

**AMENDED BY-LAWS
FERNDALE RURAL FIRE DISTRICT TRUSTEES
OCTOBER 2023, EDITION**

Revised 11/13/2023

SECTION 1

ARTICLE I - In accord with Section 11-2008, R.C.M. 1947, the Flathead County Commissioners established the Ferndale Rural Fire Protection District, District #32, serving Flathead and Lake Counties. In accordance with Montana Code Annotated 2003, Title 7 Local Government, Chapter 33 Fire Protection, Part 21 Rural Fire Districts, the Ferndale Rural Fire District has prepared and adopted these bylaws.

SECTION 2

ARTICLE I - The purpose of this organization shall be to provide emergency services for the protection of life and property and to render all necessary and proper public services for the greater Ferndale area community and for other Montana communities when requested through mutual aid.

SECTION 3

ARTICLE I – BOARD ELECTION and ORGANIZATION

- A. The affairs of the Fire District shall be governed and managed by the Board of Trustees, Annotated 7-33-2106. Trustees must be residents of the District and elected as provided in MCA 13-1-104(3) and 13-1-401 at an annual election held on school Election Day, the first of May each year under the direction of the Flathead County Election Administrator. The term of office shall be 3 years beginning at the first district meeting following election. Candidates may be nominated by petition filed with the county election administrator at least 120 days before Election Day and signed by at least 5 electors of District. If the nominations are not made on or before the deadline, the Fire District will not be allowed to vote for candidates on a write-in basis, but the Trustees will have to be appointed by action of the County Commissioners. All electors who reside in Ferndale Rural Fire Protection Fire District, including any holder of title to lands within the District who present proof of interest in such land at polling place, shall be eligible to vote.

- B. The Trustees shall organize at the first regular meeting following Election Day by selecting a chairman, a vice chairman and appointing one member to act as secretary. They shall annually review, amend, prepare, and adopt suitable bylaws.

- C. Overview of trustee responsibilities shall include; individually or collectively, act as representatives of the residents and property owners of the Fire District and make decisions

that best serve their needs. The Board of Trustees' authority to govern the Fire District is a collective authority. Individual Trustees, regardless of their position on the Board, do not have the power to direct the work of the Fire Chief, volunteers or employees, nor speak or act on behalf of the Fire District unless they have been specifically granted that authority by a vote of the Board. An effective outcome to this concept of collective authority is the importance for the Board to speak with one voice once a decision has been made. Trustees will not always agree and they have the right to maintain and express differing viewpoints, styles, opinions and values. Different viewpoints are healthy in the decision-making process. Nonetheless, Board Trustees should respect the dignity of their office and observe common standards of decorum.

A Trustee should strive to:

1. Understand that their basic function is "policy" and not "administration" or "operations."
2. Not make commitments outside of Board meeting on any matter relating to the Fire District, which should come before the Board as a whole.
3. Recognize that they have no legal authority to act for the Board outside of the official meetings without specific approval from the Board.
4. Respect to the rights of the public to be heard at Board meetings within established parameters and guidelines for public comment.
5. Make informed decisions after all available facts have been presented and discussed.
6. Accept the principle of "majority rule" in Board decisions.
7. Recognize that the Fire Chief should have full administrative and operational authority under general direction of the board.
8. Declare conflicts of interest into the public record.
9. Conduct all Fire District business in ethical manner.
10. Not use their position for personal gain.
11. Position themselves so as to not interfere with emergency operations or become a distraction to command or staff, if observing Fire District volunteers or employees during an emergency incident.
12. Maintain a work environment free of all forms of harassment, discrimination and retaliation.

D. **The Chairman** shall preside at all meetings of the Trustees, direct the affairs of the District, bring before the Trustees such matters as require their attention and approval, perform, or oversee all actions necessary, co-sign warrants, meeting minutes, and carry out such other duties as may be necessary. The Chair is a co-equal member of the Board and has the right to make motions, participate in discussion and vote. He will vote on each motion as a regular member of the board.

The Vice Chairman shall in the absence of the Chairman perform all the duties of that office.

