

**AMENDED AND RESTATED**  
**BY - LAWS**  
**OF**  
**TYLER MOUNTAIN VOLUNTEER FIRE DEPARTMENT, INCORPORATED**

*Adopted at a designated meeting of the Corporation by two-thirds  
majority voice vote September 16, 2021*

\_\_\_\_\_  
President of the Board  
Tyler Mountain Volunteer Fire Department, Inc.

\_\_\_\_\_  
Secretary  
Tyler Mountain Volunteer Fire Department, Inc.

September 16, 2021  
Date

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## BY-LAWS

### TYLER MOUNTAIN VOLUNTEER FIRE DEPARTMENT, INCORPORATED

#### ARTICLE I

##### DEFINITIONS

- Section 1. “Active Members” means an individual that performs the function of fire prevention and suppression, or vehicle and machinery extrications when responding to emergency situations. Depending on the level(s) of training the active member has completed, active members may also perform the tasks and duties of hazardous materials response and mitigation, technical rescue, emergency medical services and any other duties that a specialized support member may provide if so trained.
- Section 2. “Active Status” means a firefighter has volunteered 60 hours(incidents, drill, fundraisers), rapid responder volunteered 20 hours, or ancillary support member has volunteered 20 hours (red light express- fundraisers & meetings) of time to the department from August 1 to July 31 July 16 to July 16; per our worker’s compensation contract.
- Section 3. “Ancillary support member” means any person solely performing support, administrative, or day to day functions for the department. Under no circumstance shall an ancillary member perform any function which requires training for an active member or a specialized support member.
- Section 4. “Assistant Chief” means the second highest fire line officer in charge of the fire department. This person may take on the responsibilities of the chief in his or her absence.
- Section 5. “Automatic Aid” means agreements signed by our department and outlying department for automatic dispatch for emergency responses.
- Section 6. “Board” means 7 members for management, operation, and control of this Corporation.
- Section 7. “By-Laws” means organizational structure, responsibilities and overall operations.
- Section 8. “Chief” means the highest-ranking fire line officer in charge of a department.
- Section 9. “Chief Officers” means Chief and Assistant Chief.
- Section 10. “Clerical” means secretarial and clerical administrative support.
- Section 11. “Community” means residents and businesses within department’s first due area.
- Section 12. “Company Officers” means Captain(s) and Lieutenant(s).
- Section 13. “Constitution” means articles of incorporation.

- Section 14. “Corporation Members” means residents, business owners and/or building owners of legal voting age (as defined per the State of West Virginia) who paid current annual membership dues.
- Section 15. “Department” means any volunteer fire fighting response organization regulated by the West Virginia State Fire Commission. Department includes a volunteer fire company.
- Section 15. “Firefighter” means any active member of a department.
- Section 16. “Fire Line Officer” means Chief, Assistant Chief, Captain(s), Lieutenant(s). Captain(s) and Lieutenant(s) are the third and fourth highest tiers in ranking in charge of the fire department and may take on the responsibilities of the chief or assistant chief in those persons(s) absence.
- Section 17. “First Response Area or First Due Area” means the specified geographical area assigned to a fire department, which has been approved by the WV Fire Commission, to which the assigned fire department is the primary department responsible for providing fire protection.
- Section 18. “Inactive Status” means a firefighter has not volunteered 60 hours or rapid responder or ancillary support member has not volunteered 20 hours of time to the department from ~~August 1 to July 31~~ July 16 to July 16, per our worker’s compensation contract, of the previous year.
- Section 19. “May” indicates a recommendation or that which is advised and referred to the fire department to address in accordance with the organizations governing documents.
- Section 20. “Mutual Aid” means department’s request additional resources.
- Section 21. “NFPA” means the National Fire Protection Association Codes and Standards.
- Section 22. “Rapid Responders” means emergency medical technicians or paramedics.
- Section 23. “Rules and Regulations” means day-to-day operational guidelines.
- Section 24. “Shall” indicates a mandatory requirement.
- Section 25. “Standard Operating Procedures” aka Sop’s written guidelines to clearly spell out what is expected and required of personnel during emergency response and non-emergency activities. SOP’s are used to accomplish the mission, goals, and objectives of the department.
- Section 26. “Specialized Support Member” means any person responding solely for the purpose of performing emergency medical services, hazardous materials mitigation, or specialized rescue.
- Section 27. “Volunteer Fire Department” means an organization which provides fire protection services to a specific geographical area under the Authority Having Jurisdiction. The “Authority Having Jurisdiction” may be a private corporation, company, public

corporation, or municipal, county, state or federal level of government. All members donate their time without compensation.

## ARTICLE II

### NAME, JURISDICTION, PURPOSE AND OBJECTIVES

- Section 1. This Corporation, duly chartered by the State of West Virginia is a non-stock, non-profit Corporation, and shall be known as the Tyler Mountain Volunteer Fire Department, Incorporated.
- Section 2. (a)  
The first due area (hereinafter known as the community) of this Department shall be approved by the WV Fire Commission. The department is responsible for providing fire protection and other services in the first due area. Maps and digital copy shall be kept in department safe.
- (b)  
Fire protection and other services will be provided beyond the first due area in cases of public emergency, mutual aid, automatic aid or as the chief or board may direct.
- Section 3. The primary purpose of this organization is to provide adequate and efficient fire protection service to the residents, businesses, and their properties. Furthermore, it is the intent of this organization to provide additional rescue and emergency services for the betterment of this community, providing funds and facilities are available and approved by the elected board of directors.
- Section 4. The organization shall operate in accordance with federal, state, local laws, as well as their own constitution, by-laws, standard operating procedures, rules and regulations. Shall develop and maintain on file Constitution, by-laws, SOP's, rules and regulations for review by the State Fire Commission or any authorized governmental entity.

