

WOOD COUNTY, WEST VIRGINIA FIRE SERVICE FEE ORDINANCE

WHEREAS, West Virginia Code Chapter 7, Article 17, Section 12, as amended, provides the Wood County Commission with the authority to impose reasonable fire service rates, fees and charges, and;

WHEREAS, it is deemed in the best interest of the citizens and residents of Wood County necessary and appropriate, to impose such reasonable fire service rates, fees and charges;

WHEREAS, the Wood County Fire Board has presented a petition containing the signature of at least ten percent of the qualified voters duly signed by them in their own handwriting, and filed with the Clerk of the County Commission directing that the county commission impose such a fee.

NOW THEREFORE THE WOOD COUNTY COMMISSION HEREBY ORDAINS THAT:

ARTICLE 1: PURPOSE AND INTENT

Section 1.1. The purpose of this Fire Service Fee Ordinance is to provide for a reasonable annual fire service fee upon the users of fire protection services within Wood County, West Virginia; to provide that the County Assessor of Wood County, West Virginia shall fix the square footage of structures within Wood County, West Virginia; and to provide for publication of this Fire Service Fee Ordinance as a Class II legal advertisement pursuant to 59-3-1, et seq. of the West Virginia Code, as amended.

Section 1.2. The legislative intent of this Fire Service Fee Ordinance is to generate revenue that shall be utilized to defray costs of expenses associated with continuing, maintaining, improving, regulating, and supervising fire services in areas located in Wood County, West Virginia, excluding the area within the corporate limits of the City of Parkersburg.

Section 1.3. Fire protection services in Wood County, West Virginia, shall be continued, maintained, and improved by the Wood County Fire Service Board, in part, at the charge and expense of the owners of Single Family Residential, Apartments, and Non-Residential Buildings located within Wood County, West Virginia as said owners are the users and beneficiaries of these special and essential fire protection services. The fees and charges imposed pursuant to this Fire Service Fee Ordinance shall be imposed, assessed, and collected as provided for herein.

ARTICLE II: LEGISLATIVE AUTHORITY

This Fire Service Fee Ordinance is adopted by the County Commission of Wood County, West Virginia pursuant to the authority set forth in 7-17-1, et seq. of the West Virginia Code, as amended.

ARTICLE III: ENACTMENT AND APPLICABILITY OF FIRE SERVICE FEE

Section 3.1. There is hereby created an annual fire service fee to be imposed by the County Commission of Wood County, West Virginia pursuant to the terms of this Fire Service Fee Ordinance.

Section 3.2. Subject to the exemptions provided in Article III, Sections 3.3 herein, this annual fire service fee shall apply to every Owner of one or more Single Family Residential, Apartments or Non-Residential Building located within Wood County, West Virginia, but not within the Municipality of Parkersburg, West Virginia.

Section 3.3. Buildings owned by the federal government or used for federal governmental purposes shall not be subject to the annual fire service fee.

Section 3.4. Residential or Non-residential buildings located within Wood County, West Virginia, but not within the Municipality of Parkersburg, West Virginia that are granted tax exempt status by the Wood County Commission or State of West Virginia as part of a development plan or business transaction are not exempt from payment of the fire service fee.

ARTICLE IV: RATES

Section 4.1. Subject to the limitations provided in Article III, Sections 3.3 and 3.4 herein, every Owner of one or more Single Family Residential or Non-Residential Buildings located within Wood County, West Virginia, but not within the Municipality of Parkersburg, West Virginia, shall pay an annual fire service fee for each such building. The total amount of the annual fire service fee shall depend upon the total square footage of the building as set forth below:

(a) Single Family Residential	.02 cents per square foot
(b) Apartments residential	.02 cents per square foot
(c) Non-residential Commercial	.03 cents per square foot
(d) Non-residential Industrial	.03 cents per square foot

Section 4.3. In the event that more than one Non-Residential Building is owned by the same Owner or Owners, one annual fire service fee shall apply per individual plat as recorded with the Office of the Clerk of the County Commission of Wood County, West Virginia.

ARTICLE V: EFFECTIVE DATE; SCHEDULE OF PAYEMNTS

Section 5.1. This Amended Fire Service Fee Ordinance shall become effective on January 1, 2016. The annual fire service fee imposed pursuant to this Fire Service Fee Ordinance shall be for fire protection services rendered from the fiscal year of January 1, 2016 to December 31, 2016, and each consecutive fiscal year thereafter. .

Section 5.2. With regard to Single Family Residential Buildings, the entire amount of the annual fire service fee will be invoiced in January, and shall be due and payable on or before March 31st each year. Annual fire service fees for Single Family Residential Buildings that are not received on or before March 31st each year will be subject to additional charges of a late fee of 10% per month.

Section 5.3. With regard to Non-Residential Buildings, the entire amount of the annual fire service fee will be invoiced in January and may be satisfied by paying in full by March 31st, or can be satisfied by paying two equal installments, the first of which shall be due and payable on or before March 31st each year, and the second of which shall be due and payable on or before June 30th each year.

