

CHAPTER 5
FIRE AND RESCUE

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5.01 ADMINISTRATIVE CODE PROVISIONS ADOPTED

- 1) **Adoption of Code:** NPA 1 fire Code - 2012, subject to the modification specified in chapter SPS 314 of the Wisconsin Administrative Code, as amended from time to time, is hereby adopted and incorporated herein by reference.

Established April 17, 2001, Ordinance 374

5.02 ESTABLISHMENT OF TOWN OF DELAVAN FIRE AND RESCUE

1) TOWN FIRE AND RESCUE ESTABLISHED

- (a) Pursuant to Sections 60.55 and 60.565, Wisconsin Statutes, the Town of Delavan Fire and Rescue is hereby established to provide volunteer fire and rescue services and general emergency services to the Town of Delavan or other jurisdictions requesting mutual assistance.

2) RATIFICATION OF PRIOR ACTS

- (a) All actions of the Town of Delavan Fire and Rescue or its predecessors that occurred prior to the passage of this ordinance are hereby ratified by the Town Board.

Established April 17, 2001

5.03 BYLAWS

- 1) The Fire Department shall adopt bylaws for its control, management and government and for regulating the business and proceedings for the Department, which bylaws, after adoption by two-thirds (2/3) vote of the members of the Department, shall not become effective until approved by the Town Board. Amendments shall be adopted in the same manner.

Established April 17, 2001

5.04 APPROPRIATIONS

- 1) The Town Board shall appropriate funds for Fire Department operations and for such apparatus and equipment for the use of the Department as the Board may deem expedient and necessary to maintain efficiency and properly protect life and property

Revised 5.21.2019

from fire.

Established April 17, 2001

5.05 ORGANIZATION

1) GENERAL

- (a) The organization and internal regulation of the Fire Department shall be governed by the provisions of this Chapter and by such bylaws adopted by the Department as are approved by the Town Board, except as is otherwise provided by law or ordinance.

2) COMPOSITION

- (a) The Fire Department shall consist of a Fire Chief, an Assistant Fire Chief, a Captain and a Lieutenant for each company; as many officers as may be deemed necessary by the Fire Chief, a Secretary; a Treasurer; and as many fire and rescue personnel who are residents of the Town or who work in the Town of Delavan as may be appointed by the Chief and approved by the Town of Delavan Police and Fire Commission.
- (b) In the event membership should drop below a level that the Chief deems inefficient, the Chief shall immediately notify the Town Board of such event.

3) SELECTION OF OFFICERS

- (a) The election of the Chief, Assistant Chief, Secretary, and Treasurer, as the bylaws may require, shall be held at the annual meeting of the Department in the

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manner provided in the bylaws. In case of any vacancy, the Chief shall appoint a member in good standing to fill the office until the next annual election. The Chief is elected subject to approval of the Town of Delavan Police and Fire Commission.

4) MEMBERSHIP

(a) APPLICATION; CONFIRMATION

- i. Any person desiring to be a member of the Fire Department may file with the Secretary an application in such form as may be required. Each applicant shall also file a certificate of physical fitness from such physician as the Chief may designate. The name of any applicant approved by the Chief as provided in the bylaws shall be presented to the Town of Delavan Police and Fire Commission for confirmation.

(b) HONORARY MEMBERSHIP

- i. Active membership in the Department for members other than the Chief shall cease at the age of fifty-five (55) unless the Town of Delavan Police and Fire Commission, by a majority vote, approves of the person continuing as an active member. Upon reaching the age of fifty-five (55), active members shall become honorary members and be assigned to lighter duties.

Established April 17, 2001

5.055 CHARGES FOR FIRE AND RESCUE SERVICES

1) REIMBURSEMENT FOR SERVICES REQUIRED

- (a) Any person who receives medical/rescue services from the Town of Delavan Fire and Rescue Department, or ambulance or other services from such departments shall be required to reimburse the Town of Delavan for such services at the rates as stated herein.

