

ORDINANCE
UPSHUR COUNTY FIRE SERVICE FEE

WHEREAS, West Virginia Code Chapter 7, Article 17, Section 12, as amended, provides the Upshur 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 Upshur County, necessary and appropriate, to impose such reasonable fire service rates, fees and charges; **NOW THEREFORE THE UPSHUR COUNTY COMMISSION HEREBY ORDAINS THAT:**

SECTION 1: APPLICABILITY

This Ordinance shall apply to all owners of residential buildings, residential rental buildings, commercial buildings, institutional buildings and vacant property parcels that are five (5) acres or greater in which the residential buildings, residential rental buildings, commercial buildings, institutional buildings, and vacant property parcels, five (5) acres or greater, are located in the areas and zones served by the following volunteer fire departments: Adrian Volunteer Fire Department; Banks District Volunteer Fire Department; Buckhannon Volunteer Fire Department; Ellamore Volunteer Fire Department; Selbyville Volunteer Fire Department; Warren District Volunteer Fire Department; and Washington District Volunteer Fire Department, the geographic areas of which are defined as all of Upshur County excluding the area within the corporate limits of the City of Buckhannon. Owners of record as of the first of July of each year will be responsible for any amount levied per the ordinance.

SECTION 2: AMOUNT LEVIED:

A. There is hereby imposed and levied upon the owners of all commercial or institutional buildings (as defined in Section 6) as users of fire protection service, a fire protection fee or charge of Fifty Dollars (\$50.00) for each tenant, lessee or occupant, including the owner thereof, for each unit within said building. (Residential rental units are excluded from this category.) In the event several buildings are joined together to form a complex, the owner shall be assessed a separate fee for each building tenant / unit of said complex.

B. There is hereby imposed and levied upon the owners of all residential rental buildings (as defined in Section 6) as users of fire protection service, a fire protection fee or charge of Twenty-Five Dollars (\$25.00) for each residential rental unit within said building.

C. There is hereby imposed and levied upon the owners of all residential buildings (as defined in Section 6) as the users of fire protection service, a fire protection fee or charge of Twenty-Five Dollars (\$25.00) per residential building.

D. There is hereby imposed and levied by this ordinance upon the owners of all vacant property parcels that are five (5) acres or greater (as defined in Section 6) as users of fire protection service, a fire protection fee or charge of Five Dollars (\$5.00) per vacant parcel.

SECTION 3: COLLECTIONS AND DELINQUENT PAYMENTS

The fees levied by this Ordinance shall be collected from each owner and user in annual installments due as stated on the invoice. Such fees shall be delinquent if not paid at the Office of the Sheriff for Upshur County forty-five (45) days after due date.

SECTION 4: COLLECTION FOR FIRE PROTECTION SERVICE

The fees imposed and levied by this article shall be collected as aforesaid, and shall be for fire protection services commencing as of the effective date of this Ordinance, and thereafter. Fees or charges levied by this Ordinance will be utilized for priority needs or purposes of member departments which will included expenditures related to the collection and/or operation of the fire protection fee system.

After payment and/or encumbering for any and all collection and/or operational expenses and the establishment of an emergency reserve fund balance as outlined below, fees levied by this Ordinance will be distributed in equal quarterly shares to the following member departments: Adrian Volunteer Fire Department; Banks District Volunteer Fire Department; Buckhannon Volunteer Fire Department; Ellamore Volunteer Fire Department; Selbyville Volunteer Fire Department; Warren District Volunteer Fire Department; and Washington District Volunteer Fire Department.

The Upshur County Commission, Upshur County Fire Board, and member departments request and authorize the establishment of an emergency reserve fund balance from the fees generated by this Ordinance. Ten percent (10%) of the fees generated shall be held as an emergency reserve fund balance up to a maximum of Thirty Thousand Dollars (\$30,000.00). Revenue held as the emergency reserve fund balance will be utilized by the member departments for emergency expenditures as approved and authorized by the Upshur County Fire Board.

SECTION 5: ENFORCEMENT AND DELINQUENT PAYMENT

The fees assessed pursuant to the provisions of this article shall be a debt due the Upshur County Commission and may be collected by proceedings instituted in courts of appropriate jurisdiction. The Upshur County Commission shall not have a lien on any property as security for payment due under this Ordinance.

SECTION 6: DEFINITIONS

A. "Residential Building" means any structure which is used or intended by the nature of its construction to be used by persons for living and sleeping quarters, but shall not include hotels, motels, or other buildings intended primarily for transient lodging.

B. "Residential Rental Building" means any structure which is rented in whole or in part for the purpose of single or multiple family dwelling.

C. "Commercial Building" and "Institutional Building" means any structure which is used or intended by the nature of its construction to be used for any purpose other than "residential" but shall not be deemed to include apartments or other residential rental units.

D. "Vacant Parcel" means any property parcel that does not include any assessed building improvements. Only vacant parcels of five (5) acres or more will be charged the fee as outlined in the Ordinance.

SECTION 7: INCORPORATION OF STATUTE:

This Ordinance is enacted under the specific authority granted to the Commission under the terms of Chapter 7, Article 17, of the West Virginia Code and the powers and limitations therein contained are incorporated in this Ordinance by reference.

SECTION 8: SEVERABILITY AND LIABILITY

SEVERABILITY If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

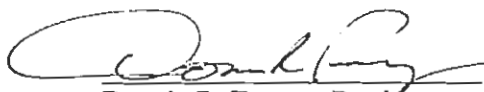
LIABILITY The enactment of this Ordinance shall not constitute a representation, guarantee, or warranty of any kind by the County Commission of Upshur County, West Virginia, or by any official or employee thereof, and shall create no liability upon the County Commission of Upshur County, West Virginia,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

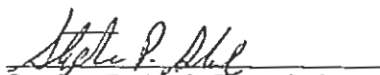
SECTION 9: EFFECTIVE DATE:

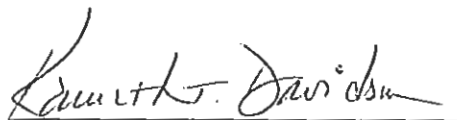
This Ordinance shall become effective on the 1st day of July 2000, and the first annual fee shall become payable as outline by the Ordinance and/or the owner's invoice.

ENTERED:
DONNIE R. TENNEY, PRESIDENT
RICK E. RICE, COMMISSIONER
JOYCE L. HARRIS-THACKER, COMMISSIONER

Amended and/or Modified by the Upshur County Commission on this the 6th day of September, 2001.


Donnie R. Tenney, President


Stephen P. Abel, Commissioner


Kenneth T. Davidson, Commissioner