabilities of the Founding Companies, including all cash and firefighting equipment, other than the real estate and non-firefighting personal property relating to the social quarters owned by the Community Fire Company of Fritztown and Liberty Fire Company No. 1. of Sinking Spring, shall be contributed to the Fire Department as part of the formation of the Fire Department. The Fire Department may also receive a contribution of certain firefighting equipment (along with the responsibility to pay the debt service) from the Townships of Lower Heidelberg and South Heidelberg or the Boroughs of Wernersville and Sinking Spring, to the extent that any firefighting equipment of any of the Founding Companies is owned all or in part by any such municipality.

**Section 1.03 Purpose** The Fire Department was incorporated to serve the residents of South Heidelberg Township, Lower Heidelberg Township, the Borough of Wernersville and the Borough of Sinking Spring in the following manner:

A. To preserve and protect lives and property from loss or damage by fire, accident, natural disaster or other calamity, and to acquire and own fire apparatus for use by the Fire Department for these purposes;

B. To own and acquire land, and to construct, erect and maintain buildings and units for corporate purposes and for the use and efforts of the members of the Fire Department in connection with the housing of and headquarters for fire apparatus and for the providing of places of meeting for the members of the Fire Department;

C. To encourage membership in the Fire Department; to provide training for members of the Fire Department and the public in fire fighting, fire prevention and first aid; and

D. To take any and all actions permitted by the Pennsylvania Nonprofit Corporation Law which are consistent with the foregoing purposes.

### ARTICLE II - TRUSTEES

**Section 2.01 Inaugural Board of Trustees** For the years 2009, 2010 and 2011, an Inaugural Board of Trustees shall be responsible for the operation and management of the Fire Department, subject to the following provisions:

A. The Inaugural Board of Trustees shall consist of thirteen (13) members, with each member serving a three (3) year term;

B. Each of the Founding Companies identified in Section 1.02 shall appoint one Trustee;

C. Each municipality (South Heidelberg Township, Lower Heidelberg Township, Borough of Sinking Spring and the Borough of Wernersville) shall appoint two (2) Trustees. The goal is that one appointee from each appointing municipality shall be a non-elected municipal official, but the final decision regarding the appointment of Trustees shall be made by each municipality.

D. The Fire Commissioner shall become a Trustee upon being hired by the Board of Trustees. The Fire Commissioner, as the chief operating officer of the Fire Department, shall be a non-voting ex-officio member of the Board of Trustees. In the case of a deadlock in any vote of the Board of Trustees, the Fire Commissioner shall be entitled to vote to break the deadlock, unless such vote relates to the Fire Commissioner's compensation or any action or conduct of the Fire Commissioner.

E. In the event any Inaugural Trustee resigns or otherwise ceases to be a Trustee at anytime during his/her initial three (3) year term, the appointing municipality shall appoint a successor Inaugural Trustee to complete the balance of the three (3) year inaugural term.

F. Seven (7) Trustees must be in attendance to constitute a quorum to transact business.

G. Except as specifically set forth in these By-Laws or specifically prohibited by the Pennsylvania Nonprofit Corporation Law, the Inaugural Board of Trustees shall have the full power and responsibility to manage all of the financial and business affairs of the Fire Department. The Board of Trustees, with the approval of its members voting at a meeting at which a quorum is present, shall have the power to delegate any management or business responsibility to any officer or employee of the Fire Department, including the Fire Commissioner or the Fire Chief.

**Section 2.02 Permanent Board of Trustees** Commencing in 2012, the permanent Board of Trustees shall take office and be responsible for the management and operation of the Fire Department, subject to the following provisions:

A. The permanent Board of Trustees (hereafter the "Board of Trustees") shall consist of nine (9) members, with each initial Trustee serving a three (3) year term. The Board of Trustees shall develop a procedure to provide for a staggered Board of Trustees, which procedure shall be developed by the Board of Trustees after their first meeting.

B. Four (4) members of the Board of Trustees shall be members of the Fire Department and shall be elected by the members of the Fire Department. The Fire Department shall develop a voting system so that one (1) member of the Board of Trustees lives in each of the four (4) geographic areas covered by the Fire Department: South Heidelberg Township, Lower Heidelberg Township, Sinking Spring Borough and Wernersville Borough.