2) DEFINITIONS

- 1) For the purposes of this section, the following words have

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the following meanings:

- i. **"BASE RATE"** shall mean the rate charged to any person who is transported to a health care facility by the Town of Delavan Fire and Rescue. The base rate shall be charged in addition to the fee for each service performed to said person at the rates set forth herein, provided that a response charge shall not be assessed in any case where the base rate is applied.
- ii. **"RESPONSE CHARGE"** shall mean the charge made for treatment rendered to any person by the Town of Delavan Fire and Rescue in cases where that person is not transported to a health care facility. The response charge shall be in addition to the charges for additional services rendered at the rates set forth herein, provided that a base rate shall not be charged in any case where a response charge applies.

3) RATES FOR SERVICES

- (a) The rates for medical/rescue services provided by the Town of Delavan Fire and Rescue shall be as set forth in the schedule on file with the Town Clerk as amended from time to time.

4) AUTHORIZATION TO ESTABLISH ADDITIONAL SERVICE FEES

- (a) The Town of Delavan Fire and Rescue is hereby authorized to establish flat fees not incorporated with the above listed fees.

5) WAIVER OF FEES

- (a) All fees collected shall be payable to Town of Delavan. The Town Board or its designee may, upon recommendation of the Town of Delavan Fire Chief and/or Rescue Chief, waive any and all fees due from a person, business or entity under this Ordinance.

6) EXTRATERRITORIAL CHARGES

- (a) Subject to any contrary provision of any Mutual Aid Agreement entered into between the Town of Delavan and any other unit of local government, the charges provided for herein shall be charged by the Town of Delavan for services rendered to all person(s) who receive care, treatment or transportation by the Town of Delavan Fire and Rescue for emergencies occurring within or without the Town of Delavan, without regard to whether those services are performed by personnel manning units owned by the Town of Delavan or by personnel manning units owned or controlled by other units of local government, pursuant to the provisions of Mutual Aid Agreement to which said unit of government and the Town of Delavan are a party.

7) ANNUAL REVIEW OF CHARGES

- (a) The rates for services herein shall be reviewed annually, on or about the March 1, by the Fire and/or Rescue Chiefs, who shall make recommendations for rate adjustments to the Town Board.

Created July 18, 2006 ordinance No. 277 repealed and recreated March 20, 2007 Ordinance No 285, repealed and created August 17, 2008 Ordinance 289, Ordinance 321, Ordinance 373

5.06 POWERS AND DUTIES OF FIRE CHIEF

1) APPOINTMENT OF CHIEF

- (a) The Town of Delavan Police and Fire Commission shall, upon review of the actions taken under Section 5.05 3) of the Town of Delavan Municipal Code, appoint a Fire and Rescue Chief or may appoint separate Chiefs for Fire and Rescue.

2) APPLICABILITY

- (a) Appointments made prior to the enactment of this ordinance shall not be affected by this Ordinance.

3) GENERAL SUPERVISION

- (a) The Chief shall have the general supervision of the Department, which supervision shall be subject to and not conflict with this chapter and the bylaws of the Department and shall enforce a rigid observance of this chapter and the bylaws. The Chief shall be responsible for the personnel and general efficiency of the Department.

4) PRESIDING OFFICER

- (a) The Chief shall preside at all meetings, call special meetings, preserve order and decide all points of order that may arise.

5) COMMAND AT FIRES

- (a) The Chief or highest ranking officer in the absence of the Chief, shall have complete command of and entire responsibility for all firefighting operations and plan the control of the same, direct the action of the Department when it arrives at a fire, observe that the Department does its duty, grant leaves of absence at a fire when the Chief deems it proper and sees that the firefighting apparatus is kept in proper condition at all times.

6) DEPARTMENT BUDGET

- (a) Not later than October 1 of each year, the Chief shall file with the Town Clerk a detailed estimate of the appropriations needed for the conduct of the Department during the ensuing fiscal year.

7) REPORTS

- (a) The Chief shall submit a written report to the Town Board no later than February 1 of each year and at such other times as the Chief deems desirable relating to the condition of various pieces of apparatus and appurtenances, the number of hydrants and the condition of the same, the number of fires occurring since the previous report and the date of the same and

the loss occasioned thereby, the number of members of each company, the total number of active members in the Department and resignations and expulsions from the Department. The Chief shall also report upon the drill and training program of the Department, together with such other pertinent information, including recommendations for improvements, as the Chief deems proper and necessary for the operation of the Department.

