Section. 00-000. Adoption

Pursuant to the Code of Virginia, 27-97, as amended, repealed, reenacted, or recodified from time to time, the "Virginia Statewide Fire Prevention Code" ("SFPC") is hereby adopted and made a part of this Code with amendments as hereinafter set forth. Such "Statewide Fire Prevention Code" is applicable to all buildings constructed after January 1, 1974.

Section. 00-000. Virginia Statewide Fire Prevention Code

(a) It shall be the policy and practice of the town to enforce, in its entirety, the Virginia Statewide Fire Prevention Code ("SFPC") adopted by the Virginia Board of Housing.

(b) From time to time the Town Council may approve a schedule of permits and of fees applicable to inspections, approvals and appeals conducted for purposes of enforcement of the SFPC. Once a schedule of permits and/or fees is approved it shall be maintained in the Office of the Town Manager.

(c) The town's fire department shall have the responsibility to serve as the local enforcing agency for the SFPC. In carrying out such responsibility, the fire department shall act by and through an executive official ("Fire Official") designated by the Town Manager. Unless otherwise specified by the Town Manager, the town's Fire Chief shall serve as the Fire Official. The Fire Official and any fire department employees appointed to assist him, shall have authority to exercise the powers authorized within the SFPC and relevant provisions of the Statewide Fire Prevention Code Act, 27-94 et seq. of the Virginia Code, as amended. The Fire Official may delegate duties and powers to his assistants, but the Fire Official shall remain responsible for ensuring that any such delegated duties and powers are carried out in accordance with applicable provisions of law.

(d) The Fire Official, Fire Marshal and his assistants shall have or obtain the qualifications and certifications specified within the SFPC.

(e) The Fire Official shall keep and maintain official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. The Fire Official shall deliver to his successor in office all such records that may be in his possession or control.

Section. 00-000. Powers and Duties of Fire Marshal; assistants

(a) The Fire Official may appoint an employee of the fire department to serve as the town's Fire Marshal, and one (1) or more assistants. The Fire Marshal shall have the powers, functions and responsibilities described within Title 27, Chapter 3 (Local Fire Marshals) of the Virginia Code.

(1) In addition to any other duties prescribed by law, the Fire Official, Fire Marshal and his assistants shall have the authority to arrest, to procure and serve warrants of arrest, and to issue summons in the manner authorized by general law for violation of fire prevention and fire safety laws and related ordinances. The authority granted in this section shall not be exercised by the Fire Official, Fire Marshal or any assistant until such person has satisfactorily completed a

training course designed specifically for local fire marshals and their assistants and approved by the Virginia Fire Services Board.

(2) Where a town Fire Marshal or any assistant(s) have been designated by the town's Fire Chief they shall, before entering upon their duties, take an oath before an officer authorized to administer oaths, to faithfully discharge the duties of such office(s). The certificate of the oath shall be returned to and preserved by the Clerk of the Town Council.

(b) The Fire Official and/or Fire Marshal shall have the right to enter upon any property from which a release of any hazardous material, hazardous waste or regulated substance, as defined in 10.1-1400 or 62.1-44.34.8 of the Virginia Code, has occurred or is reasonably suspected to have occurred, and which has entered into ground water, surface water or soils of the town. The right of entry authorized by this provision is to allow the Fire Official and/or Fire Marshal to investigate the extent and cause of any such release and shall be exercised in accordance with the provisions of 27-37.1 of the Code of Virginia.

(c) In accordance with the provisions of 27-31 of the Code of Virginia, the Fire Official shall appoint a person to make investigations into the cause of every fire and explosion occurring within the limits of the Town. This person shall have the authority to arrest, to procure and serve warrants of arrest, and to issue summons in the manner authorized by general law. The authority granted in this section shall not be exercised by the Fire Official, Fire Marshal or any assistant until such person has satisfactorily completed a training course designed specifically for fire investigators and their assistants and approved by the Virginia Fire Services Board.

Section. 00-000. Board of Fire Prevention Code Appeals

(a) Pursuant to the Code of Virginia 27-98, as amended, repealed, reenacted, or recodified from time to time, the Town Council shall establish a local Board of Fire Prevention Code Appeals ("BFPCA") consisting of five members who are qualified by experience and training to rule on matters pertaining to building construction and fire prevention.

(b) All Board members shall be qualified voters of the Town of Chilhowie. Three members shall be appointed to serve a term ending at twelve o'clock (12:00) noon on December 31, 2014; and two members shall be appointed to serve a term ending at twelve o'clock (12:00) noon on December 31, 2016. Employees and officials of the Town of Chilhowie shall not serve as members of the BFPCA. Successors to the offices of appointed BFPCA members shall be made by the Town Council for a full term of office, to expire at twelve o'clock (12:00) noon on December 31, four years from the date of appointment.