Section 5.4. Annual fire service fees for Non-Residential Buildings that are not paid in full on or before June 30 of each year are subject to contractual interest at the rate of ten percent (10%), which will accrue as follows: For first half fees, the interest shall accrue beginning April 1 to the date the delinquency is satisfied, plus any amounts the Wood County Fire Board expends in an attempt to collect said unpaid or delinquent fees; **for second half fees the interest shall accrue beginning** July 1 to the date the delinquency is satisfied, plus any amounts the Wood County Fire Board expends in an attempt to collect said unpaid or delinquent fees.

Section 5.5. The annual fire service fee shall be a debt due and payable to the Wood County Fire Board and shall be a personal obligation of the Owner. In the event that a fire department is called to the property of an Owner who is delinquent in payment of the annual fire service fee, said Owner shall be billed the amount of five hundred dollars (\$500.00) to cover expenses associated with the call. This amount shall also be a debt due and payable to the Board and a personal obligation of the Owner, in addition to any delinquent fees or charges already owed.

Section 5.6. If an Owner fails to pay the annual fire service fee as set forth in this Fire Service Fee Ordinance, then the Board may proceed with any remedies available, under the laws of the State of West Virginia, necessary to secure payment, including but not limited to, initiating civil action in the Magistrate or Circuit Court of Wood County, West Virginia. In the event that the Board initiates civil action and is successful in its recovery, the non-paying Owner shall reimburse the Board for any associated costs and expenses, including but not limited to, filing fees, service fees and attorney's fees.

Section 5.7 Annually, in the second half of each year, the Wood County Fire Service Board shall publish in a qualified newspaper circulated in Wood County, West Virginia, a listing of those owners delinquent in paying their fire service fee.

ARTICLE VI: USE OF ANNUAL FIRE SERVICE FEES

The annual fire service fees imposed pursuant to this Fire Service Fee Ordinance shall be dedicated to the Wood County Fire Service Board, and shall be used only to defray the costs of continuing, maintaining, improving, regulating, and supervising fire protection services within Wood County, West Virginia. No part of the annual fire service fees shall be used for any other purposes.

All monies provided to fire departments in Wood County, West Virginia, pursuant to this fire service fee, shall be expended in order to continue, maintain, improve, regulate, and supervise each department firefighting services in their respective communities.

ARTICLE VII: ESTABLISHING SQUARE FOOTAGE OF PROPERTY

Section 7.1. The County Assessor of Wood County, West Virginia and/or the Wood County Fire Board is empowered, authorized and directed to fix the square footage of buildings for the purpose of establishing the annual fire service fees imposed pursuant to this Fire Service Fee Ordinance.

Section 7.2. The County Assessor of Wood County, West Virginia and/or the Wood County Fire Board is empowered, authorized and directed to classify properties as Single Family Residential and Non-Residential in order to establish the amount of the annual fire service fee charged pursuant to this Fire Service Fee Ordinance.

ARTICLE VIII: DISTRIBUTION OF ANNUAL FIRE SERVICE FEES

The fees imposed and levied by this article shall be collected as aforesaid. Fees levied by this Ordinance will then be received and distributed by the Wood County Fire Service Board in July of each year, with funds collected to date. The Wood County Fire Service Board will disburse the funds to each of the ten volunteer fire departments in Wood County, West Virginia, outside of the municipality of Parkersburg, including: Vienna, Williamstown, Washington Bottom, Lubeck, Blennerhassett, Mineral Wells, Waverly, East Wood, Pond Creek, and Deerwalk. A funding amount from the fee will also provide operational funds for the Wood County Fire Service Board as outlined in their bylaws.

It is estimated this fee will generate approximately 1.45 million dollars, if collected in full, to be distributed amongst the ten departments beginning in year 2016. Each of the above mentioned departments will be provided a base funding amount of \$80,000. The remaining funds collected will be distributed to each department based on the percentage of the total fee that is collected in their individual fire protection districts.

The percentage paid to each department above the initial \$80,000 base will be calculated annually by the Wood County Fire Service Board and provide each department with that total amount of funds as designated.

All fire departments in Wood County receiving funds from the Wood County Fire Service Board will be required to deposit money received from the Wood County Fire Service Fee into a separate and distinct checking account designated specifically to this funding source of income and expenditures.

Each department receiving funds from the Wood County Fire Service Fee Ordinance shall annually cause an audit of the books and dedicated account by an independent firm, and such audit shall be presented to the Wood County Fire Service Board for review by October 1 each year.

ARTICLE IX: PUBLICATION OF FIRE SERVICE FEE ORDINANCE

This Fire Service Fee Ordinance shall be published once a week for two successive weeks in a qualified newspaper published and circulated in Wood County, West Virginia.

ARTICLE X: ADMINISTRATION OF ORDINANCE

Pursuant to 59-3-1, et seq. of the West Virginia Code, as amended, the Wood County Fire Board shall make and adopt all bylaws, rules and regulations that are necessary to carry out this Fire Service Fee Ordinance.

