

3rd

ORDINANCE
RANDOLPH COUNTY FIRE SERVICE FEE
(As amended)

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

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

WHEREAS, the Randolph County Fire Board has presented a petition containing the signature of at least ten percent (10%) of the qualified voters duly signed by them in their own handwriting, and filed with the Clerk of the County Commission of Randolph County, West Virginia, directing that the said County Commission impose such a fee;

NOW THEREFORE, the Randolph County Commission hereby ordains that:

SECTION 1: APPLICABILITY

This Ordinance shall apply to all owners of residential buildings, residential rental buildings, commercial buildings, and institutional buildings that are located in the areas and zones served by the following volunteer fire departments: Beverly Volunteer Fire Department, Coalton Volunteer Fire Department, Tygart Valley Fire Company, Huttonsville Mill Creek Volunteer Fire Department, Harman Volunteer Fire Department, Whitner Volunteer Fire Department, Pickens Volunteer Fire Department, Leading Creek Volunteer Fire Department, and Valley Head Volunteer Fire Department, the geographic areas of which are defined as all of Randolph County excluding the area within the corporate limits of the City of Elkins and the areas outside the City of Elkins corporate limits that are being serviced by and are paying fire fees to the Elkins Fire Department. 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 residential buildings (as defined in Section 6A) as users of fire protection service, a fire protection fee or charge of Seventy-Two Dollars (\$72.00) per residential building.
- B. There is hereby imposed and levied upon the owners of all commercial or

institutional buildings (as defined in Section 6C) as users of fire protection service, a fire protection fee or charge at the following rates:

- i. One Hundred Dollars (\$100.00) for buildings containing 1,000 sq. ft. or less;
- ii. Two Hundred Dollars (\$200.00) for buildings containing 1,001 to 2,500 sq. ft.;
- iii. Three Hundred Dollars (\$300.00) for buildings containing 2,501 to 5,000 sq. ft.;
- iv. Four Hundred Dollars (\$400.00) for buildings containing 5,001 to 10,000 sq. ft.;
- and
- v. Five Hundred Dollars (\$500.00) for buildings containing more than 10,000 sq. ft.

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.

C. There is hereby imposed and levied upon the owners of all residential rental buildings (as defined in Section 6B) as users of fire protection service, a fire protection fee or charge of Seventy-Two Dollars (\$72.00) per residential unit for buildings containing no more than two (2) units. Residential buildings containing three (3) or more units shall be assessed at the commercial building rate by square footage.

D. There is hereby imposed and levied by this ordinance upon the owners of all recreational/seasonal residential properties (as defined in Section 6D) a fire protection fee or charge of Twenty Dollars (\$20.00) per building.

SECTION 3: BILLING AND COLLECTION OF FEES

A. All fees and charges for fire protection services shall be billed and collected by the Randolph County Sheriff, and will be assessed to the owner as of the first of July of each year.

B. 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 Randolph County, West Virginia, forty-five (45) days after the due date.

C. Delinquent Charges; Penalty -- any charge for service remaining unpaid twenty (20) days after the due date shall be deemed delinquent and a late payment penalty of ten percent (10%) of the unpaid charge for that billing shall be assessed. In the event that any such delinquent charge remains unpaid for twelve (12) months, an additional penalty equal to interest at the rate of ten percent (10%) per annum of the billing shall be assessed.

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 include 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, fees levied by this Ordinance will be distributed in nine (9) equal shares to the following member departments: Beverly Volunteer Fire Department, Coalton Volunteer Fire Department, Tygart Valley Fire Company, Huttonsville Mill Creek Volunteer Fire Department, Harman Volunteer Fire Department, Whitmer Volunteer Fire Department, Pickens Volunteer Fire Department, Leading Creek Volunteer Fire Department, and Valley Head Volunteer Fire Department.

SECTION 5: ENFORCEMENT AND DELINQUENT PAYMENT

The fees assessed pursuant to the provisions of this article shall be a debt due the Randolph County Commission and may be collected by proceedings instituted in courts of appropriate jurisdiction. The Randolph 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, including modular and mobile homes, 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/or "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. "Recreational/seasonal residential" means any structure that is not the principal residence of the owner and is used for recreational purposes by the owner for not more than thirty (30) consecutive days, and having an assessed value of Twenty-Five Thousand Dollars (\$25,000.00) or less.

E. "Farm Building" means all buildings used exclusively for a *bona fide* farming operation; this includes pole barns, barns, smokehouses, utility buildings, grain silos/bins.

SECTION 7: EXEMPTIONS

A. Any building or buildings that are exempt from County property taxes, *i.e.* churches, military establishments, and charitable organizations, shall also be exempt from fire fees; also exempt are Farm Buildings (as defined in Section 6).

B. Hardship exemption – One- and two-family residential property owners may apply for a fire service fee hardship exemption if they meet the strict income and residence eligibility criteria set forth in the *One and Two Family Residential Hardship Exemption Application*, as may from time to time be amended. Copies of the *One and Two Family Residential Hardship Applications* will be available at the Office of the Randolph County Commission and each member's Fire Hall. Owners wishing to receive this exemption on an annual basis will be required to file an application each year.

SECTION 8: 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 9: PROTESTS

The owner of any such building above, feeling aggrieved by a charge or fee for fire protection service, may protest the same by giving written notice to the Clerk of the County Commission setting forth his/her objections on or before thirty-five (35) days after the billing date. The Clerk shall forward such protest to the County Commission, which shall set a time for the hearing within thirty (30) days of filing such protest. The County Commission shall render a decision based on the record made at the hearing within a reasonable time, giving notice in writing of its decision to all parties concerned. The amount, if any, due the County Commission under such decisions shall be due and payable thirty (30) days after service of the decision. Any person aggrieved by such administrative decision may, within thirty (30) days from service of the decision, file a petition duly verified with the Circuit Court of Randolph County, requesting review by *certiorari*; otherwise, such decision becomes final and conclusive.

SECTION 10: PUBLICATION OF FIRE SERVICE FEE ORDINANCE

This *Randolph County Fire Service Fee Ordinance* shall be published by Class II

Publication, being once a week for two (2) successive weeks, in a qualified newspaper published and circulated in Randolph County, West Virginia.

SECTION 11: SEVERABILITY AND LIABILITY

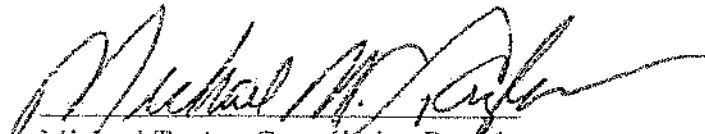
Severability -- If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance which shall remain in full force and effect, and for this purpose the provisions 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 Randolph County, West Virginia, or by any official or employee thereof, and shall create no liability upon the County Commission of Randolph County, West Virginia, and/or any official, employee or agent thereof.

SECTION 12: EFFECTIVE DATE

This Ordinance shall become effective on the 1st day of July, 2017, and the first annual fee shall become payable as outline by the Ordinance and/or the owner's invoice.

ENTERED by the County Commission of Randolph County, West Virginia, on this the 3 day of November, 2016.


Michael Taylor, Commission President


Joyce Johns, Commissioner


Chris See, Commissioner