## ARTICLE III

### MEMBERSHIP

Membership of this corporation shall be restricted to **corporation members**. ~~to residents and businesses of this community who are of legal voting age as defined under the voting laws of the State of West Virginia, and have paid the required dues as provided in these BY LAWS.~~ Members shall also include all current chief officers, company officers, training coordinator, PIO's, probationary firefighters, probationary rapid responders, probationary ancillary support members, firefighters, rapid responders, ancillary support

members, clerical, and board members affiliated with the department and the voting age members of their households.

## **ARTICLE IV**

### **MEETINGS**

#### Section 1.

(a)

Regular meeting shall meet on monthly basis excluding December, held 3<sup>rd</sup> Thursday, 7:00 p.m. at the fire department or community building. The board may, by majority vote of board members declare an alternate location for meetings. These meetings shall be open to the public and the membership may voice their opinions under the proper order of business, but shall have no vote on any issue. Where matters relating to personnel are before the board, the board may meet in executive session. Nominations shall be done at the August regular meeting refer to Article VIII section 1.

(b)

The annual meeting of the corporation shall be held 3<sup>rd</sup> Thursday in September, 7:00 p.m. at the fire department or community building. The board may, by majority vote of board members declare an alternate location for meetings. Public notice of such meeting shall be publicized five (5) consecutive days prior to said meeting on department sign, department website and department social media. Department sign shall give date, time and location. Department website and department social media shall give date, time and location. A quorum will consist of those members attending. Nominations and elections shall be done at the annual meeting refer to Article VIII section 1. By-laws may be changed at the annual meeting refer to Article XIII section 2.

(c)

At said annual meeting a regular business meeting shall be conducted to include the election of the board of directors (by secret ballot) for the coming year. This meeting as well as all meetings of this corporation, shall be governed by the Robert Rules of Order. The election shall be conducted as provided in Article VIII.

(d)

The board shall also be on call for special meetings as directed by the president. time, date and place of said meeting shall be determined by the president and the president shall give 24-hour notice to all board members of any such meeting.

Special meetings of the board will normally be a closed meeting to the membership. However, if circumstances of a serious nature warrant's the membership's attention, the board may, by a majority vote of the Board members, declare the meeting open. The membership may voice their opinion, but have no vote on any issue.

(e)

Four (4) board members shall constitute a quorum at any meeting of the board.

(f)

Nothing in this section shall be construed to preclude the board from authorizing financial expenditures by telephone polling of the board. However, any such action shall be documented as phone poll minutes and reported in the minutes of the next regular or special meeting.

## **ARTICLE V**

## **BOARD OF DIRECTORS**

- Section 1. The management, operation and control of this corporation shall be vested in a board of directors; seven (7) in number (known hereinafter as the board).
- Section 2. The seven (7) directors shall consist of the chief of the department; three (3) active status firefighters (which includes ~~assistant chief~~ or company officer), or active status rapid responders or active status ancillary support members, of the department, and three (3) ~~resident members~~ **corporation members** of the community. The directors will be elected as provided in these BY-LAWS. **Board members shall not be assistant chief or immediate family of chief officers or of paid staff of department.**
- Section 3. The board shall have the power to make rules for its own government, and shall have control and management of all corporation assets. The board shall have the power to make and authorize contracts for purchases, repairs and supplies; to make such rules and regulations as may be deemed necessary for the government of the corporation and its members, and to alter and amend the same; to pass upon application for membership to the department; to enforce all provisions and articles of these BY-LAWS; and generally to manage and conduct all matters necessary for the welfare of the Corporation; and delegate such of its powers as it may elect to committees, and to members and employees who are not members.
- Section 4. Vacancies occurring within the board for any reason other than expiration of their elected terms shall be appointed by the board. Such appointment shall not extend beyond the next annual meeting. Section 2 of this Article will be adhered to in the filling of any board vacancy.
- Section 5. A board member may be removed from office for gross misconduct upon the affirmative vote of five (5) of the remaining six members of the board. The board member whose removal is sought shall not be eligible to vote and the president, unless the president's removal is sought, shall be eligible to vote in any such proceeding. Any board member removed from office shall be ineligible thereafter to hold such office.

Any board member absent for three (3) successive monthly regular meetings without being excused by the president (or vice-president if board member is the president) shall have their office declared vacant, and such vacancy shall be filled as provided in Section 4 of this Article.

## **ARTICLE VI**

### **CORPORATION OFFICERS**

From the seven (7) directors, they shall elect from their number the corporation officers. The officers of the corporation shall be a president, vice-President, secretary and treasurer. No person shall hold more than one (1) office at any time, except in the case of the combined office of secretary-treasurer. Corporation officers shall be elected immediately following the annual election

## **ARTICLE VII**

### **DUTIES OF CORPORATION OFFICERS**

- Section 1. PRESIDENT

It shall be the duty of the president to preside over and preserve order at all meetings of the corporation and the board. The president shall appoint the chairmen of all committees. Shall sign all legal and official documents. The president shall see that the financial records of the corporation are reviewed once each year by a certified public accountant of the board's choosing. Results of such reviews shall be delivered at a regular board meeting. The president may decide all questions of order subject to these by-laws and Robert's Rules of Order; and shall see that all officers perform their respective duties. In case of a tie, the president shall cast the deciding vote, but shall have the right to vote in any election, or on any matter voted by a secret ballot. Shall perform all other duties as provided in these by-laws.

Section 2. VICE-PRESIDENT

It shall be the duty of the vice-president to assist the president in the performance of his/her duties. In the absence of the president, the vice-president shall assume the duties and powers of the president.

Section 3. SECRETARY

The secretary shall record and keep minutes of all meetings of the corporation and board; have custody of all books, records and papers of the corporation, except those required by the treasurer; and attend to the notification of membership of meetings. Shall submit a copy of minutes of regular, annual, special meetings and phone polls of the board or corporation within 14 days to clerical; and shall perform all other duties as the president or board may direct. Minutes of corporate and board meetings shall be retained and be reasonably available for inspection by any member of the corporation.