8) ENFORCEMENT OF FIRE PREVENTION ORDINANCES

- (a) The Chief shall enforce all fire prevention ordinances of the Town and State laws and regulations pertaining to fire prevention and shall keep citizens informed on fire prevention methods and on the activities of the Department.

9) FIRE RECORD BOOK

- (a) The Chief shall keep, in a record book, records of every fire to which the Department was called and shall enter in such book the locality of the fire, the time the alarm was received, the cause of the fire, where the fire started, the cause of delay, if any, in responding, the method of extinguishment and the equipment used, the amount of insurance carried on the building and its contents, the estimated fire loss, the time the fire was extinguished, the names of the firefighters responding and general remarks.

10) APPARATUS INVENTORY

- (a) The Chief shall keep an inventory of all apparatus and equipment and an inventory of all hose, showing dates and results of tests on each length, which shall be individually numbered.

11) DUTIES OF COMMANDING OFFICER

- (a) The Chief shall perform such other duties as are usually incumbent on the commanding officer of a Fire

Department.

12) OTHER DUTIES

- (a) The Chief shall be responsible for the promulgation of Standard Operating Procedures for the Department and shall mandate compliance with all required training for members of the Department.

Established April 17, 2001

5.07 CONTROL AND CARE OF APPARATUS

1) CHIEF RESPONSIBLE

- (a) The Fire Chief shall have control of all apparatus used by the Department and shall be responsible for its proper maintenance. Emergency repairs may be authorized by the Chief.

2) USE

- (a) No apparatus shall be used for any purpose except firefighting within the Town, or in training therefore, except pursuant to a response for a request for mutual assistance from another jurisdiction or pursuant to an agreement approved by the Town Board after the Chief has given any recommendations on such use. With the approval of the Chief, such apparatus may be used for emergency purposes within the Town or for parades and related matters with the prior approval of the Town Board.

Established April 17, 2001

5.08 AUTHORITY OF DEPARTMENT AT FIRES

1) CONTROL AT FIRES

- (a) The Fire Chief may prescribe certain limits in the vicinity of any fire within which no person except firefighters and police officers and those admitted by order of any officer of the Department may enter. The

Chief may cause the removal of any property from a fire or to prevent the spread of the fire or to protect the adjoining property, and during the progress of any fire, the Chief may order the removal or destruction of any property necessary to prevent the further spread of fire. The Chief may also cause the removal of all wires during the progress of a fire.

2) ENTERING PREMISES

- (a) Any firefighter acting under the direction of the Fire Chief or other officer in command, may enter upon the premises adjacent to or in the vicinity of any building or other property then on fire to extinguish such fire and, if any person hinders, resists or obstructs a firefighter in the discharge of the Chief duty as herein provided, the person so offending shall be guilty of resisting a firefighter in the discharge of their duties.

Established April 17, 2001

5.09 DISCIPLINE

- 1) Any member or officer of the Department who has been expelled, demoted for any offense, neglect of duty or insubordination may appear before the Town of Delavan Police and Fire Commission and state why such penalty should not be confirmed. The Town of Delavan Police and Fire Commission may affirm, modify, or reverse the action of the Department.

Established April 17, 2001

5.10 FIRE INSPECTORS

1) FIRE INSPECTOR GENERALLY

- (a) The Department shall nominate, subject to confirmation by the Town of Delavan Police and Fire Commission, a Fire Inspector and Deputy Fire Inspector who shall both be qualified under state law.

2) DUTY OF INSPECTION

(a) INSPECTIONS REQUIRED

- i. The Fire Inspector shall inspect semi-annually all public and commercial buildings, and public thoroughfares within the Town to note and cause to be corrected any conditions liable to cause fires. Repairs or alterations necessary to remove a hazardous condition shall be made within a reasonable time at the owner's expense. The Inspector shall also investigate the storage and handling of explosives and flammable liquids within the Town.