The Secretary shall oversee the complete record of the proceedings (Minutes) of all Trustee meetings and committees. Minutes of an open meetings, and portions of meetings that are open to the public, are required to be made available for inspection and/or copying by the public and must be provided electronically to the County Clerk and Recorder within (30) days after approval to the Board. The Minutes are not a transcript of the meeting. The Secretary or designee should avoid direct quotes or lengthy detailed descriptions. The Minutes should be impersonal and contain the record of what was done at the meeting, not what was said by the Trustees. The Secretary is responsible for carrying on of correspondence, the filing of all records necessary for County and State, filing the approved budget with the County Clerk, attesting to Chairman signature on minutes, keeping an accurate account of expenditures and receipts and perform other such duties as may be required. The Secretary is responsible for delivering Board Meeting Packets seventy-two (72) hours prior to meetings. The packets shall be made available to Board Members via electronic or written means or both.

- E. Vacancies in office occur under the circumstances set forth in MCA 2-16-501, including the failure to discharge one's duties for three consecutive months unless prevented from doing so due to illness or approved leave. Should a vacancy occur, the Flathead County Board of Commissioners shall appoint a person to fill the vacancy and the appointed shall hold office until the next regular election.

ARTICLE II - LEGAL AUTHORITY- the County Attorney shall be the legal advisor for the Trustees and the Ferndale Rural Fire District unless a conflict of interest exists or as the Trustees otherwise elect.

ARTICLE III - POWER & RESPONSIBILITIES OF THE BOARD OF TRUSTEES

- A. The Trustees shall have the authority to provide adequate and standard firefighting and emergency response apparatus, equipment, personnel, housing and facilities, including real property, for the protection of the district.
- B. The Trustees shall prepare annual budgets and request special levies for those budgets. The budget laws, Montana Codes, and procedures relating to Flathead and Lake Counties, as far as applicable, apply also to the Ferndale Rural Fire District; however, the district budget is considered to be a part of the county budget.
- C. The trustees may establish a capital improvement fund for the replacement, improvement, and acquisition of property, facilities, or equipment that costs over \$5,000 and has a life expectancy of over 5 years.
- D. The Fire District Trustees may enter into mutual aid agreements with proper authorities of other fire districts, unincorporated and incorporated municipalities, state agencies, federal agencies, fire service areas, and governing bodies of other political subdivisions.

- E. The Trustees shall appoint or approve the Ferndale Fire Chief, Assistant Chief/s, and all other paid employees. Each appointment shall be first made for a probationary term of 6 months and thereafter the trustees must consent/deny the appointment of the Chief, Assistant Chief/s, and all other paid employees by approved manner of selection. The Trustees may suspend or terminate the Chief, Assistant Chief/s, or any member of the Ferndale Fire or employee of the District for neglect of duty or a violation of any of the rules and regulations of the Fire District or for any reason allowed by law.
 - F. A Trustee may resign from the Board. Resignations should generally be in writing and submitted to the Board Chair and the County Commission. Vacancies occurring on the Board are filled by the County Commission. A Trustee appointed to fill a vacancy holds office until the next regular election and if elected, will serve the unexpired term of the vacant position.
 - G. An Officer may resign their position at anytime. When an officer position becomes vacant, the Board should subsequently fill the position at the next regular meeting.
 - H. When there is the presence of three or more Trustees this constitutes a quorum for all meetings. If a Trustee is not available in person, the Trustee may attend a Board meeting telephonically or electronic means as long as all written testimony and documents are provided before the scheduled meeting or read aloud at the meeting for the Trustee to consider and those in attendance can hear the Trustee and Trustee can hear the persons speaking at the meeting. Virtual meetings must still meet all of the public notice and public comment requirements. Proxy-voting is not allowed and does not establish a quorum.
1. The Board of Trustees hereby authorizes the Ferndale Fire Chief to Administratively suspend fire department members when their conduct; results in opening an investigation for possible misconduct, creates an unsafe situation for the employee or other employees of the District, creates a disruptive, inefficient, and/or unprofessional work environment. Any employee placed on administrative suspension is to be paid as if working regular hours until a hearing is held before the Board of Trustees, as to the nature of the suspension.
 2. Upon receiving notice from the Fire Chief that a disciplinary hearing be called (commonly referred to as a Loudermill hearing) the Trustees will hold a hearing, discuss and rule on the matter at their next regular meeting or within 20 days of the date of the Chief's written notice, whichever first occurs. The meeting shall be a closed, private meeting, unless the subject employee waives their right to privacy. The Chief and other officers of Ferndale Fire will present any information, facts, or witnesses in support of their recommendation for disciplinary action up to and including termination. The individual recommended for discipline/ termination has the right to appear, to examine all the evidence, to request witnesses and may have an attorney

present. The Trustees shall issue a written decision with reasons accepting, denying, or modifying the recommendation of the Ferndale Fire Chief.

