

ARTICLE 735
Fire Fee

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CROSS REFERENCES

Authority to impose service charges – see W. VA. Code §8-13.

735.01 LEGISLATIVE PURPOSE; MAINTENANCE.

(a) Fire protection service shall be continued, maintained and improved by the City, in part, at the charge and expense of the owners of the buildings and structures of every kind and nature located within the Fire Service District (First Due Area) of the Summersville Fire Department as designated by the West Virginia State Fire Commission and West Virginia State Fire Marshal, which owners are declared to be users and beneficiaries of fire services as contemplated by West Virginia Code §8-13. Fire Services shall be provided by Summersville Fire Department as hereinafter defined within the geographic area established by the West Virginia State Fire Commission as the First Due Area of the Summersville Fire Department.

(Passed 08-27-18.)

(b) The charges and expenses with respect to each of such users as set out in this article shall be based and imposed, in part, upon recognition of the following legislative findings:

(1) The size of a non-residential structure, as reflected by the total square feet, is a factor which affects the cost of providing fire protection and, therefore, the fees imposed hereunder are related in part to the size of the building. (Updated. Passed 08-27-18.)

(2) The variance in the total square footage of the residential units in the fire service district

is insignificant in impacting the cost of fire protection making it more feasible for a per residential unit fee.

735.02 DEFINITIONS.

For the purposes of this article, the following terms shall have the meaning respectively designated unless it is clear from the context that a different meaning is intended.

- (a) "Residential unit structure" means any structure or unit which is used or intended by the nature of its construction to be used as a single-family dwelling by persons for living or sleeping quarters, but shall not include unit structures intended primarily for transient lodging, including without limitation, hotels, motels, rest homes and hospital rooms.
- (b) "Dual residential unit structure" means any structure or unit which is used or intended by the nature of its construction to be used as two (separate) family dwelling by persons for living or sleeping quarters, and having only two units within such structure, but shall not include unit structures intended primarily for transient lodging, including without limitation, hotels, motels, rest homes and hospital rooms. Such structure shall include but not be limited to duplexes.
- (c) "Multiple-family residential unit structure" means a residential unit structure having more than two family dwellings or units within such structure. Such structure shall include but not be limited to apartment buildings, condominiums, townhouses or boarding houses. Such structure shall exclude hotels, motels, tourist homes, etc.
- (d) "Nonresidential unit structure". All other buildings not included within the definitions of "residential unit structure". Such structures shall include, but not be limited to all commercial establishments, schools, government buildings, etc. If a structure has multiple uses such as residential and commercial, it will be classified as a non-residential unit.
- (e) "Total square feet" means that sum as measured by the exterior dimensions of each structure on a lot multiplied by the number of stories, also including enclosed porches, finished basements, garden centers, finished attics, detached garages, utility buildings and car washes with roofs.

The following shall not be included in the calculation of total square footage:
canopies for banks, hotels, gas stations and retail stores.

- (f) "Agricultural Building" means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.
- (g) "Accessory Structure" means a structure that is accessory to and incidental to that of the dwelling(s) and that is located on the same lot.
- (h) "Owner" means the owner of record of any tract or parcel of real estate within the First Due Area of the Summersville Fire Department, as reflected by the records maintained in the office of the Clerk of the County Commission of Nicholas County, West Virginia but may also include the grantee or transferee of any interest in any real estate situated within the First Due Area by unrecorded deed, or by an owner-financed sale evidenced by written agreement, such as a "land contract", provided that the parties to any such transaction are required to notify the City Recorder as to which party to any such transaction shall be

responsible to pay any fire service fees due and payable pursuant to this article, in accordance with the provisions of Section 735.07 hereof.

- (i) "City Recorder" means the City of Summersville's duly elected Recorder.
- (j) "Fire Chief" means the City of Summersville's Fire Chief.
- (k) "Summersville Fire Department" means the volunteer Fire Department of the City of Summersville and all firefighters serving as volunteers within said Department.
- (l) "Fire Calls" means calls for fire suppression or prevention and shall not include calls for emergency service by paramedics or EMTs. (Updated. Passed 08-27-18.)
- (m) "Mobile Home Park" means a parcel of land subdivided into rental lots with hook-ups to accommodate set-up and use of single-wide manufactured units approved for such use.

735.03 ADMINISTRATION.

(a) The City is hereby empowered to make such rules and regulations not in conflict with the provisions of this article relative to the offering and providing of fire protection services as are necessary to protect the property or the safety or health of the public, and no persons shall fail to comply with any such rule and regulation so promulgated.

(b) The City Recorder shall administer all sections of this article dealing with financing, billing, collection, etc., and is determined to carry out the provisions of all sections of this article with the same.

(c) The City Recorder, is hereby empowered to adjust, settle, or cancel any charge or fee required or made under this article or any controversy which may arise in the administration of this article. However, such exercise of authority by the City Recorder shall be in a uniform manner, and not exercised in a capricious or arbitrary fashion and a written or electronic record shall be kept of any and all such adjustments, settlements or cancellations.
(Updated. Passed 8-27-18.)