(b) SPECIAL INSPECTION WARRANT

- i. If consent to entry to personal or real properties which are not public buildings, or to portions of public buildings which are not open to the public, has been denied, the Fire Inspector shall obtain a special inspection warrant under Sections 66.119 Wisconsin Statutes.

3) RECORD AND REPORTS OF INSPECTIONS

- (a) The Fire Inspector shall keep a written record card of each property inspected which shall conform to the requirements of the State Department of Industry, Labor and Human Relations and Department of Commerce, and shall make the semi-annual report of inspections required by such Departments.

4) CORRECTION OF FIRE HAZARDS

- (a) When any inspection by the Fire Inspector or the Deputy reveals a fire hazard, the Inspector or the Deputy may serve a notice in writing upon the owner of the property, giving such owner a reasonable time in which to remove the hazard. If the fire hazard is not removed within the time allowed, it shall be deemed a nuisance and the Fire Inspector or the Deputy may have

the same removed by the Town, and the costs of such removal shall be recovered in an action by the Town against the owner of the property and may also be entered in the tax roll as a special charge against the property.

5) COMPLIANCE WITH FIRE INSPECTOR

- (a) No person shall deny the Fire Inspector or the Deputy free access to any public and commercial buildings within the Town at any reasonable time to make fire inspections. No person shall hinder or obstruct the Fire Inspector in the performance of their duty or refuse to observe any lawful direction given by them.

Established April 17, 2001

5.11 REIMBURSEMENT FOR FIRE CALLS

- 1) If the Town of Delavan incurs costs for a fire call by responding to a vehicle fire on any County, State or Town road or highway, the Department may charge the person to whom the fire call was provided a fee equal in amount to the actual out-of-pocket costs incurred by the Department in extinguishing the fire.

Established April 17, 2001

5.12 STATE FIRE PREVENTION MANUAL ADOPTED

- 1) The Wisconsin Fire Prevention Manual detailing provisions for the prevention of fires is adopted and by reference made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by such manual is required or prohibited by this section.

Established April 17, 2001

5.13 HAZARDOUS MATERIALS

1) COMPLIANCE REQUIRED

- (a) Every person using, storing, handling or transporting

flammable or combustible liquids, chemicals, gasses or other hazardous materials shall comply with the requirements of ILHR 10 and TRANS 328 as the same is now in force and may hereafter from time to time be amended.

2) LIABILITY IMPOSED

- (a) Every person using, storing, handling or transporting (whether by rail or on the highways) flammable or combustible liquids, chemicals, gasses or other hazardous materials shall be liable to the Town for the actual cost of labor and materials associated with the use of any specialized extinguishing agent, chemical, neutralizer or similar materials or equipment employed to extinguish, confine, neutralize, contain or clean up any such hazardous material which is involved in any fire or accidental spill or in the threat of any fire or accidental spill.

Established April 17, 2001

5.14 FIRE SAFETY REGULATIONS

1) AUTHORITY

- (a) The Town of Delavan Fire and Rescue Departments may promulgate regulations to prevent, detect and suppress fire and related fire hazards with the consent of the Town Board. Any regulation adopted hereunder shall first be approved and published as a Class 1 notice, pursuant to Chapter 985, Wisconsin Statutes, to be effective.
- (b) The provisions of Section 66.0113, Wisconsin Statutes, as amended from time to time, relating citations for certain ordinance violations are hereby adopted with respect to the enforcement of fire safety, fire inspection and fire hydrant access regulations and ordinances and the same are incorporated herein by reference as though fully set forth.
- (c) Pursuant to Section 66.0113 (2)(a), Wisconsin Statutes, the Fire Chief, Fire Inspector or Deputy

Fire Inspector are authorized to enforce fire safety, fire inspection and fire hydrant access regulations and ordinances including, but not limited to, sections 5.10, 5.12, 5.13, 5.14, 9.11 and 10.21 of this code and to issue citations for violations thereof.

2) EFFECT OF REGULATIONS

- (a) Any regulation adopted under this section may be more restrictive or in addition to those regulations set forth in this Chapter, except that these sections shall not directly conflict.