Section 4. TREASURER

(a)

The treasurer shall keep the financial records of the corporation, including an accurate account of all monies, receipts and expenditures: have possession of all corporation funds: shall keep records (name, address, dues paid) of membership: collect all dues, fees and assessments: deposit all monies in the name of, and to the credit of the Corporation in such banks, or banks as the board may designate: and prepare reports on financial transactions to be delivered at regular meetings of the board.

(b)

The treasurer shall be bonded in the highest anticipated amount of the total cash assets of the corporation, with a corporate surety, the premium of such bond to be paid by the corporation funds. The treasurer shall perform all other duties as the president or board may direct.

## ARTICLE VIII

### NOMINATIONS, ELECTIONS AND TERMS OF OFFICE

Section 1. Nomination of board members will be at the regular board meeting prior to the annual meeting. ~~Those nominated must be corporation members in good standing and have~~



~~paid the current year dues.~~ Nominees must be physically present or have a signed proxy stating their acceptance in order to accept said nomination. Nominations will also be accepted at the annual meeting prior to the election of the board. The president or his designee shall preside over the elections.

Section 2. ~~Four persons will be elected each year at the annual meeting to the board of directors. Election will be by secret ballot. One (1) active firefighter (which includes assistant chief or company officer), or rapid responder, or ancillary support member and one (1) community member receiving the highest number of votes will serve a two (2) year term. The remaining receiving the next highest number of votes will serve a one year term.~~ Board of Directors term shall be 3-year terms. One (1) active firefighter (which includes ~~assistant chief~~ or company officer), or rapid responder, or ancillary support member and one (1) community member shall be voted on per year. Votes shall be counted by three persons designated by President, none of whom shall be a candidate in the election. At least one of the vote counters shall be a firefighter, rapid responder, or ancillary support member.

Section 2 and one (1) ~~community member~~ corporation member receiving the highest number of votes will serve a two (2) year term.

Section 3. ~~Resident members~~ Corporation members appointed to board shall fill out department application.

Section 4. Corporate members wishing to vote shall have dues paid for the current year. All members voting shall be present for the annual board elections. ~~No proxy voting will be accepted.~~

Section 5. Assistant Chief shall not be on the board.

Section 6. No board member shall be an immediate family members of chief officers appointed by the board (chief or assistant-chief) or of paid staff of the department.

## ARTICLE IX

### CLASSIFICATION OF MEMBERS

Section 1. FIRE CHIEF

(a)

The fire chief is the highest ranking chief officer of this department and shall be directly responsible for the general welfare, training and efficiency of the department; shall see that all equipment of said department is in safe and workable order- shall accept and interview new applicants seeking the position of probationary firefighter, probationary rapid responder, probationary support member; shall have the power to make expenditures that he deems necessary before the next regular meeting of the board, providing such expenditure does not exceed one thousand dollars (\$1000.00). Any expenditure beyond one thousand dollars (\$1000.00) must be approved by the board; shall be responsible to keep accurate records of attendance to drills or alarms; shall see

that the department is operated in accordance with all legal and regulatory requirements of the State of West Virginia and shall take steps to keep abreast of such requirements and inform the board of changes in them; shall take affirmative steps to ensure that the fire rating for the area serviced by the department is the best obtainable and shall take steps as appropriate to obtain a better rating that is reasonably attainable; shall perform annual DMV check on probationary firefighters, probationary rapid responders, probationary ancillary support members, firefighters, rapid responders and ancillary support member classifications; shall perform all other duties as the board may direct.

(b)  
The Chief by virtue of his/her office will be a member of the board of directors with power to vote and voice.

(c)  
Meetings of the department or any sub-division thereof shall be under the direction and supervision of the chief or his designee.

Section 2. ASSISTANT CHIEF

(a)  
The assistant chief is the second highest ranking chief officer of the department. Assistant chief assists the chief in the operations of the department. This person may take on the responsibilities of the chief in his or her absence.

Section 3. COMPANY OFFICERS

(a)  
Appointed by the chief with input from the assistant chief. Probationary members are not eligible for company officer. Active status firefighting members who have served five (5) years will only be considered for company officer. Shall have completed all classes required by the fire commission.

(b)  
Number of captains and lieutenants needed for operations of the department is determined by the chief. Company officers may include the following: 1<sup>st</sup> captain, 2<sup>nd</sup> captain, 1<sup>st</sup> lieutenant, 2<sup>nd</sup> lieutenant.

(c)  
In the event that a company officer position is vacated, the chief can appoint a replacement, or at their discretion, leave the position vacant.

(d)  
Captain(s) this person may take on the responsibilities of the chief or assistant chief in those persons absence.

(e)  
Lieutenant(s) this person may take on the responsibilities of the chief, assistant chief or captain(s) in those persons absence.

Section 4. TRAINING COORDINATOR

(a)

Chief may appoint at least one member of the department to serve as a training coordinator. It is the training coordinator's duty to ensure that all members achieve the appropriate certifications, and to oversee training within the department.

Section 5. RAPID RESPONDER OFFICER/TEAM LEADER

(a)  
Chief shall appoint a rapid responder officer/team leader who shall have medical training, at a minimum, as a current EMT as designated by the State of West Virginia. Shall be an active status rapid responder.

Section 6. PUBLIC INFORMATION OFFICER

(a)  
Chief may appoint 1 PIO to represent the department and 1 PIO to represent red light express.

Section 7. PROBATIONARY FIREFIGHTER, PROBATIONARY RAPID RESPONDER, PROBATIONARY ANCILLARY SUPPORT MEMBER

(a)  
Any person making application for probationary firefighter, probationary rapid responder or probationary ancillary support member shall live in the department first due area, unless excused by the chief.