C. Each municipality (South Heidelberg Township, Lower Heidelberg Township, Sinking Spring Borough and Wernersville Borough) shall appoint one (1) Trustee which shall be an elected official or resident of said municipality. The

trustees appointed to the position shall make application to the department, and upon a favorable application, shall become support members of the department.

D. In the event of a vacancy in office during the term of any Trustee, the Department or municipality that originally appointed such Trustee shall appoint a successor Trustee to fill such Trustee's place for the balance of such Trustee's term in office.

E. Five (5) Trustees must be in attendance to constitute a quorum to transact business.

F. The Fire Commissioner shall remain as an ex-officio Trustee, serving at the pleasure of the Board of Trustees, with the voting rights as set forth in Section 2.01(D).

G. Except as otherwise provided in these By-Laws or specifically prohibited by the Pennsylvania Nonprofit Corporation Law, the Board of Trustees shall have the full power, authority and responsibility to manage all of the financial and business affairs of the Fire Department. The Board of Trustees, with the approval of its members voting at a meeting at which a quorum is present, shall have the power to delegate any management or business responsibility to any officer or employee of the Fire Department, including the Fire Commissioner or the Fire Chief.

H. The following actions shall require the vote of at least ten (10) of the members of the entire Inaugural Board of Trustees or at least seven (7) of the members of the entire Permanent Board of Trustees:

1. Adoption of an annual budget and any change to the budget or other non-budgeted expenditure in excess of Four Thousand and 00/100 Dollars (\$4,000.00);
2. The sale or disposal of any real estate or any piece of equipment with a value in excess of Four Thousand and 00/100 Dollars (\$4,000.00);
3. Any merger or dissolution of the Fire Department; and
4. Any amendment to these By-Laws or the Articles of Incorporation.

I. The approval of two-thirds (2/3) of the members of the Fire Department Board of Trustees shall also be required to dispose of any piece of equipment with a fair market value in excess of Four Thousand and 00/100 Dollars (\$4,000.00).

**Section 2.03 Trustees Attendance at Meetings** Any Trustee may be removed by the vote of a majority of the remaining Trustees if such Trustee does not attend at least eight (8) out of twelve (12) regular monthly meetings in any calendar year without making the proper notification of said absence due to illness or work commitments. Attendance at a meeting shall be determined in the sole and absolute discretion of the Board of Trustees. In such event, the entity or municipality appointing such Trustee shall appoint a replacement Trustee, but may not re-appoint the same person who was removed as Trustee.

**Section 2.04 Regular Monthly Meetings Notice** Regular monthly meetings of the Board of Trustees shall be held at such time and place as shall be designated by the Board of Trustees from time to time. Each Trustee shall be notified in writing once a year regarding the date and time of the regular monthly meetings in accordance with the provisions of Pennsylvania law. Notice of such regular meetings shall not be required, except as otherwise expressly required herein or by law, and except that whenever the time

or place of regular meeting shall be initially fixed and then changed, notice of such action shall be given promptly by telephone or otherwise to each Trustee not participating in such action. Any business may be transacted at any regular meeting.

**Section 2.05 Annual Meeting of the Board of Trustees and members** An annual meeting of the Board of Trustees and members shall be held the third Tuesday of January of each year at such time and place as may be fixed by the Board of Trustees. Such meeting shall be the annual organization meeting at which the Board shall organize itself and elect the Executive Officers of the Board of Trustees, including a Chairman of the Board and Secretary, for the ensuing year and may transact any other business.

**Section 2.06 Special Meetings Notice** Special meetings of the Board of Trustees may be called at any time by the Board itself, or by the Chairman, or by at least one-fourth (1/4) of the Trustees, or at least seven active members of the department, to be held at such place and day and hour as shall be specified by the person or persons calling the meeting. Notice of every special meeting of the Board of Trustees shall be given by the Secretary to each Trustee at least three (3) days before the meeting and shall be posted in each fire station. Any business may be transacted at any special meeting regardless of whether the notice calling such meeting contains a reference thereto, except as otherwise required by law.