ARTICLE XI: EXONERATION OR MODIFICATION

Any individual or entity claiming to be aggrieved by any error including classification, calculation of square footage, or ownership of property may, on or before March 1 of the year of mailing, apply for relief to the County Commission of Wood County. Provided, that upon the discovery of any such error or mistake by the assessor or fire board, or either having knowledge thereof, the assessor or fire board shall initiate an application for relief or cause notice to be sent to any owner affected by such error or mistake by first-class United States mail advising the owner of the right to make application for relief.

In the event it is ascertained that the owner is entitled to relief, any excess fees already paid shall be refunded and, if charged but not paid, the applicant shall be released from the payment of such excess: Provided, That in the event a mistake or error is discovered more than one year after the fire fee bills are mailed, any relief granted to the owner shall be in the form of a credit against fees owing for up to the following two years: Provided, however, That if there are insufficient future fees to credit or if the county commission determines that a refund is appropriate, then the fire board shall refund the uncredited balance to the owner.

Whenever any correction is made by the county commission, the clerk shall certify copies of the order to the fire board and assessor. Any such order delivered to the fire board or other collecting officer shall restrain him or her from collecting so much as is **erroneously** charged against the owner, and, if already collected, shall compel him or her to refund the money unless otherwise directed.

An Owner not satisfied with the Board's decision may appeal the decision to the Circuit Court of Wood County, West Virginia. If no appeal is filed within thirty days after the Board's decision, then the decision shall become final and not subject to further review. Any amount due the Board pursuant to its decision shall be due and payable on the next consecutive day following the date the decision becomes final.

ARTICLE XII; PROHIBITED DISTRIBUTIONS

No funds shall be distributed to any department that is not in compliance with the audit requirements contained herein until such time as the audit has been completed and any deficiencies in the audit have been corrected to the satisfaction of the Wood County Fire Board. Furthermore, no funds shall be distributed to any department that is no longer in good standing with the West Virginia State Fire Marshall's Office.

ARTICLE XIII; SEVERABILITY AND LIABILITY

The articles, sections, headings, paragraphs, sentences, clauses, phrases of this Fire Service Fee Ordinance shall be severable and if any article, section, heading, paragraph, sentence, clause, or phrase herein or the application thereof to any individual, entity or circumstance shall be declared unconstitutional or otherwise invalid by the judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining articles, sections, paragraphs, sentences, clauses, or phrases of this Fire Service Fee Ordinance or the application thereof to any individual, entity, or circumstance.

The enactment of this Ordinance shall not constitute a representation, guarantee, or warranty of any kind by the County Commission of Wood County, West Virginia, or by any official or employee thereof, and shall create no liability upon the County Commission of Wood County, West Virginia, any official, employee, or agent thereof.

ARTICLE XIV: DEFINITIONS

For purposes of this Fire Service Fee Ordinance, the following words and phrases have the following meanings:

- (a) "Attic" means that portion of a building that is located immediately below the roof, and which is unfinished and not used as part of the living or working area of the building.

- (b) "Basement" means that portion of a building that is located below the level or adjoining ground, and which is unfinished and not used as a part of the living or working area of the building.
- (c) "Non-Residential Building" means any building, whether or not occupied, that is used for commercial, institutional, industrial, governmental, institutional, nonprofit or multifamily purposes, and which is classified as non-residential by the County Assessor of Wood County, West Virginia. The term "Non-Residential Building" shall include hotels, motels or other buildings intended for transient lodging, and shall also include rental property of any type. The term "Non-Residential Building" shall also include buildings used for state governmental purposes, schools and buildings used for educational purposes, buildings used for charitable, fraternal and non-profit purposes, and religious institutions or buildings used for religious purposes. The term "Non-Residential Building" shall also include industrial buildings classified as such by the West Virginia Department of Taxation and Revenue.
- (d) "Owner" means any person or entity listed in the records of the County Assessor of Wood County, West Virginia as possessing exclusive rights and control of property, whether in fee or for life. A person or entity seized or entitled to in fee subject to a mortgage, deed of trust or similar instrument securing a debt or liability of property is considered the owner until the mortgagee or trustee takes possession, after which the mortgagee or trustee is considered the Owner.
- (e) "Single Family Residential Building" means any building constructed with a value of at least one thousand dollars (\$1,000.00), whether or not occupied, for residential purposes, including mobile homes, and which is classified as residential by the County Assessor of Wood County, West Virginia. The definition of "Single Family Residential Building" shall not include buildings used primarily for agricultural purposes, but shall include farmhouses used for residential purposes.
- (f) "Story" means the part of a building included between any floor and the floor or roof next above, excluding basements and attics.
- (g) "Total square footage" of a residence means that sum as measured by the exterior dimensions of the building, multiplied by the number of stories, but not including the following: porches, unless entirely enclosed for weather purposes; basements, not utilized as the living or working area of the building; attics, garages; and outbuildings not connected to the building.

ENTERED:

WOOD COUNTY COMMISSION:

, President

, Commissioner

, Commissioner

DATE:
