

TITLE 5

Public Safety

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CHAPTER 1

Law Enforcement

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SEC. 5-1-1 ORGANIZATION OF POLICE DEPARTMENT.

- (a) **Organization.** The Delavan Police Department shall consist of a Chief of Police and such other officers, assistants, and patrolmen as from time to time may be authorized by the Common Council, pursuant to the provisions of the Wisconsin Statutes and ordinances and resolutions of the Common Council
- (b) **Special Officers.** The Chief of Police may appoint, with the approval of the City Administrator, from time to time such clerical or technical employees as may be necessary, such employees to serve either with or without compensation, as the Common Council shall direct.

SEC. 5-1-2 MONTHLY RECORDS.

The Chief of Police shall submit a written monthly general report to the Common Council of all activities of the Department during the preceding month.

SEC. 5-1-3 GENERAL POWERS OF POLICE OFFICERS.

Every member of the Police Department shall:

- (a) Familiarize himself with the policies and ordinances of the City and the Statutes and attend to the enforcement of such ordinances by all lawful means.
- (b) Help prevent crimes, misdemeanors and violations of City ordinances and protect the health, safety, public peace and order of the City and its inhabitants.
- (c) Report street and sidewalk obstructions, unlighted street lamps, unlawful street signs or signals, and defective or dangerous streets and sidewalks to the appropriate person or organization responsible for their repair or service.

- (d) See that the necessary permits and licenses issued by the State or City are in the possession of or properly displayed by any person engaged in an activity or business within the City for which such permit or license is required and that the terms of such permits or licenses are complied with.
- (e) Perform such other lawful duties as ordered by the Chief of Police or his authorized representative.

SEC. 5-1-4 RESPONSIBILITIES OF CHIEF OF POLICE.

- (a) **Duties.** In addition to the duties imposed upon him elsewhere in this Code of Ordinances, the Chief of Police shall:
 - (1) Have command of the Police Department, subject to the general direction of the Mayor and City Administrator, to the extent that the Council may delegate such authority to such administrator.
 - (2) Cause to be maintained accurate records of complaints, crimes, traffic accidents, ordinance violations, arrests, summons, incidents, and calls for police service and shall provide a system of periodic summary and analysis to ensure the most efficient and effective deployment and use of the Department's resources. He shall submit or cause to be submitted to the various agencies such reports and summaries as are required by State Statutes or ordinances and shall participate in voluntary programs designed to improve law enforcement and public safety.
 - (3) Submit such reports and/or information and comply with such policies as may be prescribed by the Common Council or City Administrator relative to fiscal and administrative matters.
 - (4) Have control of the assignment, hours of duty, and transfer of all members of the Department.
 - (5) Plan, organize, staff, direct, and control all of the human and material resources of the Department for the most effective and efficient discharge of its duty to protect persons and property, preserve the peace, protect the rights of citizens and enforce the Wisconsin Statutes and the ordinances of the City as are within its jurisdiction. He shall supervise the preparation and presentation of annual reports and budget requests for the Police Department. He shall be required to certify to the correctness of all bills incurred by the Department.
 - (6) Strive to maintain suitable, productive relationships with other City departments and with other governmental agencies and private organizations concerned with law enforcement, crime prevention, administration of justice and public safety. He shall cooperate and exchange information with other City departments in matters relating to their various functions.
 - (7) Plan and execute programs designed to prevent and repress crime, apprehend and prosecute offenders, and recover property giving highest priority in the allocation of resources to crime and other offenses most hazardous to life and property.
- (b) **Custody of Department Equipment.** The Chief of Police shall be the custodian of all City property, equipment, records, and supplies under the control of, or used by, the Police Department and shall be responsible for the care, maintenance, safeguarding and accurate records of such property, equipment, and supplies.

Cross-Reference: Section 2-3-8

SEC. 5-1-5 RULES AND POLICIES FOR THE POLICE DEPARTMENT.

The Chief of Police shall establish and promulgate rules of conduct, directives, policies and procedures and prescribe duties for individual members.

SEC. 5-1-6 MAINTENANCE OF PERSONNEL RECORDS AND PERFORMANCE EVALUATIONS.

The Chief of Police shall cause to be maintained adequate personnel records of employment, assignment, promotions, attendance, performance and training for all members of the Department. He shall keep himself adequately informed of the activities of the Department and be assured that the duties of his subordinates are properly discharged. He shall formulate procedures for recognizing outstanding performance by Department members, for investigating complaints of misconduct by any Department member and for taking appropriate disciplinary action subject to the provisions of the applicable statutes and Rules of the Department.

SEC. 5-1-7 POLICE CHIEF'S RESPONSIBILITY FOR TRAINING.

The Chief of Police is responsible for the training of all members of the Department. He shall cause adequate and progressive programs of training to be organized and conducted to prepare Department members in the knowledge, procedures, and techniques of their duties and responsibilities. He will insure that, within budgetary limitations, members of the Department attend training courses, seminars, and conferences necessary to maintain and improve their job skills and professional knowledge. He shall encourage Department members to further their education in law enforcement through study, special courses, college attendance, extension programs, and independent readings.

SEC. 5-1-8 CIVILIANS TO ASSIST.

All persons in the City, when called upon by any police officer or peace officer, shall promptly aid and assist him in the execution of his duties and whoever shall neglect or refuse to give such aid or assistance shall be subject to the general penalty as provided in Section 1-1-7 of this Code of Ordinances.