**Section 2.07 Organization** At all meetings of the Board of Trustees, and as set forth in Sections 2.01 and 2.02 above, the presence of at least a majority of the Trustees in office shall be necessary and sufficient to constitute a quorum for the transaction of business. The Trustees present at a duly organized meeting may continue to do business until adjournment, notwithstanding the withdrawal of enough Trustees to leave less than a quorum. If a quorum is not present at any meeting, the meeting may be adjourned, from time to time, by a majority of the Trustees present until a quorum as aforesaid shall be present, but notice of the time and place to which such meeting is adjourned shall be given to any Trustees not present by telephone at least twenty-four (24) hours prior to the hour of reconvening. Resolutions of the Board shall be adopted, and any action of the Board upon any matter shall be valid and effective, with the affirmative vote of majority of the Trustees present at a meeting duly convened and at which a quorum is present. The Chairman of the Board, if one has been elected and is present, or if not, the President, if he/she is a Trustee and is present, or if not, a Trustee designated by the Board, shall preside at each meeting of the Board. The Secretary, or in his/her absence any Assistant Secretary, shall take the minutes at all meetings of the Board of Directors. In the absence of the Secretary and an Assistant Secretary, the presiding officer shall designate any person to take the minutes of the meeting.

**Section 2.08 Meetings by Telephone** One or more Trustees may participate in any regular or special meeting of the Board of Trustees or of a committee of the Board of Trustees by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participating in a meeting in this manner by a Trustee will be considered to be attendance in person for all purposes under these By-Laws.

**Section 2.09 Presumption of Assent** Minutes of each meeting of the Board shall be made available to each Trustee at or before the next succeeding meeting. Each Trustee shall be presumed to have assented to such minutes unless his objection thereto shall be made to the Secretary at, or within three (3) days of, such succeeding meeting.

**Section 2.10 Catastrophe** Notwithstanding any other provisions of the Pennsylvania Nonprofit Corporation Law of 1988, the Articles or these By-Laws, if any emergency resulting from warlike damage, or an attack on the United States, or any nuclear or atomic disaster, or any other national or local disaster, causes a majority of the Board to

be incapable of acting as such, because of death or other physical disability or difficulties of communication or transportation, the other Trustee or Trustees shall constitute a quorum for the sole purpose of electing Trustees to replace the Trustees so incapable of acting. The Trustees so elected shall serve until such replaced Trustees are able to attend meetings of the Board or until the Board acts to elect Trustees for such purpose. Questions as to the existence of such an emergency, or disaster, or as to the fact of such incapacity shall be conclusively determined by such other Trustee or Trustees.

**Section 2.11 Resignations** Any Trustee may resign by submitting his/her resignation to the Secretary in writing. Such resignation shall become effective upon its receipt by the Secretary or as otherwise specified therein. A successor Trustee shall be appointed as set forth in Section 2.01 and 2.02 of these By-Laws.

**Section 2.12 Committees** By resolution adopted by two-thirds (2/3) of the whole Board, standing or temporary committees, which may include an Executive Committee, consisting of at least three (3) Trustees may be appointed by the Board of Trustees from time to time. Each committee shall have and exercise such authority of the Board of Trustees in the management of the business and affairs of the Fire Department as the Board may specify, from time to time, which may include any action which the Pennsylvania Nonprofit Corporation Law of 1988 provides shall or may be taken by the Board of Trustees. Any delegation of management or responsibility must be approved by at least two-thirds (2/3) of the Trustees in attendance at a meeting of the Board of Trustees at which a quorum is present. The Board may designate one or more Trustees as alternate members of any committee to replace any absent or disqualified member at any meeting of the committee, and in the event of such absence or disqualification, the member or members of such committee present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another Trustee to act at the meeting in the place of any such absent or disqualified member. Any action taken by any committee shall be subject to alteration or revocation by the Board of Trustees; provided, however, that third parties shall not be prejudiced by such alteration or revocation. The Fire Commissioner shall be an ex-officio member of all committees established by the Board of Trustees or by the membership of the Department.

### **Section 2.13 Personal Liability of Trustees**

A. Elimination of Liability To the fullest extent that the laws of the Commonwealth of Pennsylvania, as now in effect or as hereafter amended, permit elimination or limitation of the liability of directors, no Trustee of the Fire Department shall be personally liable for monetary damages as such for any action taken, or any failure to take any action as a Trustee.

B. Nature and Extent of Rights The provisions of this Section shall be deemed to be a contract with each Trustee of the Fire Department who serves as such at any time while this Section is in effect, and each Trustee shall be deemed to be so serving in reliance on the provisions of this Section. Any amendment or repeal of this Section or adoption of any By-Laws or provisions of the Articles of Incorporation of the Fire Department which has the effect of increasing Trustee liability shall operate prospectively only and shall not affect any action taken, or any failure to act, prior to the adoption of such amendment, repeal, By-Law or provision.

