

## TITLE 6 FIRE

## DEPARTMENT

## CHAPTER 1 - Volunteer Fire Department

6-101 Recognition of Shepherdstown Volunteer Fire Department 6-102  
Support of volunteer fire department

## CHAPTER 2 - Authority of Local Fire Department

6-201 Entry of buildings on fire or where reasonable cause to believe  
a fire is in progress; adjoining premises.

6-202 Authority of chief or other fireman in command when answering  
alarm or extinguishing fire.

6-203 Person in command at fire scene may take and preserve certain  
property; restitution.

6-204 Conducting investigation to determine cause of fire.

6-205 Person attacking or hindering or obstructing firemen or  
emergency equipment; penalties.

## CHAPTER 3 - Fire Protection and Control

6-301 Power and authority of fire department

6-302 Maintenance of fire hazard; order for repair or demolition;  
order to contain notice to comply and right to appeal.

6-303 "Fireworks" defined; labels required.

6-304 Unlawful sale, possession or use of fireworks; permit for  
public display.

6-305 Penalties.

CHAPTER 4 Smoke Detectors in one and two family dwellings; carbon monoxide detectors  
in residential units; penalty

6-401 Smoke Detectors in one and two family dwellings; carbon monoxide detectors in  
residential units; penalty

## CHAPTER 1 - Volunteer Fire Department

Section 6-101 Recognition of Shepherdstown Volunteer Fire Department

The Town Council of Shepherdstown hereby recognizes the Shepherdstown Volunteer  
Fire Department as the official firefighting agency in the corporation.

Section 6-102 Support of volunteer fire department

This municipality may contribute financially to its fire department.

CHAPTER 2 - Authority of local fire department

Section 6-201 Entry of buildings on fire where reasonable cause to  
believe a fire is in progress; adjoining premises

The chief of the fire department, any fireman in charge or the subordinates so ordered may enter any building in which there is believed to be a fire, or any building in which it is necessary to enter to stop a fire from spreading or to fight a fire or to protect either said burning building or one nearby from burning.

Section 6-202 Authority of chief or other fireman in command when  
answering alarm or extinguishing fire

While a fire is in progress all bystanders shall obey the direction of the fire chief or the fireman in control.

While going to the station, extinguishing a fire or returning to the station, the fire chief or the fireman in control shall direct all bystanders, order all firemen, facilitate the movement of equipment and men, and until a policeman arrives, direct traffic or order a subordinate to do so. The fire chief or fireman in control shall display a fireman's badge or proper means of identification. Notwithstanding any other provisions of the law, the authority granted in this section shall extend to the activation of traffic control signals designed to facilitate the safe egress and ingress of fire-fighting equipment at a station.

Section 6-203 Person in command at fire scene may take and preserve certain  
property; restitution

The fire chief or any fireman in charge may take and preserve any property that might show where the fire started. A person may petition the court to re-obtain said property. However, the Judge may require a bond on the property for the preservation of evidence.

Section 6-204 Conducting investigation to determine cause of fire

To determine the cause of a fire, a fire chief or fireman in control may enter the scene of the fire for up to forty-eight hours after the fire.

If there is evidence that such fire was of incendiary origin, the fire chief or other authorized fireman may control who may enter the scene of such fire by posting no trespassing signs at such scene for a period of forty-eight hours after such fire has been extinguished.

After the scene of a fire has been posted against trespassing, no person shall enter such scene, unless he is an owner, lessee or has personal property at the scene, and then only after the area has been declared safe. He may then salvage for personal property if he is with or has the permission of an authorized fire department or company official.

Section 6-205 Person attacking or hindering or obstructing fireman or  
emergency equipment; penalties

It shall be unlawful, while any fire department or company or fireman is in the process of answering an alarm of fire or extinguishing a fire or returning to station, for any person to:

- 1) Take any action for the purpose of hindering or obstructing any fireman, equipment or emergency vehicle by any means.
- 2) Refuse to take any action for the purpose of hindering or obstructing any fireman, equipment or emergency vehicle by any means.

Any person willingly violating (6-203), (6-204), or (6-205) shall be guilty of a misdemeanor and fined not less than ten or more than one hundred dollars.

### CHAPTER 3 - Fire Protection and Control

#### Section 6-301 Power and authority of fire department

The Shepherdstown Volunteer Fire Department shall have plenary power and authority to prevent and extinguish fire, obtain proper firefighting equipment, provide for the organization and government of the fire department, describe the powers and duties of the department and the power and duties of its commanders and impose a penalty on those who refuse the orders of the men in command.

#### Section 6-302 Maintenance of fire hazard; order for repair or demolition; order to contain notice to comply and right to appeal

- a) No person shall build or maintain anything that is a fire hazard or might explode or is in violation of the fire safety laws of this municipality.
- b) Whenever the fire chief or his deputies find any fire hazard they shall notify the owner in writing and send a copy to the town recorder. In the notification, they may order repair and demolition.
- c) Fire hazard - any building or portion thereof, device, apparatus equipment, combustible waste or vegetation which, in the judgement of the fire chief or someone appointed by the governing body of this municipality, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

The owner shall have thirty days to comply with the order or that person may have a chance to file for a public hearing to be held within ten days of the order before the town council and then to the circuit court on appeal.