CHAPTER 2

Fire Prevention

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|--------|---|
| 5-2-1 | Fire Department Organization; Bylaws (Amended Ord 399, 8-21-2018) |
| 5-2-2 | Police Power of the Department; Investigation of Fires |
| 5-2-3 | Damaging Fire Hose Prohibited; Parking by Hydrants; Blocking Fire Lanes |
| 5-2-4 | Firemen May Enter Adjacent Property |
| 5-2-5 | Duty of Bystanders to Assist |
| 5-2-6 | Vehicles to Yield Right-of-Way |
| 5-2-7 | Interference with Use of Hydrants Prohibited |
| 5-2-8 | Open Burning (Amended 11/20/02 Ord 150) (Amended 9-13-05 Ord. RC-209)(Amended 7/20/19 Ord 413) |
| 5-2-9 | Banning and/or Regulating the Use of Fire, Burning Materials, and Fireworks During the Existence of Extreme Fire Danger |
| 5-2-10 | Limits of Fire Protection |

SEC. 5-2-1 FIRE DEPARTMENT ORGANIZATION; BYLAWS.

- (a) **Department Recognized.** The Delavan Volunteer Fire Department is hereby officially recognized and the duty of conducting the Fire Department is hereby delegated to such organization, and its organization and internal regulations shall be governed by the bylaws of that organization insofar as they do not conflict with the provisions of this Chapter.
- (b) **Composition.** There shall be a volunteer fire department consisting of not more than forty (40) members, inclusive of the Fire Chief, plus such reserve members as deemed required by the Department.
- (c) **Bylaws.**
- (1) The Fire Department shall operate under bylaws providing for the control, management, government, and regulation of the business and proceedings of the Department. Amendments to the bylaws shall become effective upon adoption by a two-thirds (2/3) vote of the members of the Department and the approval of the Common Council.
 - (2) The bylaws shall also provide for a system whereby the Fire Department shall advise the Board of Police and Fire Commissioners as to qualifications of any person applying to become a member of the Fire Department.
- (d) **Officers.** Officers of the Department shall be the Chief and such other officers as the bylaws provide.
- (e) **Appointment of Officers.**
- (1) **Fire Chief.** The Board of Police and Fire Commissioners shall appoint the Fire Chief in accordance with state law.
 - (2) **Subordinate Officers.** The bylaws shall provide for a selection of officers. Such selection shall be advisory to the Board of Police and Fire Commissioners. The results of such selection shall be furnished to the Board of Police and Fire commissioners to be by it used in considering the appointment and approval.
- (f) **Source of Funds.** The Common Council shall appropriate funds to provide for operation and maintenance and for such apparatus and equipment for the use of the Fire Department as the Common Council may deem expedient and necessary to maintain efficiency and properly protect life and property from fire.
- (g) **Compensation.** The officers and members of the Fire Department shall receive such compensation from the City as may, from time to time, be fixed by the Common Council.

- (h) **Emergency Response Fees.** Fees, in the amount of \$380 per response (for vehicular accidents, the driver for each vehicle involved in the accident would be charges the fee) or actual cost whichever is higher, shall be charged for emergency response by the Delavan Fire Department as follows:
- (1) Emergency response fees shall be invoiced to persons and/or business organizations whose negligence and/or misconduct results in an unnecessary emergency response from the City Fire Department.
 - (2) Emergency response fees shall be invoiced to persons involved in emergencies requiring the City Fire Department response which occurs on any Federal, State and County road or City road or parking lots within the Corporate limits of the City or on any Town roads for which maintenance responsibilities rests with the City. (Section (h) created Ord 399, 8-21-2018)

SEC. 5-2-2 POLICE POWER OF THE DEPARTMENT; INVESTIGATION OF FIRES.

- (a) **Police Authority at Fires.**
- (1) The Fire Chief and assistants or officers in command at any fire are hereby vested with full and complete police authority at fires. Any officer of the Department may cause the arrest of any person failing to give the right-of-way to the Fire Department in responding to a fire.
 - (2) The Fire Chief may prescribe certain limits in the vicinity of any fire within which no persons, excepting firemen and policemen and those admitted by order of any officer of the Department, shall be permitted to come.
 - (3) The Fire Chief shall have the power to cause the removal of any property whenever it shall become necessary for the preservation of such property from fire or to prevent the spreading of fire or to protect the adjoining property, and during the progress of any fire he shall have the power to cause the removal of all wires or other facilities and the turning off of all electricity or other services where the same impedes the work of the Department during the progress of a fire.
- (b) **Fire Inspection Duties.**
- (1) The Fire Chief shall be the Fire Inspector of the City of Delavan and shall have the power to appoint one or more deputy Fire Inspectors and shall perform all duties required of the Fire Inspectors by the laws of the State and rules of the Department of Industry, Labor and Human Relations, particularly Section 101.14, Wis. Stats.
 - (2) While acting as Fire Inspector pursuant to Sec. 101.14(2), Wis. Stats., the Fire Chief, or any officer of the Fire Department designated by the Fire Chief, shall have the right and authority to enter any building or upon any premises in the City of Delavan at all reasonable hours for the purpose of making inspections or investigations which, under the provisions of this Code of Ordinances, he may deem necessary. Should the Fire Inspector find that any provisions of this Code relating to fire hazards and prevention of fires are being violated, or that a fire hazard exists which should be eliminated, it shall be his duty to give such directions for the abatement of such conditions as he shall deem necessary and, if such directions be not complied with, to report such noncompliance to the City Attorney for further action.
 - (3) The Chief of the Fire Department is required, by himself or by officers or members of the Fire Department designated by him as fire inspectors, to inspect all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of any law or ordinance relating to the fire hazard or to the prevention of fires. Such inspections shall be made at least once in six (6) months in all of the territory served by the Fire Department and oftener as the Chief of the Fire

Department orders. Each six (6) month period shall begin on January 1 and July 1 of each year.

- (4) Written reports of inspections shall be made and kept on file in the office of the Chief of the Fire Department in the manner and form required by the Department of Industry, Labor and Human Relations. A copy of such reports shall be filed with the Fire Chief.

State Law Reference: Section 101.14(2), Wis. Stats.

(c) **Fire Inspection Fees.** (created Ord 399, 08-21-2018)

- (1) No annual inspection fee is charged by the City.
- (2) A reinspection fee of \$75 shall be charged for reinspection due to any of the following occurrences: failure to notify the Department that the violations have been corrected within the time period provided to address the violation(s); severity of the violation(s); or based on past experience of Department being advised that violations had been corrected when in fact they were not addressed. \$150 shall be charged for each additional reinspection that may be required to achieve compliance.

SEC. 5-2-3 DAMAGING FIRE HOSE PROHIBITED; PARKING BY HYDRANTS;

BLOCKING FIRE LANES.

- (a) **Driving Over Fire Hose.** No person shall willfully injure in any manner any hose, hydrant or fire apparatus belonging to the City, and no vehicle shall be driven over any unprotected hose of the Fire Department when laid down on any street, private driveway or other place, to be used at any fire or alarm of fire, without the consent of the Fire Department official in command.
- (b) **Parking Vehicles Near Hydrants.** It shall be unlawful for any person to park any vehicle or leave any object within ten (10) feet of any fire hydrant at any time.
- (c) **No Parking Near Fire.** It shall be unlawful for any person, in case of fire, to drive or park any vehicle within one block from the place of fire without the consent and authority of the Fire Chief or any police officer.

SEC. 5-2-4 FIREMEN MAY ENTER ADJACENT PROPERTY.

- (a) **Entering Adjacent Property.** It shall be lawful for any fireman while acting under the direction of the Fire Chief or any other officer in command to enter upon the premises adjacent to or in the vicinity of a building or other property then on fire for the purpose of extinguishing such fire and in case any person shall hinder, resist or obstruct any fireman in the discharge of his duty as is hereinbefore provided, the person so offending shall be deemed guilty of resisting firemen in the discharge of their duty.
- (b) **Destruction of Property to Prevent the Spread of Fire.** During the progress of any fire, the Fire Chief or his assistant shall have the power to order the removal or destruction of any property necessary to prevent the further spread of fire; provided that it is inevitable that, unless such property is removed, other property is in danger of being destroyed by fire.

SEC. 5-2-5 DUTY OF BYSTANDERS TO ASSIST.

Every person who shall be present at a fire shall be subject to the orders of the Fire Chief or officer in command and may be required to render assistance in fighting the fire or in removing or guarding property. Such officer shall have the power to cause the arrest of any person or persons refusing to obey said orders.

SEC. 5-2-6 VEHICLES TO YIELD RIGHT-OF-WAY.

Whenever there shall be a fire or fire alarm or the Fire Department shall be out for practice, every person driving or riding in a motorized or other vehicle shall move and remain to the side of the street until the fire engine and fire truck and other fire apparatus shall have passed.

SEC. 5-2-7 INTERFERENCE WITH USE OF HYDRANTS PROHIBITED.

No person shall occupy any portion of such streets or alleys with a motorized or other vehicle between such fire engine or fire truck or other fire apparatus or any hydrant to which a fire hose may be, or may be about to be, attached.

SEC. 5-2-8 OPEN BURNING. (Amended 11/12/02 Ord. RC-150) (Amended 9-13-05 Ord. RC-209) (Amended 8/20/19 Ord 413)

(a) Purpose. This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the City of Delavan due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

(b) Applicability

- (1) Applicability. This ordinance applies to all outdoor burning and refuse burning within the City of Delavan.
- (2) This ordinance does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- (3) This ordinance does not apply to burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation unless the material being burned includes refuse as defined in Subsection (d) of this ordinance.
- (4) This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

(c) Severability. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

(d) Definitions

- (1) "Campfire" means a small outdoor fire intended for recreation or cooking, not including a fire intended for disposal of waste wood or refuse.
- (2) "Clean Wood" means natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.
- (3) "Confidential papers" means printed material containing personal identification or financial information that the owner wishes to destroy.

- (4) "Fire Chief" means the Chief of the Delavan Fire Department or other person authorized by the Fire Chief.
- (5) "Outdoor Burning" means open burning or burning in an outdoor wood-fired furnace.
- (6) "Open Burning" means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.
- (7) "Outdoor Wood-fired Furnace" means a wood-fired furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.
- (8) "Refuse" means any waste material except clean wood.

(e) General prohibition on outdoor burning and refuse burning.

Open burning, outdoor burning and refuse burning are prohibited in the City of Delavan unless the burning is specifically permitted by this ordinance.

(f) Materials that may not be burned.

- (1) Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.
- (2) Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to the restrictions in Chapter NR 590, Wisconsin Administrative Code.
- (3) Asphalt and products containing asphalt.
- (4) Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
- (5) Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
- (6) Rubber including tires and synthetic rubber-like products.
- (7) Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with the recycling ordinance except as provided in Subsection (k)(1) of this ordinance.

(g) Open burning of leaves, brush, clean wood, and other vegetative debris.

Open burning of leaves, weeds, brush, stumps, clean wood other vegetative debris is allowed only in accordance with the following provisions:

- (1) All allowed open burning shall be conducted in a safe nuisance-free manner, when wind and weather conditions are such as to minimize adverse effects and not create a health hazard or a visibility hazard on roadways, railroads or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations.

(2) Except for barbecue, gas and charcoal grills, no open burning shall be undertaken during periods when either the Fire Chief or the Wisconsin Department of Natural Resources has issued a burning ban applicable to the area.

(3) Open burning of weeds or brush on agricultural lands is allowed if conducted in accordance with other applicable provisions of this ordinance.