### **Section 2.14 Indemnification of Trustees and Officers**

#### A. Rights to Indemnification

1. As used herein, the word "Action" shall mean any claim, lawsuit or proceeding, administrative, investigative or other, (i) to which such person is

a party (other than an action by the Fire Department), or (ii) in connection with which such person is not a party but is a witness, subject to investigation or otherwise involved, in either case by reason of such person being or having been a Trustee or officer of the Fire Department.

2. Except as prohibited by law, each Trustee and officer of the Fire Department shall be entitled as of right to be indemnified by the Fire Department against expenses and any liability paid or incurred by such person (i) in the defense of any Action to which such person is a party, or (ii) in connection with any other Action; provided, however, that no person shall be indemnified for any intentional, fraudulent or willful act in contravention of their duties as a Trustee or officer of the Fire Department or in circumstances where indemnification is prohibited under Pennsylvania law.

3. A person who is not a Trustee or officer of the Fire Department may be similarly indemnified in respect of service to the Fire Department to the extent the Board of Trustees at any time designates such person as entitled to the benefits of this Section.

4. As used in this Section, "indemnitee" shall include each Trustee and each officer of the Fire Department, and any other person designated by the Board as entitled to the benefits of this Section; "liability" shall include amounts of judgments, excise taxes, fines, penalties and amounts paid in settlement; and, "expenses" shall include fees and expenses of counsel incurred by the indemnitee only (i) if the Fire Department has not, at its expense, assumed the defense of the Action on behalf of the indemnitee with reputable and experienced counsel selected by the Fire Department, or (ii) if it shall have been determined pursuant to Section (C) hereof that the indemnitee was entitled to indemnification for expenses in respect of an action brought under that Section.

#### B. Right of Indemnitee to Initiate Action: Defenses

1. If a written claim under paragraph (A) of this Section is not paid in full by the Fire Department within thirty (30) days after such claim has been received by the Fire Department, the indemnitee may at any time thereafter initiate an action to recover the unpaid amount of the claim and, if successful in whole or in part, the indemnitee shall also be entitled to be paid the expense of prosecuting such action and all expenses including but not limited to attorney fees.

2. The only defense to an action to recover a claim for indemnification otherwise properly asserted under paragraph (A) shall be that the indemnitee's conduct was such that under applicable law the Fire Department is prohibited from indemnifying the indemnitee for the amount claimed, but the burden of proving any such defense shall be on the Fire Department.

C. Non-Exclusivity: Nature and Extent of Rights. The rights to indemnification and advancement of expenses provided for in this Section shall (i) not be deemed exclusive of any other rights to which any indemnitee may be entitled, (ii) be deemed to create contractual rights in favor of each indemnitee who serves the Fire Department at any time while this Section is in effect (and each such indemnitee shall be deemed to be so serving in reliance on the provisions of this Section), and (iii) continue as to each indemnitee who has ceased to have the status pursuant to which he/she was entitled or was designated as entitled to

indemnification under this Section and shall inure to the benefit of the heirs and legal representatives of each indemnitee.

**Section 2.15 Proxy** Any Trustee may give his or her written proxy to any other Trustee for the purpose of establishing a quorum, or to vote on any matter at a regularly scheduled monthly or duly called special meeting of the Board of Trustees.

### **ARTICLE III – MEMBERS**

**Section 3.01 Legacy Members** All personnel currently in good standing at the four (4) legacy fire companies forming the Fire Department and described in Section 1.02 shall automatically become members of the Western Berks Fire Department.

**Section 3.02 New Members** New Members shall be composed of any person of good moral character having attained the age of eighteen (18) years and who shall be proposed by a member in good standing. Any proposed member with pending criminal charges or under supervisory probation or parole shall not be eligible for membership in the department. Proposals for membership shall be referred to an investigating committee of three (3) members appointed by the President, whose duty it shall be to investigate and make inquiry concerning proposed members and report at the next stated meeting of the members. If an unfavorable report be made, such name shall not be voted on. If the committee reports favorably on a proposition for membership the candidate shall be balloted upon by verbal ballot, and if three (3) or more votes are unfavorable, the applicant will be rejected. If votes are favorable, membership will be granted.