735.04 RATES; FEES; CHARGES ESTABLISHED.

The fees or charges levied, imposed and assessed pursuant to this article for the maintenance, continuance and improvement of fire protection utility services shall be as follows:

- (a) Owner of all residential living units of all types \$35.00 per each living unit
- (b) Owner of all residential accessory structures
Exceeding 1000 square feet \$15.00 per structure
- (c) Owner- nonresidential unit structure – based upon total square footage in amounts as follows:

SQUARE FEET	FEE
0 - 2500	\$70.00
2501 - 7500	\$170.00
7501 – 20,000	\$430.00
20,000 +	\$430.00 + \$120.00 for each additional Increment of 5,000 square feet or less

Senior Citizen Discount – 2.50 Homestead Exemption Discount

There is hereby imposed a two dollar and fifty cent (2.50) homestead exemption discount for qualifying senior citizens. Appropriate request forms may be obtained from the City Recorder's Office.

735.05 SCHEDULE OF PAYMENTS; PENALTY.

The annual fire protection fees imposed under this article shall be due and payable in equal installments September 30 and March 31, of each fiscal year, provided that the City Recorder shall be authorized to convert to monthly billing upon a signed agreement by the requesting party. A penalty of ten percent (10%) of the fire protection fee shall be added for failure to pay the installments by the due date. Any payment past due for twenty (20) days or more shall be considered a delinquent fire fee and be subject to the added penalty of (10%) ten percent annually.

735.06 CHARGE OR FEE DEBT DUE CITY.

The fees or charges provided for by this article shall be a debt due the City. The City may collect any such fee or charge and all accrued penalties by action against the owner of property against whom the service charges have been assessed by action before the Magistrate Court of Nicholas County or by appropriate proceedings in the Circuit Court of Nicholas County.
(Updated. Passed 08-27-18.)

735.07 CHARGES ARE RESPONSIBILITY OF PROPERTY OWNER; OWNER'S RESPONSIBILITY.

- (a) Each and every property owner of residential unit structures, dual residential unit structures, multiple-family residential unit structures, nonresidential unit structures and mobile home parks shall be responsible for payment of the fire protection service fee charges assessed, imposed and levied under this article.
- (b) It shall be the responsibility of the owner or owners of all buildings and structures within the First Due Area to notify the City Recorder of any change in ownership and other items requested by the City Recorder within thirty days of such change.
- (c) The City of Summersville will utilize square footages supplied by a combination of county records, measurement by City employees and /or information supplied by the property owners for purposes of billing the fire fee. It shall be the responsibility of the owner of the building to review these square footages and notify the City, in writing, of any changes within (60) sixty days of the billing. Failure to notify the City of any discrepancies will void the owner's right for reduction of previous billings. If the owner determines that the City is not billing at sufficient square footage, the owner must notify the City, in writing, within sixty days or the owner will be subject to a penalty under Section 735.99 of this article. The penalty shall be the lesser of all fire fees for the duration of owner's ownership of the property from the enactment of this article, plus penalties and interest at the highest rates allowed by law, or five years of fire fees, plus penalties and interest at the highest rates allowed by law.
(Updated. Passed 8-27-18.)

735.08 PROTESTS.

Any property owner with objection or finding discrepancy with a fire fee billing may file written protest to the City Recorder for review and adjustment if filed within thirty-five (35) days of the billing date. The amount, if any, due the City under such decision shall be due and payable thirty-five (35) days after service of the decision. Any person aggrieved by such administrative decision within thirty-five (35) days from service of decision file a petition duly verified with the Circuit Court of Nicholas County, requesting review by certiorari; otherwise, such decision becomes final and conclusive.

(Updated. Passed 08-27-18.)

735.09 EXEMPTIONS.

(a) No structure or building shall be exempt from the fees imposed by this Article, whether the title or ownership thereof and therein be vested in the United States of America, the State, or any political subdivision thereof, or whether the property is used for educational, literary, scientific, religious, charitable or cemetery purposes, or otherwise be exempt from the payment of real property taxes under the provisions of Article X of the Constitution of the State of West Virginia.

(b) Agriculture unit structures, other than living units, used exclusively for bona fide farming operation are exempt from fire service fees.

(Updated. Passed 08-27-18.)

735.10 RESTRICTED USE OF REVENUES – FUTURE RATES AND CHARGES.

All revenues received from the collection of fire protection fees provided in this article shall be used only to defray the cost of and the continuance, maintenance, and improvement of fire protection services within the First Due Area of the Summersville Fire Department as designated by the West Virginia Fire Commission and the West Virginia State Fire Marshal and no part of such revenues shall be used for any other municipal purpose. Any future adjustment of the rates and charges imposed by this article shall be determined by applying the same percentage adjustment equally to all rates and charges imposed by this article.

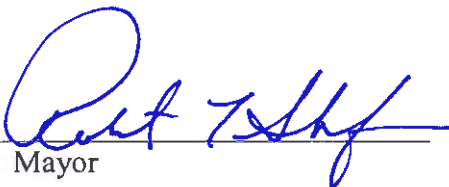
(Passed 08-27-18.)

735.99 PENALTY.

Whoever violates any provision of this article, for which no other penalty is provided, shall be fined not more than five hundred dollars (\$500.00).

(Updated. Passed 08-27-18.)

Date Adopted 8-27-18

by 
Mayor


Recorder