(4) Fires set for forest, prairie or wildlife habitat management are allowed with the approval of the Department of Natural Resources.

(5) Outdoor campfires for cooking, ceremonies or recreation are allowed provided that the fire is confined by a control device or structure such as a fire ring or fire pit.

(6) Bonfires are allowed only if approved by and in accordance with provisions established by the Fire Chief.

(7) Open burning under subsections 3, 4, and 6 shall be conducted only following issuance of and in accordance with a permit issued under Section (1) of this ordinance.

(8) Open burning under this section shall only be conducted at a location at least 50 feet from the nearest building which is not on the same property.

(9) Except for campfires and permitted bonfires, open burning shall only be conducted from 7:00 a.m. to 7:00 p.m. March 1 through May 31 and September 1 through November 30.

(10) Open burning shall be constantly attended and supervised by a competent person until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

(11) No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream, or other waterbody.

(12) No open burning may be conducted when atmospheric conditions or local circumstances make such fires hazardous, except on written permit from the Fire Chief, which permit shall designate the time and place for such burning. Notice of the designation of a City-wide fire danger emergency period shall be made by publication or an appropriate order.

(h) Burn barrels.

No person shall use or maintain a burn barrel in the City of Delavan.

(i) Outdoor wood-fired furnaces.

No person shall use or maintain an outdoor wood-fired furnace in the City of Delavan.

(j) Fire Department Practice Burns.

Notwithstanding subsections (e) and (f) of this ordinance, the Delavan Fire Department may burn a standing building, if necessary, for fire-fighting practice and if the practice burn complies with the requirements of the Department of Natural Resources.

(1) An existing building may be burned only by the City of Delavan Fire Department and only if the Fire Chief determines that the burning is necessary for practice and instruction of fire fighters or fire-fighting equipment and the General Operations Committee and Common Council have approved the practice burn and the proposed date and alternate dates for said burn.

(2) Asphalt shingles and asphalt or plastic siding shall be removed prior to the practice burn unless the Fire Chief determines that they are necessary for the fire practice.

(3) A demolition notification shall be submitted to the Department of Natural Resources and all asbestos removed prior to the practice burn.

(4) All ash shall be disposed of in an approved landfill or at an alternative location approved by the Department of Natural Resources.

(5) The Fire Chief or his/her designee shall provide for the following notifications:

a. Written notice of the proposed date and possible alternate dates shall be mailed to property owners within 300 feet of the site of the proposed burn at least 21 days before the proposed date of a planned practice burn,

b. "Class 1" notice shall be published in the City's Official Newspaper,

c. Utility bills issued immediately preceding the practice burn shall include notice of the proposed date and alternate dates, and

d. Notice shall be posted on the City's official website.

(k) Exemption for burning certain papers.

(1) Notwithstanding subsection (f)(7) of this ordinance, paper and cardboard products may be used as a starter fuel for a fire that is allowed under this ordinance.

(2) Small quantities of confidential papers from a residence may be burned if necessary to prevent the theft of financial records, identification or other confidential information.

(3) Confidential papers from a commercial enterprise shall be shredded or destroyed in a manner other than burning.

(l) Burning Permits.

(1) No person shall start or maintain any open burning without a burning permit issued by the Fire Chief, except as otherwise provided in this Section.

(2) When weather conditions warrant, the Fire Chief or the Department of Natural Resources may declare a burning moratorium on all open burning and temporarily suspend previously issued burning permits for open burning.

(3) A burning permit issued under this section shall require compliance with all applicable provisions of this ordinance and any additional special restrictions deemed necessary to protect public health and safety.

(4) Any violation of the conditions of a burning permit shall be deemed a violation of this ordinance. Any violation of this ordinance or the burning permit shall void the permit.

(m) Liability.

A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

(n) Right of entry and inspection.

The Fire Chief or any authorized officer, agent, or representative of the City of Delavan who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

SEC. 5-2-9 BANNING AND/OR REGULATING THE USE OF FIRE, BURNING MATERIALS, AND FIREWORKS DURING EXISTING OF EXTREME FIRE DANGER.

(a) **Declarations of Emergency.** When there occurs a lack of precipitation, there may exist an extreme danger of fire within the City of Delavan. This extreme danger of fire affects the health, safety, and general welfare of the residents of the City of Delavan and constitutes a state of emergency. It is hereby found that the regulation of fires, burning materials, and fireworks is necessary and expedient for the health, safety, welfare and good order of the City during said emergency.

(b) **Regulation of Fires, Burning Materials, and Fireworks.** Pursuant to Sec. 66.325, Wis. Stats., and when a burning state of emergency is declared, it may be ordered that a person may not:

- (1) Set, build, or maintain any open fire, except:
 - a. Charcoal grills using charcoal briquettes, gas grills, or camp stoves on private property; or
 - b. Charcoal grills using charcoal briquettes, gas grills, or camp stoves in City parks placed at least twenty (20) feet away from any combustible vegetation.
- (2) Throw, discard, or drop matches, cigarettes, cigars, ashes, charcoal briquettes or other burning materials while outdoors except into a noncombustible container that does not contain combustible materials.
- (3) Light or ignite a flare, except upon a roadway in an emergency.
- (4) Light, ignite, or use anything manufactured, processed, or packaged solely for the purpose of exploding, emitting sparks or combustion for amusement purposes, including fireworks, firecrackers, bottle rockets, caps, toy snakes, sparklers, smoke bombs, or cylindrical or cone fountains that emit sparks and smoke, except in displays authorized by the City where adequate fire prevention measures have been taken.