(b)  
Any person who has properly made application, completed a background and DMV check for the position of probationary firefighter and/or probationary rapid responder and/or probationary ancillary support member and whose application has been ~~recommended by the chief and~~ approved by the board **by unanimous vote** is eligible for the position of probationary firefighter and/or probationary rapid responder and/or probationary ancillary support member. Any such applicant must be of legal voting age and of good moral character, mentally and physically qualified to handle assigned duties. No application may be denied on the basis of sex, race, color, religion, disability, creed, national origin, or other class protected by the laws of the United States or the State of West Virginia.

(c)  
A probationary firefighter and/or probationary rapid responder and/or probationary ancillary support member may be dismissed from the department upon ~~the recommendation of the chief and~~ approval by the board without regard for any of the provisions of Article XII.

(d)  
A probationary firefighter and/or probationary rapid responder who has completed a minimum of six (6) months of satisfactory service, met requirements for firefighter and or rapid responder, passed the courses prescribed by the chief and or the board ~~and is recommended by the chief~~ is eligible to apply for firefighter and/or rapid responder.

(e)  
A probationary ancillary support member who has completed a minimum of six (6) months of satisfactory service and is recommended by the chief is eligible to apply for ancillary support member.

(f)  
Unless otherwise specified in these By-Laws or policies established by the board or chief with respect to the duties of probationary firefighters, all probationary firefighters shall be subject to the requirements and procedures applicable to non-probationary firefighters.

(g)  
No person making application for any position shall be on any other department.

(h)  
No person shall make application for any department position that has previously been on the department and removed from the department on bad terms. (example but not limited to: not returning equipment, termination, not submitting a letter of resignation, etc.)

Section 8. PROBATIONARY JUNIOR

(a)  
Any person who is 16-17 years of age and has properly made application for the position of probationary junior with written consent of his or her parent or legal guardian and provided a valid age certificate issued by Kanawha County Superintendent of Schools and whose application has been recommended by the chief and approved by the board is eligible for the position of probationary junior. Age certificate shall be on file with TMVFD until the member is 18 years of age.

Section 9. FIREFIGHTER, RAPID RESPONDER, ANCILLARY SUPPORT MEMBER

(a)  
Any person who has properly made application for the position of firefighter, rapid responder, ancillary support member and whose application has been recommended by the chief and approved by the board is eligible for the position of firefighter, rapid responder, ancillary support member.

(b)  
Firefighter and or rapid responder and or ancillary support member shall have completed a minimum of six (6) months as probationary firefighter and or probationary rapid responder and or probationary ancillary support member.

(c)  
Firefighter and or rapid responder shall have completed all required training for probationary firefighter and or probationary rapid responder.

(d)  
A firefighter, rapid responder, ancillary support member may be dismissed from the department upon recommendation of the chief and approval by the board.

Section 10. JUNIOR

(a)

Any person who is 16-17 years of age and has properly made application for the position of junior and whose application has been recommended by the chief and approved by the board is eligible for the position of junior.

Section 11. CLERICAL

(a)

The board may authorize clerical positions in the department for providing secretarial and clerical administrative support in order to ensure that services are provided in an effective and efficient manner. Any person who has properly made application, completed the interview process and completed background check set forth by the board for the position of clerical and who's application has been approved by the board is eligible for the position of clerical. Clerical shall be an ancillary support member position.

(b)

In the event a clerical position is vacated, the board shall advertise for a clerical position on department sign, department website and department social media. Department sign shall give job title, application deadline and website address. Department website and department social media shall give job title, application deadline, job description, and department website address.

**ARTICLE X**

**APPOINTMENT OF CHIEF OFFICERS**

Section 1.

(a)

Chief and assistant chief shall be appointed by the board at the annual meeting. Qualified persons interested and qualified for chief officer positions shall make application to the board and also be interviewed by the board in a closed meeting. Terms will be (5) five-year terms.

(b)

Firefighter members who have been on the department for 10 years and completed all classes required by the fire commission shall be permitted to submit an application. If no one within the department meets the WV Fire Commission qualifications, the board may go outside the department to obtain applications to the board and also be interviewed for chief and assistant chief. Individuals outside the department shall have 10 years in the fire service and completed all classes required by the fire commission.

(c)

In the event there is a tie amongst voting for chief or assistant chief classification seniority shall be the deciding factor.

(d)

In the event a chief officer classification is vacated, the board shall appoint a replacement for that classification.

**ARTICLE XI**

**EMERGENCY MEDICAL SERVICE**

- (a) Department may enter into agreement with Kanawha County emergency ambulance authority for rapid responder program to serve the community.
- (b) A certified fire department is not subject to licensure if it only provides CPR and AED services, manpower or other non-medical assistance at incidents.
- (c) Firefighters are permitted to respond to cardiac arrests to provide CPR & AED services, and shall not operate beyond their scope of training. Probationary firefighters who completed first aid, CPR, AED shall only respond with a firefighter, probationary rapid responder or rapid responder.
- (c) Rapid responders shall follow WV Office of Emergency Medical Service BLS (basic life support) treatment protocols.
- (d) The board may authorize positions in the department for the delivery of emergency medical services. Any such position shall be maintained in compliance with all legal requirements. Any such position may be eliminated by the board as it deems appropriate.
- (e) The board shall establish procedures similar to those contained in Article IX section 7 of this article for acceptance of applications, probationary status, requirements for advancement and any other pertinent duties and responsibilities relating to any position so created.
- (f) Persons holding any such provisions on a non-probationary basis shall be subject to the provisions of Article XII regarding discipline.

**ARTICLE XII**

**DISCIPLINARY PROCEEDINGS AND TRIALS**

Section 1. The basis of charges against firefighters, including officers, rapid responders, support members, clerical and board members shall include, but shall not be limited to, any one or more of the following offenses committed in the line of duty or so reasonably related thereto as to directly reflect upon the department:

- (a) Usage of abusive, foul or profane language.
- (b) Any unlawful, dishonest, dishonorable or discreditable conduct in connection with duties or responsibilities.
- (c) Mishandling, misappropriating or otherwise misusing corporation funds or properties.
- (d)

Willfully slandering or libeling a member or officer or falsely or maliciously attacking the character or questioning the integrity of any member, officer or board member.