(c) A member shall not hear an appeal in which that member has conflict of interest in accordance with the State and Local Government Conflict on Interests Act, Chapter 31 (Section 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia.

(d) Vacancies in the case of appointed BFPCA members shall be filled by the Town Council for the unexpired term only.

Section. 00-000. Appeals

(a) The owner of a structure, the owner's agent or any other person involved in the design, construction or maintenance of the structure may appeal a decision of the Fire Official concerning the application of the SFPC or the Fire Officials refusal to grant modification under Section 106.5 to the provisions of the SFPC. The appeal shall first lie to the local Board of Fire Prevention Code of Appeals (BFPCA) and then to the State Technical Review Board (TRB). The appeal shall be submitted to the BFPCA within 14 calendar days of the application of the SFPC. The application shall contain the name and address of the owner of the structure and the person appealing if not the owner. A copy of the written decision of the Fire Official shall be submitted along with the application for appeal and maintained as part of the record. The application shall be stamped or otherwise marked by the BFPCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the Fire Official's decision.

(b) The BFPCA shall meet within 30 calendar days after the date of receipt of the application for appeal. Notice indicating the time and place of the hearing shall be sent to the parties in writing to the address listed on the application at least 14 calendar days prior to the date of the hearing. Less notice may be given if agreed upon by the applicant.

(c) All hearings before the BFPCA shall be open to the public. The appellant, the appellant's representative, the Fire Official and/or Fire Marshal and any person whose interests are affected shall be given an opportunity to be heard. The chairman of the BFPCA shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings.

(d) The BFPCA shall have the power to uphold, reverse or modify the decision of the Fire Official by a concurring vote of the majority of those present. Decisions of the BFPCA shall be final if no appeal is made therefrom and the appellant and the Fire Official shall act accordingly.

(e) After the final determination by the BFPCA, any person who was a party to the local appeal may appeal to the State Technical Review Board (TRB). Application shall be made to the TRB within 21 calendar days of receipt of the decision to be appealed. Appeals to the TRB shall be accompanied by copies of inspection reports and other relevant information. Failure to submit an application for appeal within the time limit established by this section shall constitute an acceptance of the BFPCA's resolution or the Fire Official's decision.

Section. 00-000. Fireworks

(a) Except as otherwise provided in this section, it shall be unlawful for any person to possess, transport, manufacture, store, sell, offer for sale, expose for sale or to buy, use, ignite or explode any firecracker, torpedo, skyrocket, or other substance or thing, of whatever form or construction, containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, nitroglycerine, phosphorus, or any other explosive or flammable compound or substance and intended or commonly known as fireworks.

(b) The Fire Official may, upon due application, issue a permit to a properly qualified person for giving a pyrotechnic display of fireworks in the public parks or other open places. Such permits shall impose such restrictions as in the opinion of the Fire Official may be necessary to properly safeguard life and property in each case.

Section. 00-000. Authority of the Town as to False Alarms.

(a) The purpose of this section is to:

(1) Provide for the overall safety, health and welfare of the public;

(2) Enhance the safety of police and fire department personnel

(3) Reduce an undue burden on the resources of the town and its police and fire departments; and

(4) Encourage property owners to remedy conditions which lead to excessive alarms.

(b) The Chief of the Fire Department, Chief of the Police Department, and the Fire Marshal each are authorized to bill to the owner of any premises from which a false alarm originated a charge or penalty as set forth in the schedule given in subsection (d), for any false alarms in excess of two during a consecutive 12-month period. Any fee charged will be due and payable within 30 days after mailing to the owner at the address from which the alarm originated or address of the owner shown on the real estate tax records for such premises. The Town Manager, or his designee, will receive such payments and shall take any and all actions reasonably necessary to collect such payments if not paid in a timely manner.

(c) No fee will be charged, and an alarm will not be counted toward the allowance of two free calls, where the false alarm was caused by an act of nature; power outages; erroneous but good faith based on the reasonable suspicion that a fire or emergency was occurring; or intentional or malicious false alarms triggered by third parties over whom the owner has no control or responsibility.

(d) The following charges will apply:

(1) Only false alarm in preceding 12 months . . . No Charge
(2) Second in preceding 12 months . . . No Charge
(3) Third in preceding 12 months . . . $50.00
(4) Fourth in preceding 12 months . . . $100.00
(5) Fifth in the preceding 12 months . . . $200.00
(6) Sixth in the preceding 12 months . . . $400.00

(e) Any property owner who disputes the calculation of the charge or who claims an exception under subsection (c) may appeal the charge in writing to the Town Manager within the 30-day payment period. The Town Manager is authorized to void or modify the charges if he determines an error was made or an exception applies. Upon determination of the Town Manager of the correct charges, payment must be made within ten business days thereafter, or the Town Manager, or his designee, is to begin appropriate collection action. Upon exhaustion of the right to review by the Town Manager, any property owner may contest the charge in an appropriate court having jurisdiction.