

BERKELEY COUNTY, WEST VIRGINIA
FIRE SERVICE FEE ORDINANCE

ARTICLE I: PURPOSE AND INTENT

Section 1.1. The purpose of this Fire Service Fee Ordinance is to amend and replace the 2015 Fire Service Fee Ordinance to provide for a reasonable annual fire service fee upon the users of fire protection services within Berkeley County, West Virginia as approved by the voters of Berkeley County in the May 2024 primary election.

Section 1.2. The intent of this Fire Service Fee is to generate revenue that shall be utilized to defray the cost of expenses associated with continuing, maintaining, improving, regulating and supervising fire protection services in Berkeley County, West Virginia.

Section 1.3. Fire protection services in Berkeley County, West Virginia shall be continued, maintained, and improved by the Berkeley County Fire Service Board Inc., with the use of the Fire Service Fee on owners of buildings in Berkeley County.

ARTICLE II: LEGISLATIVE AUTHORITY

This Fire Service Fee Ordinance is adopted by the County Commission of Berkeley County, West Virginia pursuant to the authority set forth in W. Va. Code § 7-17-12.

ARTICLE III: ENACTMENT AND APPLICABILITY OF FIRE SERVICE FEE

Section 3.1. The Berkeley County Commission hereby set an annual fire service fee on all owners of buildings in Berkeley County except the following exempt buildings 1) buildings within the City of Martinsburg, 2) buildings owned by the federal government or used for federal governmental purposes, and 3) agricultural buildings not used for residential purposes.

ARTICLE IV: RATES

Section 4.1. Subject to the limitations provided in Article III, every owner of any residential or non-residential buildings in Berkeley County shall pay an annual fire service fee for each building parcel containing a building based on the area of the building(s). The square footage of all buildings as well as classification of building use is determined by the Berkeley County Assessor and/or the Berkeley County Fire Board.

Section 4.2. The total amount of the annual fire service fee shall depend upon the total square footage of the building as set forth below:

		<u>Square Feet</u>	<u>Amount</u>
(a)	Residential	0 – 1,600	\$ 35.00
		1,601 – 3,000	\$ 50.00
		3,001 +	\$ 65.00
(b)	Non-Residential	0 and above	\$ 0 .07 per sq ft

ARTICLE V: EFFECTIVE DATE: SCHEDULE OF PAYMENTS

Section 5.1. This Fire Service Fee Ordinance shall become effective on July 1, 2024. 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, 2024, to June 30, 2025, and each consecutive fiscal year thereafter.

Section 5.2. For residential buildings, the entire amount of the annual fire service fee shall be due and payable on or before September 30th of each year. Annual fire service fees for residential buildings that are not received on or before September 30th of each year are subject to additional charges as outlined below, plus any amounts the Berkeley County Fire Service Board expends in an attempt to collect unpaid or delinquent fees:

Square Footage of Building	If Payment Received On or Before September 30 th	If Payment Received After September 30 th and Before December 31 st	If Payment Received After December 31 st and Before March 31 st
0 – 1,600 sq. ft.	\$35.00	\$52.50	\$70.00
1,601 – 3,000 sq. ft.	\$50.00	\$75.00	\$100.00
3,001 + sq. ft.	\$65.00	\$97.50	\$130.00

Section 5.3. For non-residential buildings, the entire amount of the annual fire service fee may be satisfied by paying two equal installments, the first of which shall be due and payable on or before September 30th of each year, and the second of which shall be due and payable on or before April 30th of each year.

Section 5.4. Annual fire service fees for non-residential buildings that are not paid in full on or before April 30th of each year are subject to contractual interest at the rate of ten percent (10%) which will accrue from May 1st to the date the delinquency is satisfied plus any amounts the Berkeley County Fire Service 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 Berkeley County Fire Service 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 Amended 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 Berkeley 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.

ARTICLE VI: USE OF ANNUAL FIRE SERVICE FEES

The annual fire service fees imposed pursuant to this Amended Fire Service Fee Ordinance shall be dedicated to the Berkeley County Fire Service Board, and shall be used to defray the cost of continuing, maintaining, improving, regulating and supervising fire protection services within Berkeley County, West Virginia.

ARTICLE VII: ESTABLISHING SQUARE FOOTAGE OF PROPERTY

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

Section 7.2. The County Assessor of Berkeley County West Virginia and/or the Berkeley County Fire Service Board is empowered and authorized to classify properties as "residential" and "non-residential" in order to establish the amount of the annual fire service fee charged pursuant to this Amended Fire Service Fee Ordinance.

ARTICLE VIII: ADMINISTRATION OF ORDINANCE

The Berkeley County Fire Service Board shall make and adopt all bylaws, rules and regulations that are necessary and reasonable to carry out this Fire Service Fee Ordinance.

ARTICLE IX: REVIEW AND APPEAL

Section 9.1. An owner may appeal any annual fire service fee or associated charge imposed pursuant to this Fire Service Fee Ordinance by delivering to the Berkeley County Fire Service Board, by hand delivery or certified mail, a written petition setting forth the particular items of the fee or charge objected to and the reasons for the objection within thirty (30) days after receipt of notice of the annual fire service fee. If an owner fails to deliver such a petition within thirty (30) days after receipt of notice of the annual fire service fee, then the annual fire service fee imposed shall become final and not subject to administrative or judicial review.

Section 9.2. Upon receipt of a written petition, the Board shall assign a date, time and place for a hearing thereon and shall provide the petitioner with written notice of the date, time and place of the hearing, by U.S. First Class or certified mail, no less than twenty (20) days before the hearing date. A hearing scheduled pursuant to this provision shall be held no later than one hundred days (100) after the Board's receipt of the written petition.

Section 9.3. The hearing shall be informal and shall be conducted in an impartial manner by the Board, or at the Board's discretion, by a hearing examiner appointed by the Board. At the hearing, the Petitioner shall have the burden to demonstrate that the fee or charge contested is incorrect. The Board shall issue a written decision no later than sixty (60) days following the hearing.

Section 9.4. An owner not satisfied with the Board's decision may appeal the decision to the Circuit Court of Berkeley County, West Virginia. If no appeal is filed within thirty (30) days after the Board's decision, then the decision shall become final and not subject to further review. Any amount due to the Board pursuant to its decision shall be due and payable on the next consecutive day following the date the decision becomes final.

ARTICLE X: 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 designated any use other than "Residential" per the land use code by the County Assessor of Berkeley County, West Virginia. This definition shall include all buildings used for nonprofit purposes, excluding church parsonages.

- (d) "Owner" means any person or entity listed in the records of the County Assessor of Berkeley 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) "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" per the land use code by the County Assessor of Berkeley County, West Virginia. This definition shall include church parsonages. This definition 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" 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 this 27 day of June 2024.

A TRUE COPY
ATTEST:

Anthony J. Petrucci
Berkeley County Court

By: Deborah Castleman
Deputy Clerk

James P. Whitacre
James P. Whitacre, President

G. Edgar Gochenour
G. Edgar Gochenour, Vice President

James R. Barnhart
James R. Barnhart, Commissioner

H.D. Boyd
H.D. Boyd, Commissioner

R. Stephen Catlett
R. Stephen Catlett, Commissioner

ATTEST:

Anthony J. Petrucci
Anthony J. Petrucci, Clerk