

Fire Service Organizations in Missouri

Fire Protection Districts • City Fire Departments
• Volunteer Fire Protection Associations

Frank Vatterott and Sarah Vatterott
Vatterott Harris P.C.
July 16, 2016

City Fire Departments

- ▶ Many cities created prior to 1947 maintain their own City Fire Departments.
- ▶ Subject to the same oversight and governance structure as any other municipal department.
- ▶ Funded mostly from the general fund, municipal fire departments must compete with other services in municipal budget.

Volunteer Fire Associations

- ▶ Most rural areas are served by Volunteer Fire Associations that rely upon paid memberships and subscriber fees.
 - ▶ Fees for responding to fires of non-members are set by statute.
 - ▶ The fees are \$100.00 plus \$500.00 per hour until the equipment is back in firehouse and available for service.
- ▶ §§ 320.300 - 320.310, RSMo

Fire Protection Districts

Formation

- ▶ Political subdivision authorized under Chapter 321
- ▶ Created by a petition signed by 100 or more registered voters and filed with circuit clerk
- ▶ Court hearing
- ▶ Election
 - ▶ approved by majority of voters who reside within the boundaries of the proposed district

Fire Protection Districts

Board of Directors

- ▶ Three or five members
- ▶ Each director served a six year term
 - ▶ Elections every two years
- ▶ Delegation
 - ▶ Board may assign ministerial duties
 - ▶ Board may not authorize any member to act for the Board
- ▶ Public Officials - Chapter 115

Fire Protection Districts

Funding

- ▶ Taxing entity - rely on real estate and personal property taxes
- ▶ Dispatching, bond, pension and ambulance levies
- ▶ Some Districts also have a sales tax, which is a partial credit against the property tax under a formula authorized under Chapter 321
- ▶ Mutual aid agreements
- ▶ Grants

Fire Protection Districts

Annexation

- ▶ Most frequent issues between Cities and Districts include annexation and jurisdiction issues
- ▶ When a City Fire Department annexes an unincorporated area served by District, there may be issues regarding payment arrangements
- ▶ Annexation
 - ▶ Robertson FPD - Hazelwood
 - ▶ Affton FPD - Crestwood
 - ▶ DeSoto Rural FPD - City of DeSoto

Fire Protection Districts

Services

- ▶ Majority of District calls are EMS-related or traffic accidents
- ▶ Relatively few fire-related emergencies
- ▶ Education
- ▶ Code enforcement
 - ▶ Statutory authority to enact by reference fire codes, building codes and fees

Fire Protection Districts

Ambulance

- ▶ Most Districts do not have their own ambulances
- ▶ Rely upon Ambulance Protection Districts and City Ambulances
 - ▶ Memorandum of Understanding
 - ▶ Emergency Services Act, §§ 190.001 to 190.245, RSMo
- ▶ Some Districts in first class counties maintain their own ambulances

Ambulance Protection Districts

Overview

- ▶ Political subdivision authorized under Chapter 190
- ▶ General, dispatching, pension levies
- ▶ Board of Directors
 - ▶ Six members / Three year terms

Fire Protection Districts

Building and Construction Code

- ▶ District is subject to a City's building and construction Code
- ▶ Exception - there is a specific regulation the District establishes that preempts the City's power on that specific and limited regulation
 - ▶ *Wellston Fire Prot. Dst. v. State Bank and Trust Company of Wellston*, 282 S.W.2d 171 (Mo. App. 1955)

Fire Protection Districts

Building and Construction Code

- ▶ Cities possess authority to regulate and control the construction of buildings and other structures
- ▶ Districts “withdraw” the City’s authority to control the construction of buildings and structures “for the purposes of preventing fires and protecting property and members of the public from the hazards thereof”

Fire Protection Districts

New Residential Construction

- ▶ Legislation has stripped Districts from new residential construction permitting when there is a city or county building code in the same area
 - ▶ §§ 321.222 and 321.228, RSMo
- ▶ Purpose is to avoid duplicative “and costly” compliance by builders when fire codes and building codes are somewhat different
- ▶ District still has some authority over subdivision plats for fire hydrant and width of streets

Fire Protection Districts

Police Powers

- ▶ Cities have police powers that Districts do not
- ▶ City can place a permanent gate on a village street to regular traffic congestion even though it may cause a delay in the District response for a fire behind the gate
 - ▶ *Normandy Fire Prot. Dst. V. Village of Pasadena Park*, 927 S.W. 2d 516 (Mo. App. 1996)

Fire Investigation

Fourth Amendment

- ▶ Prohibition against illegal search and seizures applies to fire inspectors, not just law enforcement
- ▶ Exigent circumstances - Fire official does not need a warrant to investigate the “cause and origin” of the fire for a reasonable time after it has been extinguished
 - ▶ *Michigan v. Tyler*, 436 U.S. 499 (1978): re-entries within a few hours after fire extinguished are continuations of original lawful entry
 - ▶ *Michigan v. Clifford*, 464 U.S. 287 (1984): once fire extinguished and officials have left the premises, then emergency is over and re-entry requires warrant

Fire Service Organizations

Fourth Amendment

- ▶ Cause/origin vs. gathering evidence of crime
- ▶ Marijuana seen during post-flue fire inspection
 - ▶ In Plain View while searching attic for fire that might have escaped from the flue
 - ▶ Inadvertent; search not conducted for purpose of finding marijuana
 - ▶ If there is no longer exigency, then warrant needed to search for additional evidence of crime
 - ▶ *State v. Dawson*, 675 S.W.2d 127 (Mo. App. 1984)