

**AN ORDINANCE OF THE TOWN OF LUMBERPORT, WEST VIRGINIA,
AMENDING THE ORDINANCE OR RATE SCHEDULE FOR FIRE SERVICE
FEES AND ESTABLISHING A REVISED SCHEDULE OF JUST AND
EQUITABLE RATES, FOR FIRE SERVICE AND FACILITIES FURNISHED
THE RESIDENTS OF THE TOWN OF LUMBERPORT, WEST VIRGINIA.**

WHEREAS, the Town of Lumberport collects a fire service fee from its residents and pays that fee to the Lumberport Volunteer Fire Department; and

WHEREAS, the Lumberport Volunteer Fire Department has requested that the fire service fee be increased to \$4 per month for residential customers of the Lumberport water system, and to \$8 per month for commercial and industrial customers; and

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~~WHEREAS, the Town Council finds that these amounts reasonably reflect the cost of protecting the municipality from fire.~~

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE TOWN OF LUMBERPORT:

SECTION 1 SCHEDULE OF CHARGES AND FEES

I. DEFINITIONS

1. For the purposes of this ordinance, the following terms shall have the meanings respectively designated unless it is clear from the context that a different meaning is intended.
2. "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.
3. "Nonresidential Unit Structure" means all other buildings not included within the definitions of "residential unit structure" shall be deemed to be within the classification of nonresidential unit structure for the purposes of this ordinance. Such structures shall include but not be limited to all commercial and industrial establishments, churches, schools, government buildings, etc.
4. "Owner" means the owner of record of any tract or parcel of real estate within the Town of Lumberport, as reflected by the records maintained in the office of the Clerk of the County Commission of Harrison County, West Virginia.
5. "Fire Department" shall mean the Lumberport Volunteer Fire Department, including all the personnel, buildings, machinery, and equipment used in the operation thereof.

II. RATES; FEES; CHARGES ESTABLISHED

1. The fees or charges levied, imposed and assessed pursuant to this article for the maintenance, continuance and improvement of fire protection services shall be as follows:
2. Owners of residential unit structure: \$4.00 per month.
3. Owners of nonresidential unit structure: \$8.00 per month.

III. BILLING AND COLLECTION OF FEES

1. Such monthly charges shall be and become due and payment at the same time and in the same manner as charges for water sold and furnished by the Town of Lumberport.
2. The Town of Lumberport shall, every quarter of the fiscal year, pay the full amount collected for the fire service fee to the Lumberport Volunteer Fire Department. The Lumberport Volunteer Fire Department shall be responsible for using said funds to provide fire protection to the residents of Lumberport and surrounding areas.
3. The Lumberport Volunteer Fire Department shall file with the Town Council an annual statement of income and disbursements generated from the Fire Service Fee. The statement will be prepared by a Certified Public Accountant. The Fire Department shall keep all books and records associated with the Fire Service Fee in accordance with generally accepted accounting practices. Such records will be open to inspection by the Mayor and Council and their duly authorized agent at all reasonable times. The Town Council may cause, at the Town's expense, an audit of the Fire Service Fee account to be performed at any time.
4. The fees or charges provided for by this article shall be a debt due the Town. The City may collect any such fee or charge by action against the owner or occupant of property against whom the service charges have been assessed by action before the Magistrate Court of Harrison County or by appropriate proceedings in the Circuit Court of Harrison County.
5. The Town of Lumberport may place a lien upon real property located within the corporate limits of the Town of Lumberport for unpaid and delinquent fire service fees.

IV. PROTESTS

1. Any person feeling aggrieved by a charge or fee for fire service may protest the same by giving written notice to the Town Clerk setting forth their objections on or before thirty-five days after the billing date. The Clerk shall forward such protest to the Town Council which shall act as the Fire Service Fee Appeals Board. The Council shall set a time for hearing within thirty days of the filing of such protest and render its 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 Town under such decision shall be due and payable thirty days after service of the decision. Any person aggrieved by such administrative decision may within thirty days from service of the decision file a petition

duly verified with the Circuit Court of Harrison County, requesting review by certiorari; otherwise, such decision becomes final and conclusive.

V. SEVERABILITY

1. That it is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council, without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

VI. REPEAL OF CONFLICTING ORDINANCES

1. Upon the effective date hereof, all ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed, and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

VII. STATUTORY NOTICE AND PUBLIC HEARING

1. Upon introduction hereof, the Clerk shall cause to be published a copy of this Ordinance as a Class II legal advertisement (published twice), with the first publication being at least ten days before the hearing, in The Clarksburg Exponent Telegram, being a qualified newspaper of general circulation in the Town of Lumberport, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before the Council of the Town of Lumberport on _____, 2013, at _____ P.M., and be heard on the subject, following which hearing, the Council of the Town of Lumberport shall take such action as it shall deem proper. Copies of this Ordinance shall be available to the public for inspection at the office of the Clerk of the Town of Lumberport, 230 Main Street, Lumberport, West Virginia.

119 George St.

Public hearing

April 18 - 6:30pm

This ordinance shall take effect 45 days after passage.

Passed by Council on 1st Reading on this _____ day of _____, 2013.

Public Hearing held on this _____ day of _____, 2013.

Passed by Council on 2nd Reading on this _____ day of _____, 2013.

By: _____
George Hagan, Mayor

ATTEST: _____
Meshelle Gregory, Town Clerk