

Chapter 34 FIRE PREVENTION ^[1]

ARTICLE I. - IN GENERAL

ARTICLE II. - VOLUNTEER FIRE DEPARTMENT

ARTICLE III. - AUTHORITY OF LOCAL FIRE DEPARTMENT

ARTICLE IV. - FIRE PROTECTION AND CONTROL

FOOTNOTE(S):

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State Law reference— Municipal power to make regulations guarding against fire dangers, W. Va. Code, § 8-12-5(15).

ARTICLE I. IN GENERAL

Secs. 34-1—34-18. Reserved.

Secs. 34-1—34-18. Reserved.

ARTICLE II. VOLUNTEER FIRE DEPARTMENT ^[2]

Sec. 34-19. Recognition of Berkeley Springs Volunteer Fire Department.

Sec. 34-20. Support of volunteer fire department.

Secs. 34-21—34-43. Reserved.

Sec. 34-19. Recognition of Berkeley Springs Volunteer Fire Department.

The town council hereby recognizes the Berkeley Springs Volunteer Fire Department as the official firefighting agency in the town.

(Code 1981, § 6-101)

Sec. 34-20. Support of volunteer fire department.

The town may contribute financially to its fire department.

(Code 1981, § 6-102)

Secs. 34-21—34-43. Reserved.

FOOTNOTE(S):

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State Law reference— Volunteer fire companies, W. Va. Code, § 8-15-4 et seq.

ARTICLE III. AUTHORITY OF LOCAL FIRE DEPARTMENT ^[3]

Sec. 34-44. Entry of buildings where reasonable cause to believe a fire is in progress; adjoining premises.

Sec. 34-45. Authority of chief or other firefighter in command when answering alarm or extinguishing fire.

Sec. 34-46. Person in command at fire scene may take and preserve certain property; restitution.

Sec. 34-47. Conducting investigation to determine cause of fire.

Secs. 34-48—34-67. Reserved.

Sec. 34-44. Entry of buildings where reasonable cause to believe a fire is in progress; adjoining premises.

The chief of the fire department, any firefighter 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.

(Code 1981, § 6-201)

Sec. 34-45. Authority of chief or other firefighter in command when answering alarm or extinguishing fire.

- (a) While a fire is in progress, all bystanders shall obey the direction of the fire chief or the firefighter in control.
- (b) While going to the station, extinguishing a fire or returning to the station, the fire chief or the firefighter in control shall direct all bystanders, order all firemen, facilitate the movement of equipment and men, and, until a police officer arrives, direct traffic or order a subordinate to do so. The fire chief or firefighter in control shall display a firefighter'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 firefighting equipment at a station.

(Code 1981, § 6-202)

Sec. 34-46. Person in command at fire scene may take and preserve certain property; restitution.

The fire chief or any firefighter 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.

(Code 1981, § 6-203)

Sec. 34-47. Conducting investigation to determine cause of fire.

- (a) To determine the cause of a fire, a fire chief or firefighter in control may enter the scene of the fire for up to 48 hours after the fire.
- (b) If there is evidence that such fire was of incendiary origin, the fire chief or other authorized firefighter may control who may enter the scene of such fire by posting no trespassing signs at such scene for a period of 48 hours after such fire has been extinguished.
- (c) 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.

(Code 1981, § 6-204)

Secs. 34-48—34-67. Reserved.

FOOTNOTE(S):

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State Law reference— Firefighting and fire departments, W. Va. Code, § 8-15-1 et seq.

ARTICLE IV. FIRE PROTECTION AND CONTROL

Sec. 34-68. Power and authority of fire department.

Sec. 34-69. Maintenance of fire hazard; order for repair or demolition; order to contain notice to comply and right to appeal.

Sec. 34-70. "Fireworks" defined; labels required.

Sec. 34-71. Unlawful sale, possession or use of fireworks; permit for public display.

Sec. 34-68. Power and authority of fire department.

The Berkeley Springs 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

powers and duties of its commanders and impose a penalty on those who refuse the orders of the men in command.

(Code 1981, § 6-301)

Sec. 34-69. Maintenance of fire hazard; order for repair or demolition; order to contain notice to comply and right to appeal.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Fire hazard means any building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the judgment of the fire chief or someone appointed by the town council, 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.

(b) 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 the town.

(c) To promote the health and welfare of the town, the fire chief, his deputies, or a certified inspector the chief may designate shall, as provided by law, have authority to enter upon and into public and commercial property for the purpose of determining the presence of any fire hazard. A written notice of such inspection shall be given ten days in advance of the inspection.

(d) 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.

(e) The owner shall have 30 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.

(Code 1981, § 6-302; Ord. No. 87-1, 1-6-1987)

Sec. 34-70. "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.

(Code 1981, § 6-303)

Sec. 34-71. 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 that the state fire marshal may grant permits for special occasions such as fairs, amusement parks, municipalities and others. All permits are obtained through the state fire marshal 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.

The Code of the Town of Bath, West Virginia

(Code 1981, § 6-304)