

# WOOD COUNTY, WEST VIRGINIA FIRE SERVICE FEE ORDINANCE

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**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:

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

**The maximum fee billed will be \$3,000 per building.**

**Non-Commercial buildings will be charged \$5 for the main or largest building, and \$1 for each additional building thereafter.**

**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 PAYMENTS**

**Section 5.1.** This Amended Fire Service Fee Ordinance shall become effective on July 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 July 1, 2016 to June 30, 2017, and each consecutive fiscal year thereafter. The Wood County Fire Service Fee will be a separate distinct bill mailed within the tax payer's annual tax bill envelope. Specific instructions for payment of the Fire Service Fee will be included in addition to the Fire Service Fee bill and the tax bill.

**Section 5.2.** With regard to Single Family Residential Buildings, the entire amount of the annual fire service fee will be invoiced in July, and shall be due and payable on or before September 30 each year. Annual fire service fees for Single Family Residential Buildings that are not received on or before September 30th each year will be subject to additional charges of a late fee of 2% per month.

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

**Section 5.4.** Annual fire service fees for Non-Residential Buildings that are not paid in full on or before December 31st of each year are subject to contractual interest at the rate of five percent (5%), which will accrue as follows: For first half fees, the interest shall accrue beginning October 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 January 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 County Fire Board, with assistance of the County Prosecutors office, 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 January 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. Authorized expenditures or revenues from The Wood County Fire Service Board fund shall be authorized in accordance with WV 8-15-8.

#### **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 by the Sheriff's Tax Department and deposited into the Wood County Fire Service Board account, under the authority of the Wood County Commission. Annually in July, the Wood County Fire Service Board will meet to review the fees received for the budget year, and will approve the funding for each of the ten volunteer fire departments in Wood County, West Virginia, outside of the municipality of Parkersburg, including: Vienna, Williamstown, Washington Bottom, Lubek, 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 as needed or requested.

It is estimated this fee will generate approximately 1.2 million dollars annually, if collected in full, to be distributed amongst the ten departments beginning in year 2017. Each of the above mentioned departments will be provided a base funding amount of \$80,000, or 65% of the total amount collected annually, whichever is the greater amount. 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.

Each department will be required to submit invoices to the Wood County Clerk for any and all expenditures to be paid from the Wood County Fire Service Board account. Each department will have a separate account within the Wood County Fire Service Board account. No monies will be paid directly to any fire department or the Wood County Fire Service Board.

#### **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 September 1 of the year of mailing, apply for relief to the County Commission Administrator who will notify the Chairman of the Wood County Fire Service Board and the county Assessor. 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 Fire Service Board, 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 no longer in good standing with the West Virginia State Fire Marshall's Office. Furthermore, if a fire department is closed and ceases to exist, the Wood County Fire Service Board will distribute the funds as before mentioned, with a re-calculation of the remaining fund being divided unto the number of departments remaining.

#### **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.
- (h) “Non-Commercial Building” means any building, that is NOT used for habitation, commercial, institutional, industrial, governmental, nonprofit or multifamily purposes, and which is classified as non-commercial by the County Assessor of Wood County,

West Virginia. The term “Non-Commercial Building” shall include barns, sheds, outbuildings, garages, or other structures detached from the residential structure.

**ENTERED:**

**WOOD COUNTY COMMISSION:**

\_\_\_\_\_, President

\_\_\_\_\_, Commissioner

\_\_\_\_\_, Commissioner

**DATE:** \_\_\_\_\_

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