(c) **Period of Emergency.**

- (1) The periods of emergency for which this Section shall be in effect shall be during such periods that the City is under emergency fire regulations banning outdoor smoking and campfires as declared by the Mayor.
- (2) Pursuant to Sec. 66.325, Wis. Stats., burning emergencies shall become effective upon the time and date of the Mayor declaring a state of emergency and shall remain in effect until the period of emergency ceases to exist or until the ratification, alteration, modification, or repeal of the burning state of emergency by the Common Council.

SEC. 5-2-10 LIMITS OF FIRE PROTECTION.

- (a) **Limits.** All property within the limits of the City of Delavan as defined in this Code of Ordinances shall be given equal fire protection by the City of Delavan.
- (b) **Nature or Protection.** The Fire Department shall answer all alarms and shall afford protection against fire to all property, which is within the limits set out in Subsection (a) of this Section.
- (c) **Outside City Limits.** The Common Council may enter reciprocal agreements with neighboring municipalities or fire department(s) therefor for assistance on calls for fires within or without the City at times of high emergency. The Council may furthermore enter agreement(s) to furnish fire protection for specific areas without the City limits.

CHAPTER 3

Fire Prevention Code; Hazardous Materials

- 5-3-1 Adoption of State Codes
- 5-3-2 Disclosure of Hazardous Materials and Infectious Agents; Reimbursement for Clean-up of Spills
- 5-3-3 Recovery of Costs of Extinguishing and Cleaning Up Fires Involving Hazardous Materials

SEC. 5-3-1 ADOPTION OF STATE CODES. (Amended 07-09-2013, Ord. RC-333)

The following Orders, Rules and Regulations of the Department of Safety and Professional Services, all of which are set forth in the Wisconsin Administrative Code as from time to time amended, are incorporated herein by reference and adopted as part of this Fire Prevention Chapter:

- (a) Wis. Adm. Code Ch. SPS 307; Explosives and Fireworks.
- (b) Wis. Adm. Code Ch. SPS 310; Flammable, Combustible and Hazardous Liquids.
- (c) Wis. Adm. Code Ch. SPS 340; Gas Systems.
- (d) Wis. Adm. Code Ch. SPS 314; Fire Prevention.
- (e) Wis. Adm. Code Ch. SPS 320; Administration and Enforcement.
- (f) Wis. Adm. Code Ch. SPS 321; Construction Standards.
- (g) Wis. Adm. Code Ch. SPS 328; Smoke Detectors and Carbon Monoxide Detectors. .
- (h) Wis. Adm. Code Ch. SPS 335; Infectious Agents.
- (i) Wis. Adm. Code Ch. SPS 343; Anhydrous Ammonia Code.
- (j) Wis. Adm. Code Ch. SPS 361; Administration and Enforcement
- (k) Wis. Adm. Code Ch. SPS 362; Buildings and Structures.
- (l) Wis. Adm. Code Ch. SPS 363; Energy Conservation.
- (m) Wis. Adm. Code Ch. SPS 364; Heating, Ventilating and Air Conditioning.
- (n) Wis. Adm. Code Ch. SPS 365; Fuel Gas Appliances.
- (o) Wis. Adm. Code Ch. SPS 376; Factories, Office and Mercantile Buildings.
- (p) Wis. Adm. Code Ch. SPS 377; Theaters and Assembly Halls.
- (q) Wis. Adm. Code Ch. SPS 378; Schools and Other Places of Instruction.
- (r) Wis. Adm. Code Ch. SPS 379; Apartment Houses, Hotels and Places of Detention.
- (s) Wis. Adm. Code Ch. SPS 316; Electrical.

SEC. 5-3-2 DISCLOSURE OF HAZARDOUS MATERIALS AND INFECTIOUS AGENTS; REIMBURSEMENT FOR CLEAN UP-OF SPILLS.

- (a) **Application.**
 - (1) All persons, firms or organizations using, researching or producing hazardous materials and/or infectious agents shall notify the Fire Department as prescribed by this Section.

- (2) The provisions of this Section shall apply to all persons, firms or organizations using, researching, producing or storing hazardous materials and/or infectious agents on and after the effective date of this Section.

(b) **Definitions.**

- (1) "Infectious agent" is a bacterial, mycoplasmal, fungal, parasitic or viral agent known to cause illness in humans which is used, researched, produced or stored within or on premises.
- (2) "Hazardous materials" are those materials that can cause death or disabling injury from brief exposure; those materials that could cause a lost-time injury from exposure; and those materials that could cause temporary disability or injury without permanent effects which are used, researched, produced or stored within or on premises except those household consumer products used at the point of consumption and not used for commercial or experimental purposes. This definition of hazardous materials shall include radioactive materials.

(c) **Information Required.**

- (1) Any person, firm or organization using, researching, producing and/or storing any hazardous materials shall provide in writing to the Fire Department the following information:
 - a. Address, location of where hazardous materials are used, researched, stored or produced;
 - b. The trade name of the hazardous material;
 - c. The chemical name and any commonly used synonym for the hazardous material and the chemical name and any commonly used synonym for its major components;
 - d. The exact locations on the premises where materials are used, researched, stored and/or produced;
 - e. Amounts of hazardous materials on premises per exact location;
 - f. The boiling point, vapor pressure, vapor density, solubility in water, specific gravity, percentage volatile by volume, evaporation rate for liquids and appearance and odor of the hazardous material;
 - g. The flashpoint and flammable limits of the hazardous substance;
 - h. Any permissible exposure level, threshold limit value or other established limit value for exposure to a hazardous material;
 - i. The stability of the hazardous substance;
 - j. Recommended fire extinguishing media, special firefighting procedures and fire and explosion hazard information for the hazardous material;
 - k. Any effect of over-exposure to the hazardous material, emergency and first aid procedures and telephone numbers to call in an emergency;
 - l. Any condition or material, which is incompatible with the hazardous material and must be avoided.
 - m. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the hazardous materials;
 - n. Procedures for handling or coming into contact with the hazardous material.
- (2) Any person, firm or organization using, researching, producing and/or storing infectious agent and/or carrier of an infectious agent shall provide in writing to the Fire Department the following:
 - a. The name and any commonly used synonym of the infectious agent
 - b. Address/location where infectious agents are used, researched, stored and/or produced;
 - c. The exact locations where infectious agents are used, researched, stored and/or produced;
 - d. Amount of infectious agent on premises per exact locations;