(e)  
Threatening with violence or assaulting any member, officer or board member

(f)  
Causing disruption or disturbance during an alarm, drill or meeting or interfering with the orderly conduct thereof, or appearing at any such alarm, drill or meeting under the influence of intoxicating beverages and/or drugs.

(g)  
Failure to obey orders, directions or rulings of senior officers or board.

(h)  
Obtaining or knowingly assisting in obtaining membership through fraudulent means, or by misrepresentation.

(i)  
Filing charges maliciously or wantonly.

(j)  
Incompetence.

(k)  
Any violation of the laws of the United States or of the State of West Virginia

(l)  
Failing to take affirmative steps to prevent or stop any member from engaging in serious violations of the section, failing to report any serious violation and/or assisting in the covering up of any such violation.

(m)  
Chief shall have the authority to set penalty for violations of rules & regulations.

(n)  
Conviction of a felony or serious misdemeanor, as determined by the board, shall constitute ground for dismissal even if unrelated to service with the department.

## Section 2.

(a)  
Minor infractions of Section 1 may be handled informally by the Chief or an officer witnessing the violation.

(b)  
Formal charges of violation of Section 1 may be made by a board member, firefighter, member, or officer, who witnesses or acquires information regarding the alleged violation. Charges shall at all times be made in writing to the chief or president within 48 hours of witnessing the violation. A copy of the written charges shall thereafter be provided within (5) days to the person against whom a violation is alleged, unless the chief and president concur that special circumstances require a delay, such as during a law enforcement investigation, in which case a copy may be provided when it is appropriate under the circumstances.

(c)

After receiving and providing notice of formal charges to the affected person, the president and chief shall cause an investigation of the charges to be made. If they agree there is no basis for taking further action, the charges shall be dismissed and no further action need be taken. If they are unable to agree that the charges should be dismissed, or agree that they should not be dismissed, then the matter shall be scheduled for formal hearing before a trial body.

- The accused firefighter shall enter a plea of guilty or not guilty within 24 hours of receiving notice. If plea of guilty, refer to (c)(2). If plea is not guilty, a trial board will be convened refer to (d).

(d)

A trial body shall consist of three (3) ~~firefighters~~ members of the department mutually agreed upon by the chief, president and firefighter against whom charges have been filed, however no person directly or indirectly involved shall sit as a member of the trial body. If they cannot collectively reach an agreement on three (3) ~~firefighters~~ members of the department to serve as the trial body, the president may appoint a hearing examiner with experience in handling civil service matters for fire departments. The hearing examiner shall be paid for by the board.

(e)

The trial body shall select a chairperson and conduct a hearing on the matter. The proceedings shall be informal. The hearing shall be conducted in private unless a public proceeding is requested by the accused firefighter. The hearing shall be conducted within 30 days of formal charges being presented against accused member. Unless special circumstances from the trial body members with the approval of the President of the Board and Chief.

- (1) The trial body shall render a decision of guilty or not guilty at the conclusion of the hearing based upon the facts.
- (2) If guilty, the board of directors may upon request, and in its sole discretion, review the decision of the trial body and set aside the guilty verdict if there is evidence that the decision was clearly wrong. Otherwise, the board may hear evidence and render appropriate disciplinary action, including dismissal. If the action taken by the board is less than dismissal, the board may require the accused firefighter to pay any costs associated with the proceedings as a pre-requisite to reinstatement.

Section 3. At every hearing or trial, minutes of the proceedings shall be kept together with a summary of the evidence and of the testimony of witnesses. The chief or president may present evidence against the accused firefighter. Either party shall have the right to confront and cross-examine witnesses. The trial body or hearing examiner shall have the authority to limit the attendance to preserve order. An accused firefighter may represent himself or be represented only by another firefighter.

## **ARTICLE XIII**

### **BY-LAWS**

Section 1. The BY-LAWS of this Corporation shall be the governing authority, which states how the conduct and affairs of this Corporation will operate and function. By-laws shall be posted on the website.



Section 2. The By-Laws may be changed, **after Board of Directors elections**, at the annual meeting upon an affirmative vote of two-thirds of members present, provided that proposed changes to the by-Laws is publicized five (5) consecutive days prior to said meeting on department website and department social media. Public notice of such meeting will be publicized five (5) consecutive days prior to said meeting on department sign, department website and department social media. Department sign shall give date, time, location. Department website and department social media shall give date, time, location and proposed changes. A quorum will consist of those members attending.

Section 3. In the event the board of directors determines that a provision of the by-Laws substantially and adversely affects the operation of the corporation, the board may call a special meeting of the corporation to amend the by-Laws. The By-Laws may be changed at a special meeting upon an affirmative vote of two-thirds of members present, provided that proposed changes to the by-Laws is publicized five (5) consecutive days prior to said meeting on department website and department social media. Public notice of such meeting will be publicized five (5) consecutive days prior to said meeting on department sign, department website and department social media. department sign shall give date, time, location. Department website and social media shall give date, time, location and proposed changes. A quorum will consist of those members attending.

## **ARTICLE XIV**

### **ANNUAL MEMBERSHIP DUES**

Section 1. Required annual membership dues and membership classes shall be established by the board.

Section 2. Residential membership \$35, commercial membership class 1 \$125, commercial class 2 \$150, commercial class 3 \$200. A processing fee shall be charged if paying by credit card.