3) FIRE HAZARDS

- (a) In order to promote the safety and general welfare of the persons and property within the Town, the Town Board does hereby declare it to be against public health and safety for any person owning and/or occupying any land in the Town to allow leaves, dead grass, debris or other combustible material to accumulated on such land to the extent that the same will constitute a fire hazard or allow the spreading of fire.
- (b) Any public safety officer, the Town Building Inspector or the Fire Chief may, but shall not be required to, send a notice to the owner of occupant of such land to immediately eliminate an existing fire hazard if same should come to his attention.
- (c) The owner and/or occupant of land within the Town shall have the duty of keeping fire hazards from being created on such land and to maintain such land in such condition as to prevent the starting or spreading of fires.
- (d) A fire hazard shall be deemed to exits when combustible materials, including, but not limited to, leaves; dry grass, weeds, wood (whether processed by some mechanical device or accumulating through natural means), dead trees, shrubs, bushes and the like; paper; flammable liquids; and any and all other flammable substances, are allowed to accumulate in such amount and manner as to allow a fire to develop

by any willful act or natural means in other than a controlled manner. Residential, commercial, agricultural and industrial storage and use areas under supervised control and management where combustible material are stored in the course of the use of the premises and in keeping with good sound fire-protection practices shall not be deemed a fire hazard.

- (e) Ground-level growth
- i. In the further interests of general health, safety and public welfare, the Town Board does hereby ordain that the allowing of grass, weeds and other natural, ground-level growth to grow to an excessive height creates a hazard leading to conditions constituting a fire hazard.
 - ii. Any owner and/or occupant of land located in the Town who allows grass, weeds and other natural, ground-level growth to grow to an excessive height shall be required to cut same down to a height of not more than 6 inches and, in the event of the failure of such owner and/or occupant to cut such growth, the Town, by its designated representatives and/or agent, may enter upon the premises to cut such grass, weeds and ground-level growth to such height and to levy against the land on which this is done all costs incurred by the Town for the cutting required.
 - iii. In the event the owner and/or occupant is engaged in a lawful enterprise requiring such plant life to grow to an excessive height, it shall be the duty of the owner and/or occupant to so advise the Town and procure from it a letter of permission allowing such excessive growth. The issuance of a letter of permission shall in no means or manner absolve the owner and/or occupant from complying with any and all other regulations and ordinances of the Town or laws of the state.
 - iv. The provisions of this section as set forth in Subsection € I, ii and iii shall not be deemed to affect the raising of agricultural crops on agricultural lands or the growing of such plant life as a part of any lawful commercial or

industrial enterprise.

- (f) Without limiting the effect or application of any other provision contained herein, the Town Board and/or the Fire Chief may declare a fire emergency when, in their discretion, they determined that conditions occasioned by weather, continuous drought or the presence of highly combustible or explosive materials within the Town are such that any burning may create an unreasonable risk of fire spreading out of control or may otherwise present an unreasonable risk of harm to persons or property. Under such declaration of emergency, all outside fires of any type shall be prohibited. Upon declaring a fire emergency, the Town Board and/or Fire Chief shall take such measures as they deem best suited to communicate the state of fire emergency to the public, including, but not by way of limitation, posted notices and newspaper, television and radio announcements.
- (g) Any person violating the conditions of a state of fire emergency declared under Subsection (f) above shall be subject to a penalty as provided in section 5.16 for each violation.

Established April 17, 2001, Rev. 5.21.2019 Ordinance 378, Ordinance 384

5.15 APPLICATION OF THIS CHAPTER TO TOWN OF DELAVAN RESCUE SQUAD

- 1) Sections 5.03, 5.04, 5.05, 5.06, 5.07, 5.09, and 5.11, of this Municipal Code shall apply to the Town of Delavan Rescue Squad.

Established April 17, 2001

5.16 PENALTY

- 1) Any person who shall violate any provision of the Chapter or any order, rule or regulation made hereunder, and any person who shall neglect or refuse to perform any duty required hereunder shall be subject to a penalty as prescribed in Section 25.04 of the Town of Delavan Municipal Code.

Established April 17, 2001