

**PUTNAM COUNTY
FIRE SERVICE USER FEE
ORDINANCE**

SECTION I TITLE

An ordinance amending and re-enacting an ordinance creating the Putnam County Fire Service User Fee, providing for an annual charge based on square footage; providing that the County Assessor shall fix the square footage of structures, and providing for publication of the user fee as a Class II legal advertisement in compliance with the provision of Article 3, Chapter 59 of the West Virginia State Code.

SECTION II ENACTMENT OF FIRE FEE

There is hereby created a Putnam County Fire Service User Fee to be imposed by the County Commission upon the users of the fire service.

SECTION III RATES

The following rates shall be in effect and imposed upon each user effective upon final adoption of this Ordinance as required by law:

RESIDENTIAL

<u>SQUARE FEET</u>	<u>AMOUNT</u>
0 - 2500	\$ 37.50
2501 & OVER	\$ 45.00

COMMERCIAL

<u>SQUARE FEET</u>	<u>AMOUNT</u>
0 - 2500	\$ 75.00
2501 - 3750	\$ 150.00
3751 - 5000	\$ 225.00
5001 - 6250	\$ 300.00
6251 - 7500	\$ 375.00
7501 - 10000	\$ 450.00
10001 - 12500	\$ 525.00
12501 - 15000	\$ 600.00
15001 - 17500	\$ 675.00
17501 - 20000	\$ 750.00
20001 & OVER	\$1125.00

SECTION IV ESTABLISHING SIZE OF BUILDING

The County Assessor is hereby empowered and authorized to fix the square footage of structures for the purpose of establishing the user service fee imposed under this Ordinance.

SECTION V PUBLICATION BEFORE ENACTMENT OF ORDINANCE

This ordinance shall be published once a week for two (2) successive weeks in a qualified newspaper of general circulation in the County.

SECTION VI CONTINUATION, MAINTENANCE AND IMPROVEMENT OF FIRE SERVICE

The service of fire protection and rescue service shall be continued, maintained and improved by the Fire Service Board, in part, at the charge and expense of owners of all residential and commercial buildings, including manufactured homes, of every kind and nature within the County which said owners are hereby declared to be users and beneficiaries of such fire protection and rescue service. The charges and expense with respect to each of such users and beneficiaries shall be imposed, assessed and collected as set out in this Ordinance. In the event the County Fire Service Board determines an increase in any such fee imposed by this section is necessary, it shall, by resolution, request the County Commission for such an increase. Procedures set forth in Chapter 7 Article 17 Section 12 of the West Virginia State Code shall be followed by the County Commission in the event an increase is sought.

SECTION VII DEFINITIONS

“Residential Building” - Means any structure that is used or intended by the nature of its construction to be used for persons living and sleeping quarters, but shall not include apartment buildings, hotels, motels or other buildings intended primarily for transient lodging.

“Commercial Building” and “Institutional Building” - Means any structure that is used or intended by nature of its construction to be used for any purpose other than “residential” but shall also be deemed to include apartment buildings, hotels, motels, or other buildings intended primarily for transient lodging.

“Mixed Use Building” - Means any structure that has a combination of residential and commercial and or institutional uses. The predominant usage of the structure is determined by the greatest usage of the total footage by one or the other uses but shall not include structures that are a combination of commercial and or institutional and rental residential units. Such structure will be charged at a rate determined by the predominant usage.

“Story” - Means that part of a structure included between any floor and the floor or roof next above. In the case of open stairwells, entry ways or other open area sections within a multiple story building, these areas will be included as part of a story it is in combination with.

"Basement" - Shall mean that portion of a building which is located below the level of the adjoining ground, and which is unfinished and not utilized as a part of the living or working area of the building.

"Total Square Feet" - Means that sum as measured by the exterior dimensions of the structure multiplied by the number of stories, but shall not include any part of a structure encompassed by porches, (unless entirely enclosed for all- weather purposes).

SECTION VIII EFFECTIVE DATE; SCHEDULE OF PAYMENT; PENALTY

This Amended Ordinance shall become effective January 1, 2013. The Fire Service Users Fees imposed under this Ordinance shall be billed in January of each year. A penalty of ten percent (10%) of the annual Fire Service Users Fee shall be added for failure to pay the installment by October 31 of each year.