Section 3. Annual membership dues shall be paid in advance or upon receipt Tyler Mountain Volunteer Fire Department donation request letter. Checks are to be made payable to the Tyler Mountain Fire Department and mailed to P.O. Box 7537, Cross Lanes, West Virginia, 25356 or delivered to 5380 Big Tyler Road, Cross Lanes, West Virginia, 25313 or to any address the Board may direct. Annual membership dues may also be paid on the department website. Chief officers, company officers, training coordinator, PIO, probationary firefighter, probationary rapid responder, probationary ancillary support member, probationary junior, firefighters, rapid responders, ancillary support members, junior, clerical, board members, honorary/life time members affiliated with this department shall be exempt from dues. Additionally, any person who has completed twenty (20) years of services with the department as a training coordinator, PIO, firefighter, rapid responder, support member, clerical or board member or any combination thereof shall be exempt from paying required dues.

## ARTICLE XV

### **VOLUNTEER FIREFIGHTER'S TRAINING, EQUIPMENT AND OPERATING STANDARDS**

#### Section 1. Certification and Training

(a)

Volunteer firefighter's certification, training and equipment requirements shall be set forth in the legislative Rule contained in Title 87, Series 8 of the West Virginia Code of State Rules.

(b)

All firefighters certified by the fire commission prior to April 3, 2015 shall remain certified to the level previously granted by the fire commission.

(c)

Rapid responders and firefighters shall maintain a current certification in first aid, CPR, AED, and must have been trained in, at a minimum, hazardous materials awareness. Additionally, all active members and firefighters shall have the training available to them to allow them to become compliant with the "NIMS training guidelines for West Virginia as established by the West Virginia Division of Homeland Security and Emergency Management.

(d)

All active firefighters who perform automobile extractions shall have completed an approved Vehicle and Machinery Rescue Level 1 curriculum (NFPA 1006 or 1670) or equivalent, and pass any and all testing required for certification. Any active firefighter who has completed the certification for firefighter 2 is deemed to have met this requirement and does not have to receive a separate training in auto extrication level 1.

(e)

All active firefighters must have completed an approved firefighter 1 curriculum, or equivalent, and pass any and all testing required for certification before responding to any fire, with the exception of responding to wildland fires over which the Department of Natural Resources or Division of Forestry has jurisdiction.

(f)

At all times, all active fire line officers, excluding any training coordinator or safety coordinator, must have completed an approved fire office 1 curriculum, or equivalent, and pass any and all testing required for certification as a fire officer 1. Additionally, all active members and firefighters shall have the training available to them to allow them to

become compliant with the “NIMS training guidelines for West Virginia” as established by the West Virginia Division of Homeland Security and Emergency Management.

(g)

At all times, all active chief and assistant chief members must have completed and approved fire officer 2 curriculum, or equivalent, and pass any and all testing required for certification as a fire officer 2. Additionally, all active members and firefighters shall have the training available to them to allow them to become compliant with the “NIMS training guidelines for West Virginia” as established by the West Virginia Division of Homeland Security and Emergency Management.

(h)

The fire commission, at all times, shall have an equivalency program to allow certification of fire officers in fire officer 1 and fire officer 2. Any person may apply to this program for certification in either fire officer 1, fire officer 2, or both. This program shall evaluate a person’s practical knowledge and life experience within the fire service, and any previous training that person may have completed. If the person has demonstrated competency in the skills taught in these curriculums, then the application shall be granted.

(i)

All operators of fire department engines, tankers, aerials, and rescue trucks must have firefighter 1 certification, have a valid driver’s license, and must have completed an approved emergency vehicle operations course (EVOC), or equivalent, and pass any and all testing required for certification: Provided that, during maintenance or service of the vehicle, any person operating a vehicle to perform their job, may operate that vehicle as long as that person meets all other requirements to operate that vehicle as set forth by statute. Provided that, nothing in this rule shall prohibit specialized support members or emergency medical response personnel from operating fire department squads, ambulances and/or emergency medical response vehicles, or prevent ancillary support members of fire departments from operating utility vehicles. Provided that, nothing in this rule shall prohibit an active member from operating a fire department vehicle for purpose of training so long as their accompanied by a certified operator and in a non-emergency capacity.

(j)

All individuals who wish to instruct or test others in any approved curriculum for purposes of certification by the state fire commission must obtain and maintain a valid adult part-time teaching permit issued by the West Virginia Department of Education, or be a certified fire instructor through West Virginia University Fire Extension.

(k)

Active and specialized support members that respond to hazardous materials incidents must have completed and achieved certification for training at or above the level of hazardous materials awareness, and have passed any all testing required for this certification. Active and specialized support members that operate at hazardous materials incidents must have completed and achieved, at the minimum, certification for training at the hazardous materials operations level, as set forth by the U.S. Environmental Protection Agency and the U.S. Occupational Safety and Health Administration, or equivalent, and have passed any and all testing required for this certification.

- (a) Department shall maintain documentation of routine inspections and maintenance for all apparatus and equipment, including emergency repairs. These records shall be maintained by the department and made available, if requested, to an appropriate governmental entity.
- (b) Housing for apparatus and equipment shall be of adequate size, heated, and lighted adequately. Each housing facility shall meet the minimum requirements of the state fire code.
- (c) Apparatus shall meet the NFPA, NIOSH and OSHA standards applicable at the time of manufacturer, as appropriate.
- (d) SCBA, ladders, hose, fire pumps and aerials shall be tested annually for compliance ~~nfpa~~ **NFPA** codes. SCBA's shall be tested and repaired by a qualified repairman or business. All SCBA shall be positive pressure.
- (e) Department may prepare a long-range program for the purchase and replacement of apparatus and equipment.
- (f) Minimum equipment and performance for volunteer and combination fire departments must adhere to the provisions set forth in the "Volunteers Firefighter's Training, Equipment and Operating Standards" Legislative Rule provided in W.Va. Code R. 87-8-1.
- (g) At no time shall any Fire Equipment belonging to the Organization, except in the case of emergency or community project, be used for anything other than Fire Department or rescue work. At any time, there is an emergency, which determination shall be left to the discretion of the department, it shall be done through the chief officers or company officers of the department and a record shall be kept of the equipment that is being used therein.