**Section 3.03 Classes of Membership** The membership shall consist of five (5) classes of members designated as active members, life members, support members, business members, and junior members.

**Section 3.04 Active Members** Active members shall be any person of good moral character who has attained the age of eighteen (18) years. Active members are those individuals who assist in fire suppression tasks. Only active members residing within the geographic limits of South Heidelberg Township, Lower Heidelberg Township, the Borough of Wernersville, the Borough of Sinking Spring and immediate neighboring municipalities are eligible to hold a suppression office in the organization.

**Section 3.05 Life Members** Life members shall be any person who was previously recognized as a life member in the legacy organizations, or who has reached the age of fifty (50) and has thirty (30) years of service with the Western Berks Fire Department.

**Section 3.06 Support Members** Support members shall be any person of good moral character who has attained the age of eighteen (18) years. Support members are those individuals who assist in tasks not associated with fire suppression. Trustees that are elected or appointed by the municipalities shall be considered support members.

**Section 3.07 Business Members** Business members shall be any business, corporation, or entity whom desires to support the operation of the Western Berks Fire Department either financially or via in-kind services. Business members shall have no voting rights pertaining to the organization.

**Section 3.08 Junior Members** Junior membership shall be available only to a person having attained the age of fourteen (14) to eighteen (18).

**Section 3.09 Voting Rights of Members** Members holding active, support and life memberships shall have the right to vote on all matters pertaining to the organization, administration and matters generally of the organization.

**Section 3.10 Junior Members Voting Rights** Members holding the status of Junior membership shall have no voice or vote upon any matter or thing at any meeting of the organization. Members holding the Junior membership status, upon reaching the age of eighteen (18), shall automatically become an active member.

**Section 3.11 Duties of Members and Right to Voting** It shall be the duty of each and every active, support and life member of this Fire Department to attend at least three (3) stated meetings, other than that held on the night of election, during each year. Neglect of this duty shall debar such member from the right to vote for the officers of the Fire Department.

#### **ARTICLE IV - OFFICERS**

**Section 4.01 Officers** Suppression Officers of the Fire Department shall consist of the Fire Chief, Chief Engineer, two (2) Deputy Chiefs, and three (3) Assistant Chiefs, one fulfilling the role of Suppression Chief, one fulfilling the role of Rescue Chief, and one fulfilling the role of Truck Chief.

**Section 4.02 Terms of Office** All terms of office shall be for a period of three (3) years.

**Section 4.03 Appointment of Suppression Officers** Suppression Officers of the Fire Department provided for in Section 4.01 of this article shall be appointed by the Fire Commissioner and Board of Trustees for a term of three (3) years. Candidates for these positions must meet or exceed the requirements defined in Article V of this document and shall make application to these positions by written communication no later than November 30<sup>th</sup> to the Fire Commissioner. A review of the applicant's credentials and past experiences will be performed by the Board of Trustees and will be decided on at the December meeting of the Board of Trustees. Those individuals found favorable will be appointed to the position and taken over the position effective January 1.

**Section 4.04 Neglect of Duties** Any Member, after having been appointed to an office or a committee, that refuses or neglects to perform their respective duties of that office or committee, or, in the case of an officer as outlined in Section 4.01 of this Article, refuses or neglects to attend three (3) successive meetings, unless detained by sickness or other unavoidable occurrence, shall be subject to the action of the membership, which may include declaring an office as vacant.

**Section 4.05 Vacancy in Office** When any office of the Fire Department is declared vacant, either through resignation of the officer or action taken by the membership, the vacant office shall be filled by ballot at the next regular meeting of the members of the Fire Department following the declaration of vacancy.

#### **ARTICLE V - DUTIES OF OFFICERS**

**Section 5.01 Chairperson** The Chair of the Board of Trustees shall:

A. Preside at all meetings of the members of the Fire Department, preserving strict order at same.

B. Enforce at all times, the Articles of Incorporation and By-Laws of the Fire Department.

C. See that all officers of the Fire Department perform their respective duties of office in a satisfactory manner.

D. Decide on all questions of order subject to an appeal.

E. Cast the deciding vote on all questions when both sides are equally divided.

F. Appoint committees that may be periodically required for the conduct of business of the Fire Department, which are not otherwise provided for by the Articles of Incorporation and By-Laws, dissolving each as soon as it has completed its assigned function.