SECTION IX USE OF FUNDS FOR FIRE SERVICE ONLY

The revenues received from the collection of Fire Service User Fees shall be used only to defray the cost of the continuance, maintenance or improvement of fire protection and rescue service within the County, and no part of such revenues shall be used for any other County purpose. All fees imposed under this Ordinance are dedicated to the County Fire Service Board for the purpose provided in Chapter 7 Article 17 of the West Virginia State Code.

SECTION X LEGISLATIVE INTENT

The imposition of Fire Service Users Fee under this Ordinance is pursuant to authorization set forth in Chapter 7, Article 17 of the West Virginia State Code. In accordance with said statute, it is the legislative intent of this Ordinance that the fees imposed hereunder are based, in part, upon recognition of the following legislative finding:

(a) The size of a building (as reflected by the total square feet) is a factor which affects the cost of providing fire protection. Therefore, it is the intent and purpose of this Ordinance that the fees imposed hereunder be related, in part, to the size of the building.

SECTION XI ORDINANCE TO BE ADMINISTERED BY THE FIRE SERVICE BOARD

The Fire Service Board is hereby authorized to promulgate such regulations as are necessary and reasonable to carry out the provisions of this Ordinance.

SECTION XII APPEAL PROCEDURE AND EXONERATION

(a) The property owner may appeal any fire fee imposed pursuant to this Ordinance. The property owner upon whom such fee is imposed may, within thirty (30) days after receipt of a notice of annual fire fee, either personally or by certified mail, file with the Board a petition in writing, setting forth with particularity the matter objected to, together with

the reasons for objection. If no petition is filed, the fire fee imposed shall become final and not subject to administrative or judicial review.

(b) When a petition provided for in the preceding paragraph is filed within the time prescribed for such filing, the Board shall assign a time and a place for a hearing thereon and shall notify the petitioner by written notice at least twenty (20) days in advance thereof. The hearing shall be held within sixty (60) days of filing of the petition.

The burden of proof shall be upon the petitioner to show that the fire fee imposed is incorrect. After any such hearing, the Board shall, within thirty (30) days, give notice in writing of its decision.

(c) Any property owner not satisfied with the decision of the Board may appeal the decision to the Circuit Court of Putnam County as provided by law. If no appeal is taken within thirty (30) days after notice of the Board's decision, the Board's decision shall become final and conclusive.

(d) Any property owner requesting total or partial exoneration from any fee imposed by this Ordinance may do so either personally or in writing with the Fire Coordinator. The Coordinator, within thirty (30) days, shall investigate any request for exoneration. The Coordinator shall, at the next regular Board meeting, make a recommendation regarding the exoneration request. If proper cause for exoneration is shown, the Board shall exonerate all residential fees, and shall notify the property owner in writing of said exoneration. If the Board does not grant such request for exoneration, the property owner may appeal the decision of the Board to the Circuit Court of Putnam County as provided by law.

SECTION XIII EXEMPT PROPERTIES

All buildings used for governmental purposes, whether Federal, State, County or Municipal, that are owned by and used solely for governmental purposes, and all buildings used exclusively as, or in conjunction with, schools accredited by the State of West Virginia, and all buildings owned by and used exclusively as sanctuaries or places of worship by a generally recognized spiritual assembly, church or religious organization shall be exempt from payment of the Fire Service User Fee imposed herein.

SECTION XIV ENFORCEMENT

In the event that a fire department is called to the property of a property owner who is delinquent in payment of the user fee, a penalty of \$250.00, in addition to all fees owed, may be charged to the property owner. Any and all legal means may be pursued to secure payment of the fire service user's fee.

SECTION XV SEVERABILITY

It is hereby declared to be the intention of the County Commission that the sections, paragraphs, sentences, clauses and phrases of this Ordinance severable and if any section, paragraph, sentence, clause or phrase of this Ordinance of the application thereof to any person or circumstances shall be declared unconstitutional or otherwise invalid by judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of the Ordinance or the application thereof to any other person or circumstance.

AMENDED - 06/14/2012