- e. Any methods of route of transmission of the infectious agents;
 - f. Any symptoms of effect of infection, emergency and first aid procedure and a telephone number to be called in an emergency;
 - g. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming in contact with the infectious agent;
 - h. Procedure for handling, clean up and disposal of infectious agents leaked or spilled.
- (d) **Reimbursement for Cleanup of Spills.** Any person who possesses or controls a hazardous material or infectious agent which was discharged or caused the discharge of a hazardous material or infectious agent shall reimburse the City for actual and necessary expenses incurred by the City or its agent to contain, remove or dispose of the hazardous substance or infectious agent or take any other appropriate action which is deemed appropriate under the circumstance.

SEC. 5-3-3 RECOVERY OF COSTS.

- (a) Every person, firm or corporation using, storing, handling or transporting flammable or combustible liquids, chemicals, gasses or other hazardous materials shall comply with the requirements of Chapter ILHR 8, Wis. Adm. Code, as the same is now in force and may hereafter from time to time be amended.
- (b) Every person, firm or corporation 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 City for the actual cost of labor and materials associated with the use of any specialized extinguishing agent, chemical, neutralizer or similar material or equipment employed to extinguish, confine or clean up any such hazardous material which is involved in any accidental spill or in threat of any fire or accidental spill.

CHAPTER 4

Regulation of Private Alarm Systems

| | |
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| 5-4-1 | Definitions |
| 5-4-2 | Permissible Alarms |
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| 5-4-4 | Procedure for Permissible Alarms (Repealed 2/13/07 RC 228) |
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| 5-4-6 | Penalties (Amended 08/11/98) (Amended 09/11/98 Ord RC-47) (Amended 12/14/1999 by RC-86) (Amended 02/12/02 Ord RC-132) (Amended 12-11-2007 Ord RC-240) (Amended 05-13-2008 Ord RC-246) |

SEC. 5-4-1 DEFINITIONS.

- (a) **Alarm.** Alarm shall mean a signal generated by any device designed to be activated by some physical act, fire, emergency, or malfunction and intended to alert the public and/or result in response of emergency services whether by police and/or fire department, rescue squad, or supervisory personnel. Also, depending on usage, may refer to the device itself.
- (b) **Burglar/Fire Alarm.** Burglar/fire alarm, as used in this Section, shall mean any device which, when activated by a criminal act, fire, or other emergency requiring police or fire response, transmits a signal to an alarm panel at the City Police Department to an alarm-receiving firm, or produces a visible signal designed to alert the public within audible or visual range of the signal. Alarm signals received in the Police Department as to criminal activity are separate from those for fire or other emergencies.
- (c) **False Alarm.** False alarm as used in this Section shall mean a signal from a burglar-fire alarm resulting in a response by the Police Department or Fire Department when an emergency situation does not exist. Excepted from this definition for purposes of this Section shall be errant alarms which are storm related or result from malfunctions due to problems with or interruptions of power at its sources or in electrical lines; or due to activity at the alarm site where the possibility of errant alarms during a specified period has been made known to the Chief of Police. **(amended 8/11/98 Ordinance RC-47)**
- (d) **Supervisory Alarm.** This type of alarm, also provided for in the Police Department to monitor and signal malfunctions of essential mechanical or electrical equipment of local industries, businesses, and public services, is not within the purview of this Chapter.

SEC. 5-4-2 PERMISSIBLE ALARMS. **(amended 4/14/98 Ordinance RC-38)**

Burglar/fire alarms which are not audible to the public and which can be and are properly connected to an alarm panel at the Police Department or to an alarm receiving firm, or any fire alarm that meets the requirements of the National Fire Protection Association (NFPA) are deemed to be permissible alarms, and they shall be maintained so as not to produce false alarms. This Section contemplates employment of such alarms at one (1) or more locations by local industries, businesses, multiple-family complexes such as apartment buildings, and public buildings, including schools and churches.

SEC. 5-4-3 PROHIBITED ALARM SYSTEMS. **(amended 4/14/98 Ordinance RC-38)**

The following types of alarms are prohibited:

- (a) Outside burglar and/or fire alarm systems whose alarms are or would be audible to the public, whether for business, residential, or any other use. It is intended that outside system(s) installed prior to July 17, 1984, may continue in operation but when in need of replacement, replacement system(s) shall conform with this Chapter.

- (b) Telephone or electronic devices or attachments that automatically select a public primary telephone trunk line of the City Police Department and produce prerecorded messages to report a burglary or other emergency.
- (c) Any new fire alarm system that does not meet the requirements of the National Fire Protection Association. (added 4/14/98 Ordinance RC-38)

SEC. 5-4-4 PROCEDURE FOR PERMISSIBLE ALARMS. (Repealed 2-13-2007 Ord rc-228)

SEC. 5-4-5 FALSE ALARMS. (Repealed & recreated 2/12/02 Ord. RC-132)

- (a) (1) **Generally.** Each false alarm requires response of public safety *resources*, involves unnecessary expense to the City, increases the risk of injury to persons or damage to property and dilutes the overall public safety protection to the City. Such false alarms constitute a public nuisance and must be abated. (See "Section 5-4-6, Penalties," infra, for administrative charges for false alarms.
- (2) **Response.** A "response occurs when a call is received by the Police or fire Department.
- (b) (3) **Intentional.** No person shall intentionally cause the activation of a burglar/fire alarm device knowing that no criminal activity, fire, or other emergency exists.