G. Be, ex-officio, a member of any and all committees of the Fire Department, and, as such, be entitled, though not required, to attend the meetings of said committees. The Chairperson shall be duly advised of all meetings of committees.

H. Perform other duties which the Fire Department or the Articles of Incorporation and By-Laws may require.

**Section 5.02 Vice Chairperson** The Vice Chairperson shall:

A. Assist the chairperson in preserving order at meetings of the trustees and members of the Fire Department, and provide any other assistance as may be required.

B. Perform the duties of the office of the Chairperson in the absence of the Chairperson.

1. In the absence of both the Chairperson and Vice Chairperson, a Chairperson Pro-Tem shall be chosen by a majority of the members present at the meeting.

**Section 5.03 Recording Secretary** The Recording Secretary shall:

A. Keep an accurate written account of the minutes of the proceedings of all regular and special meetings of the members of the Fire Department in a book provided for that purpose.

B. Keep a record of attendance of the Officers at meetings, and have all members sign the Roll Book.

C. Preserve all papers and records relating to the office.

D. Affix the seal of the Fire Company to all official papers and documents.

E. Answer all communications addressed to the Fire Company.

F. Give notice to the membership of all special meetings by posting of such notice in the newspaper and the engine house at least three (3) days prior to the meeting.

G. Give notice to the membership of all proposed amendments to the By-Laws by posting of such notice in the newspaper and the engine house at least three (3) days prior to all meetings.

H. Hand over all books and papers associated with this office to the duly elected successor in office.

**Section 5.04 Treasurer** The Treasurer shall:

A. Receive all monies for the use of the Fire Department and shall provide a receipt for same.

B. Subject to the approval of all expenditures by the Board of Trustees, draw checks for the payment of all bills, with such checks requiring the signature of two of the three following individuals; the Chairperson, Treasurer and/or Fire Commissioner.

C. Have all accounts under his/her control ready for audit by January 31 of each calendar year.

D. Upon taking office, be bonded for Twenty-Five Thousand and 00/100 Dollars (\$25,000.00), the cost of which shall be paid for by the Fire Department.

E. Hand over all books, papers and accounts associated with this office to the duly elected successor in office.

F. Have the power to sign checks.

**Section 5.05 Fire Chief** The Fire Chief shall:

A. Meet the following minimum qualifications:

1. Be an active member of the Western Berks Fire Department for five (5) years.

2. Have ten (10) years active service in firefighting, whether it is with a military, municipal, private or volunteer firefighting unit, company or department.

3. Be certified as a Fire Officer I, as based on NFPA 1021 Standard for Fire Officer Professional Qualifications, or able to provide documentation of extensive training records or lifetime experience of equivalent standards.

4. Have additional training in the Incident Command System up to and including ICS-400, National Incident Management System, Incident Safety Officer, and other executive level fire service and management courses.

Additionally, it is expected that the Fire Chief will continue to advance his/her level of expertise through continuing education and training.

B. With the two Deputy Fire Chiefs, have sole charge of the fire equipment at all times.

C. Be in charge of all firefighting activities.

D. In no case shall more than One Thousand Five Hundred and 00/100 Dollars (\$1,500.00) be spent at any time to make repairs, improvements or additions to apparatus or appliances, above and beyond those as already identified within the yearly budget, without first getting bids and bringing the matter before the Fire Department for a decision. Emergency repairs or replacement purchases necessary for the continuous operation of firefighting equipment are exempt from this requirement, but must be approved by the Fire Commissioner.

E. See that no person(s) shall operate such apparatus or appliance(s) unless that person is:

1. Fully competent to do so.
2. Properly trained to do so.
3. An active member with the Fire Department.

F. Be responsible for a continuing education program consisting of training drills and exercises, the object of which shall be to insure that the Fire Department is always prepared to provide the community with fully competent, highly skilled and efficient fire suppression services.

G. Attend, or see to it that a representative attends, any meetings which may pertain to the operation of the Fire Department.

H. At the November meeting, in conjunction with the Fire Commissioner, submit an operating budget to the Board of Trustees of the Fire Department, with such budget to be brought for approval by the Board of Trustees at the December meeting of the Board of Trustees.

I. Report to the Fire Commissioner any member, under his/her jurisdiction, for misconduct, neglect of duty, violation of rules or refusing to obey orders. For such violations the Chief may, at his/her discretion, suspend a member from participating in firefighting activities.