Section 3. Fire Department Organization

- (a) The national fire protection association's current national fire codes may be used as minimum requirements relating to the organization, management, and operation of a fire department, its apparatus, equipment, personnel and other related activities. When a problem occurs which has not been addressed in the national fire protection association's national fire codes, such problems shall be referred to the West Virginia State Fire Commission for resolution.
- (b) The state fire commission shall be considered the "Authority Having Jurisdiction" with regard to the following as set forth in W.Va. code ~~29-3-9~~ **15A-11-8** fire prevention and control; uniform standards of performance, equipment and training; certification;

training and education in fire service; and the creation, operation and responsibilities of fire departments throughout the state.

(c)

Department shall maintain a financial accounting record of all receipts and disbursements. Such records shall be maintained for a period prescribed by regulations of the Internal Revenue Service, WV State Tax Department, County Government, Municipal Ordinance, or any other applicable law, rule or regulation. Department fiscal year January 1 to December 31<sup>st</sup>. Budget shall be completed before new fiscal year.

(d)

Department shall maintain a comprehensive record of each member's participation in the activities of the department. Such records may consist of, but not limited to: response to emergencies, participation in training and maintenance of training records; attendance at business or other meetings; records of and participation in administrative functions; response and operation of any EMS-related operations of the department; other activities that enhance the operational capabilities of the department and member's emergency medical information.

#### Section 4. Operational Requirements

(a)

Department shall operate in accordance with constitution, by-laws, rules and regulations, or standard operating procedures.

(b)

SOP's, rules and regulations shall be approved by the board, noted in the minutes and signed by the chief and president.

(c)

Standard operating procedures shall be established for emergency and non-emergency activities. Standard operating procedures for writing checks, internal controls, employing clerical assistance, obtaining and awarding bids and carrying out other corporate business not specified herein shall be adopted and modified as the board may deem necessary and appropriate. All such standard operating procedures shall be noted in the minutes of any such meeting.

(d)

Department shall report fire loss data to the state fire marshals office monthly all fire and non-fire incidents through the national fire incident reporting system.

(e)

Department shall make provisions for the receipt of alarms and the notification of members of all emergency calls received.

(f)

Members of the department shall respond to any emergency call in a manner consistent to preserve life, safety, and property of the public and members of the department.

(g)

Department shall within five minutes of arriving on the scene at a structure or vehicle fire, be capable of delivering a minimum water flow at the rate of one hundred (100) gallons per minute for a minimum of five (5) continuous minutes for a structure fire.

(h) Department shall cooperate with bordering department(s), prepare a map outlining their “first due” area and submit one (1) copy to the state fire commission upon request.

(i) Department within first due area, shall achieve at least the minimal classification for a municipality or a rural fire protection district as determined by the insurance service office.

(j) Department shall have a fire safety program to educate the public in prevention and reduction of fire risks. Program should assist the respective community in gaining the knowledge and skills they need to lead safer lives.

(k) Workman’s compensation shall be maintained on all members and employees of the department.

(l) Insurance shall be maintained on buildings and vehicles of the department

(m) Requirements that are enforced by the West Virginia State Fire Commission, through the West Virginia State Fire Marshal requires departments to maintain minimum levels of performance in training, equipment maintenance and performance standards. Department’s certification may be removed if requirements are not met (W.Va. code rules 87-6-1). Provided that, except in situations of imminent danger to life or property, upon application, the commission shall grant a department a 180-day period of correction, which may be extended upon good cause shown, during which the commission shall assist a fire department in correcting deficiencies noted.

(n) Members or personnel associated with the department will not divulge department information to which they have access, or come to their attention, nor will they make information contained in fire records available to anyone not associated with the department, unless specified by a chief officer or company office.

(o) All probationary firefighters, probationary rapid responders, probationary ancillary support member, all firefighters, rapid responders, ancillary support members shall maintain active status. If not active status a meeting shall be held with chief officers and or company officers.

Section 5. Administrative Procedures

(a) Fire departments shall provide an annual listing of number of their members/employees to the state fire commission by January 31<sup>st</sup> of each year.

(b)

Changes in any of the following shall be filed with the office of the state fire commission within thirty (30) days of change: chief, fire department address, telephone number(s) (business and emergency), electronic mail or website information.

(c)  
Fire departments shall respond as directed to requests and surveys requested by the state fire commission or state fire marshal.

(d)  
Department minutes shall be posted on website every 6 months.

(e)  
All documents shall be on the server and backed up offsite.

(f)  
Shall be no expenditures of money or financial obligations incurred in the name of the department by any member or personnel associated with the department without the prior knowledge and permission from the chief.

(g)  
This Corporation may charge reimbursement fees to non-members for fire, rescue or other services rendered. The fee shall be set by the Kanawha County Commission.

(h)  
Department shall charge processing fee if paying with a credit card.

Section 6. Mutual Aid/Automatic Aid

(a)  
Department shall develop mutual aid/automatic aid agreements with neighboring departments. Each fire department shall forward one (1) copy of such agreement and any subsequent changes to the state fire commission within thirty (30) days from when agreements are finalized. If a county wide agreement exists, one (1) plan shall be submitted by the county organization.

(b)  
Department shall be a member of Kanawha County Mutual Aid Association.

## ARTICLE XVI

### **RECORD RETENTION**

Section 1. Fire Management 10 years

(a)  
Administrative (includes policy and procedures, correspondence and memorandums related to levels of administration for employees of all disciplines).

(b)  
Training standards (includes policy and procedures, correspondence and memorandums related to levels of training standards for employees of all disciplines).

(c)

Health and Safety standards (includes policy and procedures, correspondence and memorandums related to levels of health and safety standards for employees of all disciplines).

(d)  
Annual testing of SCBA, ladders, hose and fire pumps.