SEC. 5-4-6 PENALTIES. (Amended 8/11/98) (amended 9/11/98 Ordinance RC-47) Ord. RC-47) (RC-86) (Repealed & recreated 2/12/02 Ord. RC-132) (Amended 12-11-2007 Ord RC-240) (Amended 05-13-2008 Ord RC-246)

- (a) **False Alarms, Administrative Charges.** Any person, business, corporation or other entity having an alarm system with alarm device(s) at one (1) or more locations, *except for the City Water Utility in cases where the alarm(s) are required for Homeland Security Purposes*, shall pay to the City a charge for false alarms responded to by the Police or Fire Department according to the following schedule for each calendar year for each location connected, separate accounts to be kept for Police Department false alarms or Fire Department false alarms:

- (1) Police Department false alarms:
 - a. First three (3) false alarms for a location -- No charge.
 - b. Fourth (4th) false alarm per location -- Sixty Dollars (\$60.00).
 - c. Each subsequent alarm, thereafter, shall increase by an additional \$60 per alarm (i.e. 5th \$120; 6th \$180; 7th \$240 and so on).
- (2) Fire Department false alarms:
 - a. First three (3) false alarms for a location -- No charge.
 - b. Fourth (4) false alarm for a location -- \$300.00
 - c. Fifth (5) false alarm for a location -- \$400.00
 - d. Sixth (6) false alarm for a location -- \$500.00
 - e. Seventh (7) and all subsequent false alarms per location -- \$600.00

This Subsection is intended to impose a strict liability on the person, business, corporation, or other entity responsible for alarm connection to either the police alarm panel or to alarm receiving firm to which the Police Department or the Fire Department have responded and shall be applied regardless of the cause of the false alarm excepting those alarms excluded from the definition of "False Alarm." Failure to pay such administrative charge(s) in and of itself shall constitute a violation of this Section, and such charge(s) shall be collectible as a forfeiture upon prosecution and conviction thereof, together with any additional

forfeiture(s) which may be imposed under the next Subsection (b) hereof for violation of this Section for allowing or maintaining condition(s) or act(s) violative of the intent of this Section of eliminating and minimizing the occurrence of false alarms, together with costs of prosecution.

- (b) **Other Violations.** Any person, corporation, or other entity violating this Chapter in any manner, other than for collection of unpaid administrative charges treated in the immediately preceding Subsection (a) of this Section shall be subject to the general penalty provisions of Section 1-1-7.
- (c) **Default of Payment for Forfeiture and/or Costs.** On default of payment of forfeiture and/or costs under the immediately preceding Subsections (a) and/or (b), such person or responsible officer of the violating corporation or other entity shall be confined in the county jail until the same be paid but not to exceed a length of time specified by the court, which length of time shall not exceed six (6) months.

CHAPTER 5

Emergency Government

- 5-5-1 Emergency Government Joint Action Ordinance
- 5-5-2 Joint Action Emergency Government Ordinance

SEC. 5-5-1 EMERGENCY GOVERNMENT JOINT ACTION ORDINANCE.

- (a) A Joint Action Ordinance of the Board of Supervisors of Walworth County, being County Joint Action Ordinance No. 27, providing for a county-municipal joint action emergency government plan of organization was adopted by said County Board on the 15th day of June, 1971. A copy of said County Ordinance is attached hereto and made a part hereof, by reference, and is hereby ratified and accepted by the City of Delavan, County of Walworth.
- (b) This ratification and acceptance of the Joint Action Ordinance shall constitute a Mutual Agreement between the City of Delavan and the County of Walworth as provided by Section One of said Joint Action Ordinance.
- (c) The County-Municipal Emergency Government Coordinator, appointed and employed by the Walworth County Board as provided in the referred to County Ordinance is hereby designated and appointed Emergency Government Coordinator for the City of Delavan, subject to the conditions and provisions as set forth in the Wisconsin Statutes and the Walworth County Joint Action Ordinance.

State Law Reference: Chapter 166, Wis. Stats.

Cross-Reference: Section 2-3-10.

SEC. 5-5-2 JOINT ACTION EMERGENCY GOVERNMENT ORDINANCE.

The Walworth County Board of Supervisors of Walworth County, Wisconsin, do ordain as follows:

- (a) **Policy and Purpose.**
 - (1) To ensure that the County of Walworth will be prepared to cope with emergencies resulting from enemy action and with emergencies resulting from natural disasters, an emergency government organization is created to carry out the purposes set out in Chapter 22 of Wisconsin Statutes, 1969.
 - (2) Definitions as used in this Ordinance:
 - a. The term "enemy action" means any hostile action taken by a foreign power which threatens the security of the State of Wisconsin.
 - b. The term "emergency government" includes "civil defense" and means all those activities and measures designed or undertaken:
 - 1. To minimize the effects upon the civilian population caused or which would be caused by enemy action;
 - 2. To deal with the immediate emergency conditions which could be created by such enemy action; and
 - 3. To effectuate emergency repairs to, or the emergency restoration of, vital public utilities and facilities destroyed or damaged by such enemy action.
 - (3) The term "natural disaster" includes all other extraordinary misfortunes affecting the county, natural or manmade, not included in the term "enemy action".
 - (4) "Civil defense" means all measures undertaken by or on behalf of the state and its subdivisions to prepare for and minimize the effect of enemy action upon the civilian population.