3. No Trustee shall enter into any agreement or transaction involving the collection or disbursement of taxpayer funds without first securing a simple majority public vote by the entire Board of Trustees.
4. A Trustee who may have a financial, personal interest or personal reimbursement-compensation solely and apart from the rest of the Department members to him or her for an item or reimbursement-compensation that is under consideration by the Board of Trustees shall declare that he/she may have a conflict. That member shall abstain from the Board vote on the item of conflict. Such member may participate as part of the board providing information to the board on the item. Any disqualification/abstention shall be recorded in the minutes of the meeting.

ARTICLE IV - The trustees shall hold regular meetings the third Monday of every month to conduct business pertaining to the Fire District, unless otherwise scheduled and properly noticed.

- A. All meetings and records of the District are open to the public except where prohibited by law. The board must adopt procedures to facilitate public participation in decisions that are significant interest to the public. The public may attend all meetings of the Trustees except those which may be closed to discuss personnel matters. The Trustees shall post an agenda notice in advance of meetings and published a minimum of forty-eight (48) hours in advance of any meeting on its website or social media site and written notice at the fire hall in Ferndale, Montana, similarly advertising the time, place, and agenda of the next regular meeting of the Trustees. Notices shall be posted in accordance with Montana open meetings laws.
- B. Board meeting agendas will include the following:
 1. Opening of Meeting
 2. Public Comment in Accordance with MCA 2-3-103
 3. Approval of Minutes
 4. Approval of Warrants and Financial Reports
 5. Reports of Trustees and Fire Chief
 6. Discussion and Decisions Items (define with specificity such as: "discussion and decision on purchase of new engine" because this provides the public with the information to know what the Board will be discussing/deciding so they can decide whether to participate at the Board meeting.
 7. Announcements
 8. Adjournment

- C. Any person may appear and speak during the public comment session at regular or special meeting of the Trustees. The chairperson may reasonably limit speeches or presentations by the public at Trustee meetings. Members of the public may be allowed to speak during Trustee discussion of agenda items at the discretion of the Trustees or otherwise required by law.

ARTICLE V – Trustee Misconduct

A trustee needs to conduct themselves in an ethical and trustworthy manner.

State Statute 45-401 Official Misconduct. (1) A public servant commits the offense of official misconduct when in an official capacity the public servant commits any of the following acts:

- A. purposely or negligently fails to perform any mandatory duty as required by law or by a court of competent jurisdiction;
- B. knowingly performs an act in an official capacity that the public servant knows is forbidden by law;
- C. with the purpose to obtain a personal advantage or an advantage for another, performs an act in excess of the public servant's lawful authority;
- D. solicits or knowingly accepts for the performance of any act a fee or reward that the public servant knows is not authorized by law; or
- E. knowingly conducts a meeting of a public agency in violation of **2-3-203**.

A public servant convicted of the offense of official misconduct shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

The district court has exclusive jurisdiction in prosecutions under this section. Any action for official misconduct must be commenced by information filed after leave to file has been granted by the district court or after a grand jury indictment has been found.

A public servant who has been charged as provided in subsection (3) may be suspended from office without pay pending final judgment. Upon final judgment of conviction, the public servant shall permanently forfeit the public servant's office. Upon acquittal, the public servant must be reinstated in office and must receive all backpay.

This section does not affect any power conferred by law to impeach or remove any public servant or any proceeding authorized by law to carry into effect an impeachment or removal.

SECTION 4

ARTICLE I

The by-laws may be amended by proposing a change in writing at any regular meeting, then voting on the change by a majority vote of the Trustees at the next regular meeting.

ARTICLE II

- A. Meetings shall be conducted according to generally accepted principles of parliamentary procedure.
 - 1. General discussion of and the presentation of information relevant to agenda item being considered;
 - 2. Board discussion and questions;
 - 3. Public comment;
 - 4. Board discussion on public comment, if applicable;
 - 5. Trustee motion;
 - 6. Trustee second of the motion and any further discussion if necessary; and
 - 7. Board final vote.

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| _____ | _____ |
| Bill Morton Chair | Date |
| _____ | _____ |
| Phil Snow Co-Chair | Date |
| _____ | _____ |
| Mark Havens Trustee | Date |
| _____ | _____ |
| Jim Butts Trustee | Date |
| _____ | _____ |
| Ken Sharr Trustee | Date |