J. At the January meeting, in collaboration with the Fire Commissioner, appoint individuals to the following positions; Suppression Captain, Suppression Lieutenant, Rescue Captain, Rescue Lieutenant, Truck Captain, Truck Lieutenant and an Assistant Chief Engineer.

K. Hand over all books, papers and accounts associated with this office to the duly appointed successor in office.

**Section 5.06 Deputy Fire Chiefs** The Deputy Fire Chiefs shall:

A. Meet the following minimum qualifications:

1. Be an active member of the Western Berks Fire Department for five (5) years.
2. Have five (5) years active service in firefighting, whether it is with a military, municipal, private or volunteer firefighting unit, company or department.

3. Be certified as a Firefighter II, as based on NFPA 1001 Firefighter Professional Qualifications or able to provide documentation of extensive training records or lifetime experience of equivalent standards.

4. Have additional training in the Incident Command System up to and including ICS-300, National Incident Management System and Incident Safety Officer.

Additionally, it is expected that the Deputy Fire Chiefs will continue to advance their level of expertise through continuing education and training.

B. Provide assistance to the Fire Chief in the performance of all duties.

C. Take over the responsibility and duties of the Fire Chief in his/her absence or in the case that the office of Fire Chief is vacated for any reason.

D. Hand over all books, papers and accounts associated with this office to the duly appointed successor in office.

**Section 5.07 Assistant Fire Chiefs The Assistant Fire Chiefs shall:**

A. Meet the following minimum qualifications:

1. Be an active member of the Western Berks Fire Department for five (5) years.

2. Have five (5) years active service in firefighting, whether it is with a military, municipal, private or volunteer firefighting unit, company or department.

3. Be certified as a Firefighter II, as based on NFPA 1001 Firefighter Professional Qualifications or able to provide documentation of extensive training records or lifetime experience of equivalent standards.

4. Have additional training in the Incident Command System up to and including ICS-200, National Incident Management System and Incident Safety Officer.

B. Will oversee the fire services operations as to which they are assigned (suppression, rescue, or truck).

C. Will be responsible to relay any misconducts of any personnel or any operational situations through the proper the chain of command.

D. As to which time the said person no longer holds the office, they shall turn over any and all records to the newly appointed person.

**Section 5.08 Chief Engineer The Chief Engineer shall:**

A. Meet the following minimum qualifications:

1. Be an active member of the Western Berks Fire Department for five (5) years.

2. Have five (5) years active service in firefighting, whether it is with a military, municipal, private or volunteer firefighting unit, company or department.
  3. Be certified as a Firefighter I, as based on NFPA 1001 Firefighter Professional Qualifications or able to provide documentation of extensive training records or lifetime experience of equivalent standards.
  4. Posses PA State Fire Academy Pump I & Pump II certification or equivalent.
- B. Oversee maintenance and upkeep of all apparatus within the department.
  - C. With the assistance of the Assistant Chief Engineer, appointed by the Fire Commissioner, oversee all driver/operator training and qualifications; with the Fire Chief having the final decision in the qualifications of said members.
  - D. Maintain written maintenance records of all apparatus, including all certification testing of such apparatus. (i.e. pump, aerial, etc.)
  - E. Maintain a list of all qualified drivers and the apparatus which they are authorized to operate.
  - F. As to which time the said person no longer holds the office, they shall turn over any and all records to the newly appointed person.
  - G. Chief Engineer and Assistant Chief Engineer shall have NO fire ground authority.

## **ARTICLE VI - FIRE COMMISSIONER**

**Section 6.01 Fire Commissioner** The Fire Commissioner shall be the chief operating officer of the Fire Department, and shall serve under the direction and supervision of the Board of Trustees. The Fire Commissioner shall have overall management responsibility for the operation of the Fire Department and fire services, and shall supervise and coordinate all functions of the Fire Department by working with the Board of Trustees, the Fire Chief and the corporate officers. The Fire Commissioner's duties shall include the following:

- A. Implementing and managing the Inter-Municipal Long Term Fire Protection Services Agreement and working closely with the Fire Chief to ensure that the department is able to successfully carry out its responsibilities under the agreement.
- B. Work closely with the Fire Chief on fire prevention, fire fighting, and public safety.
- C. Ensuring that fire department operations meet all applicable operational, safety, training and maintenance requirements.
- D. In the absence of the Fire Chief, Deputy Chiefs and Assistant Chiefs, serve as the Incident Commander at incidents located in Sinking Spring, Lower Heidelberg, South Heidelberg and Wernersville.
- E. Preparing and implementing operational budgets for the fire department and ensuring that the department operates within those budgets.