(b) **County Emergency Government Committee.**

- (1) How Constituted. There is hereby created a County Emergency Government Committee composed of the members of the Sheriff's Committee and the Chairman of the County Board, whose Chairman shall be the chairman of the County Board of Supervisors.
- (2) Duties. The County Emergency Government Committee shall be an advisory and planning group and shall advise the Coordinator of Emergency Government Services and the County Board of Supervisors on all emergency government matters. It shall meet monthly or upon the call of the Chairman. It shall annually prepare a budget for Emergency Government and present same to the County Board for adoption. It shall prepare an annual report for the County Board.

(c) **County Coordinator of Emergency Government Services.**

- (1) Coordinator. There is hereby created the office of County Coordinator of Emergency Government Services. The County Coordinator of Emergency Government Services shall also hold the office of Coordinator of Emergency Government Services of such towns and municipalities of Walworth County as may enact an ordinance parallel to this ordinance. Following such action, the County Coordinator of Emergency Government Services shall have the additional duties and responsibilities of a town or municipal Coordinator of Emergency Government Services as prescribed by the Wisconsin Statutes.

(2) Tenure. Term Appointment and Statutory Provision.

- a. Salary. The salary of the County Coordinator of Emergency Government Services and members of his staff shall be as determined by the County Board. He shall serve at the pleasure of the County Board.
- b. Term. The term of office shall be for a period of one (1) year. The Coordinator shall hold office until his successor is appointed and qualified.
- c. Appointment. The County Coordinator of Emergency Government Service shall be appointed by the Walworth County Board of Supervisors.

(3) Powers and Duties.

- a. County-wide. The Coordinator, in his capacity as County Coordinator, subject to the control and direction of the County Emergency Government Committee and under the general supervision of the County Board shall:
 1. Develop and promulgate emergency government plans for the county, consistent with State plans.
 2. Direct the emergency government program for the county and perform such other duties related to emergency government as are required by the County Board and the County Emergency Government Committee.
 3. Coordinate and assist in developing town and municipal emergency government plans within the county, and integrate such plans with the county plan.
 4. Advise the State Department of Local Affairs and Development of all emergency government planning in the county and submit such reports as may be required.
 5. Direct and coordinate emergency government activities throughout the county during a state of emergency.
 6. Direct countywide emergency government training programs and exercises.
- b. Municipal. The coordinator, in his capacity as Coordinator for a municipality participating in joint action, shall:
 1. Develop and promulgate emergency government plans for the municipality consistent with state and county plans.
 2. Direct the emergency government program for the municipality and perform such

other duties related to emergency government as are required by the governing body and the emergency government committee of the governing body when applicable.

3. Direct the municipal emergency government training programs, exercises and activities.

(d) **Sharing of Costs.**

- (1) Office and Staff. The Walworth County Board shall provide offices, office furniture, stenographic help and such office supplies as may be necessary to carry out the functions of the County Coordinator or Emergency Government Services and the cost borne one hundred percent (100%) by the County of Walworth.
- (2) Major Equipment and Services. Costs of equipment and services shall be borne one hundred percent (100%) by the municipal government requiring such procurement with federal matching funds procured by the County Municipal Director when applicable. Federal matching funds reimbursements shall be returned to the Treasurer of the municipality procuring the equipment or services.

- (e) **Joint Action Meetings.** Whenever it is necessary by either the County Emergency Government Committee or the Emergency Government Committee of a municipality participating in joint action, there shall be a joint meeting of the committees to decide such matters as may arise.

(f) **Utilization of Existing Services and Facilities.**

- (1) Policy. In preparing and executing the Emergency Government Program, the services, equipment, and supplies and facilities of the existing departments and agencies of the County shall be utilized to the maximum extent practicable; and the officer and personnel of all such departments and agencies are directed to cooperate with and extend such services and facilities as are required of them.
- (2) Joint Action. Municipalities entering into joint action with Walworth County will provide for utilization of existing services of municipal government by enactment of an ordinance parallel to this Section of the County Ordinance.

(g) **Other Emergencies.**

- (1) Joint Action Municipalities. In the event the Governor determines that an emergency exists growing out of natural or man-made disasters, the County Emergency Government Director will activate and direct the Emergency Government services at the appropriate level of government affected by the emergency.
- (2) Responsibility. In order to assure that, in an emergency, all of the facilities of the existing county government are expanded to the fullest to meet such emergency, department and agency heads assigned to specific responsibilities under the County Emergency Operations Plan will fulfill emergency and nonemergency duties as prescribed in the plan. Municipalities entering into joint action with Walworth County will provide for maximum utilization of existing services, equipment, supplies and facilities of the municipality by including a section parallel to this in the joint action ordinance.

(h) **Penalties.**

- (1) It shall be unlawful for any person willfully to obstruct, hinder, or delay any member of the Emergency Government organization in the enforcement of any order, regulation or plan issued pursuant to this Ordinance, or to do any act forbidden by any order, rule, regulation or plan issued pursuant to the authority contained in this Ordinance. For a violation of any of the provisions of this Ordinance, he shall forfeit not more than Two Hundred Dollars (\$200.00), and in default of payment thereof, shall be imprisoned in the County Jail for a period not exceeding ninety (90) days.

- (i) **Repeal of Prior Ordinances and Resolutions.** All ordinances or resolutions hereinbefore adopted by the County Board inconsistent with the provisions of this ordinance are hereby repealed.
- (j) **Constitutional Validity.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, it is the intent of the County Board that such decision shall not affect the remaining portions of this Ordinance. The Walworth County Board of Supervisors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.
- (k) **Effective Date.** This Ordinance shall take effect and be in force upon passage and publication. This Ordinance shall take effect and be in force on June 15, 1971.