Section 2. Fire Prevention (includes general related correspondence). 7 years

(a)  
Pre-plans, cooperative fire prevention program, pre-suppression management

Section 3. Fire suppression 7 years

(a)  
Fire reports (including NFIRS input data, components of the documentation narrative report, action plans, maps, fire situation analysis and other records that have long-term value). Option 1: cutoff or close at end of calendar year in which the report is submitted. Option 2: Individual fire reports may be maintained and transferred to NFIRS.

(b)  
Records documenting significant events, actions taken, lessons learned, and other information with long-term value for fire prevention and safety such as: fire narrative and summary reports, final situation analyses, delegation of authority, incident action plans, fire behavior analyst reports, field weather data not captured electronically, news articles and media releases, fire progression and final fire perimeter maps, photos and infrareds necessary to document resource impact and lessons learned.

(c)  
Other records may include those relating to joint operations and/or mutual aid; copies of incident reports and analyses prepared by agencies other than the Incident Management Team or host unit, or other agencies that support management decisions; records documenting significant interactions with communities affected by the incident; and selected reports or notes pertaining to high-level management, entrapment reports and security issues that have not been incorporated into the fire narrative.

(d)  
Records documenting the administrative and operational actions taken in the management of the incident, such as daily action plans, internal briefings, status summary reports, inspection checklists, unit logs, worksheets, inventories, resource orders, demobilization plans and checkout, cost estimates, agreements, fire behavior messages and forecasts, raw weather data captured elsewhere, safety reports and accident logs, firing plans, individual unit narratives, photos without long-term value, and similar records pertaining to logistics, resources, air operations, safety and demobilization, which document decisions and activities with near-term importance, claims, payments, and litigation support.

(e)  
Fleet and fuel management (including mileage logs, fuel purchase receipts, fuel purchase records, vehicle maintenance records, short and long-term fuel purchase agreements.



- Section 4. Investigation (includes general correspondence and records pertaining to types of investigations, procedures, reporting, and directions). 10 years
- (a) Investigation procedures (include records pertaining to procedures involving suspect's rights, recording equipment, statement procedures, evidence and other related records).
- (b) Reports (includes the law enforcement reports, cooperative law enforcement activity and annual report).
- (c) Case Reports (includes case files containing data which enables reviewing officials and attorneys to access the prosecutive merits of a case to present in court. Investigations related to Arson or explosion incidents, as well as fraud, abuse and misuse by personnel).
- (d) Action and procedures (include records and reports pertaining to violation prevention and enforcement, including related activities with Federal, State and local law enforcement agencies).
- Section 5. Equipment (includes document, correspondence, memorandums and other records related to all equipment). 7 years
- Section 6. Donations and financial condition (including bank records, statements, correspondence, purchase agreements, contracts, land surveys, grants, patents, deeds, dead of trust or mortgage, title insurance policy, abstract of title, certificate of title, dead of trusts, or other such related documents). 10 years
- Section 7. Purchases (including contracts, agreements, statements, correspondence, survey, deeds, condemnation documents where applicable, appeals, other title evidence, and related documents). 10 years
- Section 8. Exchanges (including correspondence, letters of negotiation, explanatory notes, exchange agreements, proposals, plans, or contracts, appraisals, appeals, objections and related decisions, land descriptions, field examinations, surveys, certificates of possessions, statement of intent, environmental assessments, statements of value and appraisal, statements of disposal, certificates of title or title insurance policy, certifications and proof of publications, and other related documents). 10 years
- Section 9. Partial land interests (includes correspondence evaluations, appraisals, scenic or conservation easements, mineral deeds, documentation of compliance, environmental assessments or statements, mortgages, deeds of trust and vendors liens, leases and related documents). 10 years
- Section 10. Boundary modifications (consummated and unconsummated agreements containing the information which gives background rationale for establishing modifications which include the public's interest, resources involved, and the intent of agreement). 10 years
- Section 11. Land transfers (consummated and unconsummated case files which contain analyses of land transfer or interchange proposals; related correspondence; environmental analyses; reservoir projects' public domain and government property; copies of authorizing documents of transfers or interchanges). 10 years

- Section 12. Construction and use agreements and supplements (case files pertaining to road right-of-way construction and use agreements with other landowners or land administering agencies for joint development and use of roads and road systems. Includes supplements to the agreement, correspondence, and related documents). 10 years
- Section 13. Sales and grants (include correspondence, maps, environmental assessments, deeds, appraisals, grants, certified letters, affidavits, land classification studies and maps, bills of sale, tax assessment records, sale notice, notices of award, appeals and related documents). 10 years
- Section 14. Landownership status (correspondence concerning the status of lands). 10 years
- Section 15. Electronic Data 3 years

(a)

Electronic copies of records that are created on electronic mail and word processing systems and used solely to generate a record keeping copy of the records covered by the other items in this schedule. This also includes electronic copies of records created on electronic mail and word processing systems that are maintained for updating, revision, or dissemination.

(b)

Copies that have no further administrative value after the record keeping copy is made. This includes copies maintained by individuals in personal files, personal electronic mail directories, or other personal directories on hard disk or network drives, and copies on shared network drives that are used only to produce the recordkeeping copy.

## **ARTICLE XVII**

### **NON-PROFIT CORPORATION**

- Section 1. This organization is organized exclusively for charitable purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code.
- Section 2. No part of the net earnings of the organization shall inure to the benefit of, or be distributed to its members, trustees, officers, or other private persons, except that the organization shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the purpose clause hereof. No substantial part of the activities of the organization shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the organization shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of this document, the organization shall not carry on any other activities not permitted to be carried on (a) by an organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or (b) by an organization, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or corresponding section of any future federal tax code.

Section 3. Upon dissolution of the organization, assets shall be distributed for one or more exempt Purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to Kanawha County for the public purpose of providing fire services to the community of Tyler Mountain, Cross Lanes -and surrounding areas. Any, such assets not disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the organization is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.