

VILLAGE OF WESTFIELD
BOARD OF FIRE COMMISSIONERS

POWERS & AUTHORITY

Approved by the Village Board of Trustees at their regular meeting held on Monday, December 19, 2011

BACKGROUND:

A separate board of fire commissioners may be appointed by the village board, although such appointment is not mandatory. The board of fire commissioners reports to the village board. The board of fire commissioners (BOFC) has certain powers with regard to the administration of the fire department, but does not have absolute power. The board of fire commissioners must consist of at least three members who are appointed by the mayor, subject to the approval of the board of trustees.

STATUTORY POWERS OF THE BOFC:

The board of fire commissioners, subject to the express approval of the village board of trustees:

1. Maintains the care, custody and control of all village property of the fire department;
2. May purchase such equipment as is suitable and necessary to prevent and extinguish fires within the village, or for the purposes of any emergency and first aid squad organized within the fire department;
3. May purchase uniforms for all active members of the fire department and keep the same in good condition and repair;
4. May erect and maintain suitable and necessary buildings for the fire department;
5. May construct and maintain reservoirs and cisterns and supply them with water for use at fires;
6. May adopt rules for the admission, suspension, removal and discipline of the members, officers and employees of the fire department. The board also may prescribe powers and duties of the members, officers and employees of the fire department (if any) and fix their compensation. The duties must be consistent with the duties of chiefs and assistant chiefs as imposed by law. *(It is important to note that the power is not to approve the bylaws of a fire company. Neither the village board nor the BOFC has the power to approve the bylaws of the*

fire company. However, the bylaws of the fire company may not conflict with the rules created by the BOFC.

7. May adopt rules and regulations governing the village's fire department and its fire companies;
8. May prescribe the duties of the members of the fire department and its fire companies;
9. May enforce discipline;
10. May provide for public drills, parades, funerals, inspections and reviews of the village fire department, or any company or unit thereof, with the village or at other places within the state, any adjoining state or in Canada;
11. May appoint persons other than members or officers of the department to take charge of village property, and may fix their compensation;
12. May employ duty or "call men" to serve on a part-time basis when necessary, and fix their duties and compensation. In the event of injury, such part-time paid firefighters are entitled to the benefits offered to paid firefighters under section 207-a of the General Municipal Law. Persons who are volunteer members of the village fire department may be employed as such part-time paid firefighters. Such persons, if injured or killed when being paid for their part time service, may not be treated as volunteers, but as paid part time firefighters. *(Please note: This state law is contradicted by rulings of the United States Department of Labor Wage and Hour Board. The Wage and Hour Board has ruled that a person may not volunteer in the agency in which he is employed. Thus, the viability of this law is in question, since federal law generally pre-empts state law.*
13. May inquire into the cause and origin of fires occurring in the village and may take testimony in relation to fires;
14. May, with the approval of the village board, organize and maintain fire companies. However, the BOFC must first determine that it is in the public interest to create an additional or new fire company. A fire company may be incorporated or operate without being incorporated. *(Note: Funds of a fire company that is not incorporated belong to the village upon dissolution of the fire company.)*
15. May consent to the incorporation of any of the fire companies;
16. May create rules and regulations for the following purposes:

- a. To protect and preserve the village property and apparatus of the Fire Department.
- b. To prevent danger from fires and to protect property exposed to destruction or injury by fire;
- c. To provide for pulling down, blowing up and the removal of buildings and property to slow the progress of fires or extinguish the same;
- d. To provide for the installation of yard hydrant systems connected with the public water supply system in accessible locations on private property for the protection of multiple residences, where the village board determines that the possibility of a serious fire hazard exists. *(Note: The BOFC may not create rules or regulations that authorize any member of the board to interfere with the duties of the fire chief or the assistant chief at such times as the fire department or any company or squad thereof is on duty.)*

Sources: Village Law Section 3-308(1), (4) (5); Village Law Section 10-1000; Opinion of the State Comptroller 1990-19