#### Section 6-303 "Fireworks" defined; labels required

The term "fireworks" means and includes any substance or combustion of substance or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of unmanned balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, roman candles, sparklers or other fireworks of like construction and any fireworks containing any explosive substance, but shall not include those that use plastic or paper caps. The sale of these caps is permitted and each package containing them for sale in a retail store must indicate maximum explosive content.

Section 6-304 Unlawful sale, possession or use of fireworks; permit for  
public display

Except as provided in this section, no person shall sell or use fireworks; provided the State Fire Marshall may grant permits for special occasions such as fairs, amusement parks, municipalities and others. All permits are obtained through the State Fire Marshall after he has inspected the fireworks and a bond has been posted. The permit is good only for the one purpose it is listed for and is not transferable.

Section 6-305 Penalties

Any person who violates any provision of this title shall be guilty of a misdemeanor and shall be fined not more than one hundred dollars.

**Section 6-401: Smoke detectors in one- and two-family dwellings; carbon monoxide detectors in residential units; penalty.**

(a) An operational smoke detector shall be installed in the immediate vicinity of each sleeping area within all one and two family dwellings, including any "manufactured home" as that term is defined in subsection (j), section two, article nine, chapter twenty-one of the West Virginia Code. The smoke detector shall be capable of sensing visible or invisible particles of combustion and shall meet the specifications and be installed as provided in the current edition of the National Fire Protection Association Standard 72, "Standard for the Installation, Maintenance and Use of Household Fire Warning Equipment" and in the manufacturer's specifications. When activated, the smoke detector shall provide an alarm suitable to warn the occupants of the danger of fire.

(b) The owner of each dwelling described in subsection (a) of this section shall provide, install and replace the operational smoke detectors required by this section. So as to assure that the smoke detector continues to be operational, in each dwelling described in subsection (a) of this section which is not occupied by the owner thereof, the tenant in any dwelling shall perform routine maintenance on the smoke detectors within the dwelling.

(c) Where a dwelling is not occupied by the owner and is occupied by an individual who is deaf or hearing impaired, the owner shall, upon written request by or on behalf of the individual, provide and install a smoke detector with a light signal sufficient to warn the deaf or hearing-impaired individual of the danger of fire.

(d) An automatic fire sprinkler system installed in accordance with the current edition of the National Fire Protection Association Standard 13D, "Standard for the Installation of Sprinkler Systems in Residential Occupancies" may be provided in lieu of smoke detectors.

(e) After investigating a fire in any dwelling described in subsection (a) of this section, the local investigating authority shall issue to the owner a smoke detector installation order in the absence of the required smoke detectors.

(f) An operational single station carbon monoxide detector with a suitable alarm or a combination smoke detector and carbon monoxide detector, which shall be alternating current (AC) powered, either plugged directly in to an electrical

outlet that is not controlled by a switch or hardwired into an alternating current (AC) electrical source, with battery back up, and be installed, maintained, tested, repaired or replaced, if necessary, in accordance with the manufacturer's direction, shall be installed:

(1) In any newly constructed residential unit which has a fuel-burning heating or cooking source including, but not limited to, an oil or gas furnace or stove;

(2) In any residential unit which is connected to a newly constructed building, including, but not limited to, a garage, storage shed or barn, which has a fuel-burning heating or cooking source, including, but not limited to, an oil or gas furnace or stove;

(3) Effective August 1, 2013, in either a common area where the general public has access or all rooms in which a person will be sleeping that are adjoining to and being directly below and above all areas or rooms that contain permanently installed fuel-burning appliances and equipment that emit carbon monoxide as a byproduct of combustion located within all apartment buildings, boarding houses, dormitories, long-term care facilities, adult or child care facilities, assisted living facilities, one- and two- family dwellings intended to be rented or leased, hotels and motels.

(g) Effective December 1, 2013, all single station carbon monoxide detectors with a suitable alarm or a combination smoke detector and carbon monoxide detectors shall be hardwired into an alternating current (AC) electrical source, with battery backup, when installed in all newly constructed apartment buildings, boarding houses, dormitories, hospitals, long-term care facilities, adult or child care facilities, assisted living facilities, one- and two family dwellings intended to be rented or leased, hotels and motels.

(h) In any long-term care facility that is staffed on a twenty-four hour, seven day a week basis, the single station carbon monoxide detector with a suitable alarm or a combination smoke detector and carbon monoxide detector shall only be required to be installed in an area of the facility that permits the detector to be audible to the staff on duty.

(i) Any person installing a carbon monoxide detector in a residential unit shall inform the owner, lessor or the occupant or occupants of the residential unit of the dangers of carbon monoxide poisoning and instructions on the operation of the carbon monoxide detector installed.

(j) When repair or maintenance work is undertaken on a fuel-burning heating or cooking source or a venting system in an existing residential unit, the person making the repair or performing the maintenance shall inform the owner, lessor or the occupant or occupants of the unit being served by the fuel-burning heating or cooking source or venting system of the dangers of carbon monoxide poisoning and recommend the installation of a carbon monoxide detector.

(k) Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, for a first offense, shall be fined \$250. For a second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$750. For a third and subsequent offenses, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$2000.

(l) A violation of this section may not be considered by virtue of the violation to constitute evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages.

(m) A violation of this section may not constitute a defense in any civil action or proceeding involving any insurance policy.

(Ref. W. Va. Code § 29-3-16a, as amended)