F. Preparing materials for the Board of Trustees' meetings including minutes, financial information, reports, plans and projections.

G. Assist the municipal elected officials in assuring that a comprehensive emergency management program is in place for Sinking Spring, Lower Heidelberg, South Heidelberg, and Wernersville.

H. In collaboration with the Board of Trustees, appoint the suppression officers of the Department.

I. Managing all office duties including accounts payable, accounts receivable, payroll, and general bookkeeping.

J. Serving as the primary contact on all matters involving the municipalities participating in the Western Berks Fire Department.

K. Handling all community and media public relations.

L. Have the power to sign all checks drawn by the Treasurer for the payment of bills and all notices and certificates which require such signature to authenticate.

M. Developing and implementing personnel policies approved by the Board of Trustees.

## **ARTICLE VII - GENERAL PROVISIONS**

**Section 7.01 Offices** The principal business office of the Fire Department shall be at 111 Stitzer Avenue, Wernersville, Pennsylvania 19565. The Fire Department may also have offices at such other places within or outside the Commonwealth of Pennsylvania as the business of the Fire Department may require.

**Section 7.02 Corporate Seal** The Board of Trustees shall prescribe the form of a suitable corporate seal, which shall contain the full name of the Fire Department and the year and state of incorporation.

**Section 7.03 Fiscal Year** The fiscal year of the Fire Department shall end on such day as shall be fixed by the Board of Trustees.

**Section 7.04 Annual Report** The President and Treasurer shall present an annual report to the Board of Trustees in accordance with Section 5553 of the Pennsylvania Nonprofit Corporation Law of 1988.

**Section 7.05 Dissolution and Withdrawal of a Municipality** The Fire Department may be dissolved upon the affirmative resolution of three quarters (3/4) of the entire Board of Trustees. Dissolution of the Fire Department shall be undertaken strictly in accordance with the Non-Profit Corporation Law of 1988, and shall require the Fire Department to obtain the approval of the Court of Common Pleas of Berks County, which approval shall provide for the disposition of the assets of the Fire Department and such other matters as the court shall direct. The withdrawal of any of the four (4) municipalities originally funding the Fire Department shall not constitute a partial dissolution of the Fire Department. In the event any municipality participating in the initial funding of the Fire Department elects to withdraw from the Fire Department (hereinafter, the "Withdrawing Municipality"), all Trustees appointed by such Withdrawing Municipality shall cease to be Trustees, effective on the date that the Withdrawing Municipality withdraws from the Fire Department. Withdraw from the Fire Department can occur only pursuant to the following:

a) the withdraw can occur only at the end of a calendar year; and b) the Withdrawing Municipality must give written notice to the Fire Department at least ninety (90) days before the withdraw is to occur.

In the event that a municipality participating in the initial funding withdraws from the Fire Department during the first three (3) years of the Fire Department's existence, the Board of Trustees will use its best efforts to return any property and firefighting apparatus formerly owned by the Withdrawing Municipality to that municipality or to a new fire company formed by or on behalf of that municipality. The Fire Department will transfer any such property and firefighting apparatus on the effective date of the withdraw, along with the debt that existed on the property and the firefighting apparatus at the time of the contribution. In the event that the Withdrawing Municipality is not satisfied with the terms of any such return of property and firefighting apparatus, the Withdrawing Municipality shall have the right to file a petition to challenge the Board of Trustee's decision with the Court of Common Pleas of Berks County. A Withdrawing Municipality shall have no claim to any of the assets of the Fire Department other than what is specifically set forth above.

After December 31, 2011, no Withdrawing Municipality shall be entitled to the return of any contribution of money or property upon withdrawal from the Fire Department.

**Section 7.06 Annual Audit** The Fire Department shall retain an independent certified public accountant to perform an annual audit of the operations and finances of the Fire Department.

## **ARTICLE VIII - AMENDMENTS**

**Section 8.01 Amendments** Subject to the provisions of Section 2.02, these By-Laws may be amended, altered or repealed, and new by-laws may be adopted by the Board of Trustees at any regular or special meeting. No provision of these By-Laws shall vest any property or contract rights in any person.