

## TITLE 5

### FIRE PROTECTION AND SAFETY CODES

Chapter 1	Fire Protection
Chapter 2	Fire Prevention and Safety Codes
Chapter 3	Hazardous Materials
Chapter 4	Rapid Entry Lock Box

#### CHAPTER 1

##### Fire Protection

5-1-1	Fire Protection
5-1-2	Ambulance Service
5-1-3	Impeding Fire Equipment Prohibited
5-1-4	Police Power of Fire Departments
5-1-5	Fire Inspections
5-1-6	Damaging Fire Hose Prohibited; Parking by Hydrants; Blocking Fire Lanes
5-1-7	Firemen May Enter Adjacent Property
5-1-8	Duty of Bystanders to Assist
5-1-9	Vehicles to Yield Right-of-Way
5-1-10	Open Burning

#### SEC. 5-1-1 FIRE PROTECTION.

##### a) Establishment of Town Fire Department.

- 1) The Town Board hereby establishes the Town of Fond du Lac Fire Department. The operation of the existing Fire Department is hereby ratified and confirmed. The Fire Department shall be organized as a volunteer department consisting of a Fire Chief, Assistant Fire Chiefs, Captains and part-time volunteer firefighters. The salary, housing and maintenance of the Department and the firefighters shall be established by the Town Board. Notwithstanding the preceding, it is the intent of the Town Board to classify the Department as a volunteer fire department, not a career fire department.
- 2) Duties. The volunteer firefighters shall be appointed by the Fire Chief and the Fire Department Officers. They shall be directed and controlled in their actions by the Fire Chief or the Assistant Fire Chiefs. The Fire Chief shall have command of the Fire Department consistent with State law and shall report to the Town Board. The Fire Chief shall see that all town ordinances and State laws relating to fire protection in the Town are enforced. The Fire Chief may be removed by the Town Board for cause. It shall be the duty of the Fire Chief and the volunteer firefighters to enforce the regulations and statutes relating to the following:
  - a. the prevention of fires;
  - b. the protection of persons and property;
  - c. the storage, sale, use and handling of combustibles and explosives;
  - d. the installation and maintenance of fire alarm systems, fire protection equipment, appliances and devices; and
  - e. the investigation of the cause, origin and circumstances of fires.

- b) **Funding.** The Board may:
  - 1) Appropriate money to pay for fire protection in the Town.
  - 2) Charge property owners a fee for the cost of fire calls made to their property.
  - 3) Levy taxes on the entire Town to pay for fire protection.
  - 4) Levy taxes on property served by a particular source of fire protection, to support the source of protection.
- c) **Compensation.** Compensation of Fire Department personnel shall be reviewed on a periodic basis as the need arises.
- d) **Reports.** The Fire Chief shall report to the Town Board on a regular basis, as needed. In addition, the Fire Chief shall provide the Town Board and the Town electors with an annual report containing statistics and other information relevant to fire protection in the Town. The Fire Chief shall make such other reports as may be required by the State of Wisconsin.
- e) **Equipment.** The Town Board, upon the advice and counsel of the Fire Chief and the officers of the Fire Department, shall provide the Fire Department with the necessary equipment to fulfill its duties. All equipment utilized by the Fire Department shall remain the property of the Town and shall not be encumbered or transferred without the prior written approval of the Town Board.

#### **SEC. 5-1-2 AMBULANCE SERVICE.**

The Town Board shall contract for or operate and maintain ambulance services unless such services are provided by another person. If the Board contracts for ambulance services, it may contract with one or more providers. The Board may determine and charge a reasonable fee for ambulance service provided under this Chapter. The Board may purchase equipment for medical and other emergency calls.

#### **SEC. 5-1-3 IMPEDING FIRE EQUIPMENT PROHIBITED.**

No person shall impede the progress of a fire engine, fire truck or other fire apparatus of a Fire Department along the streets, roads or alleys of the Town at the time of a fire or when a Fire Department is using the streets, roads or alleys in response to a fire alarm or for practice.

#### **SEC. 5-1-4 POLICE POWER OF FIRE DEPARTMENTS.**

##### **a) Police Authority at Fires.**

- 1) The Chief and Assistants or officers in command of a Fire Department at any fire are hereby vested with full and complete police authority at fires. Any officer of a Fire Department may cause the arrest of any person failing to give the right-of-way to a 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, except firemen and law enforcement officers 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 necessary to preserve such property from fire or to prevent the spreading of fire or to protect 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) **Firemen to Have Powers of Traffic Officers.** Members of a Fire Department, when at the scene of a fire or other emergency, or when Fire Department vehicles are upon the street pursuant to an emergency call, shall have the authority and duty of traffic officers to direct traffic, as conditions require, notwithstanding any other provision of this Chapter.

#### **SEC. 5-1-5 FIRE INSPECTIONS.**

- a) The Fire Chief and Assistant Chiefs of the Fire Department(s) serving the Town shall be the Fire Inspectors of the Town and shall have the power to appoint one (1) 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 Commerce, particularly Sec. 101.14, Wis. Stats.
- b) While acting as Fire Inspectors 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 Town at all reasonable hours for the purpose of making inspections or investigations which, under the provisions of this Code, 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/her duty to give such directions for the abatement of such conditions as he/she shall deem necessary and, if such directions be not complied with, to report such noncompliance to the Town Board for further action.
- c) The Chief of the Fire Department is required, by himself/herself 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.
- a) 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 Commerce. A copy of such reports shall be filed with the Town Clerk.
- e) The Town Board or its designees, and at any time, for the purpose of preventing, detecting and suppressing fire and fire-related hazards in the Town, enter any commercial or industrial property in the Town at reasonable times upon reasonable notice. However, in an emergency at or near the property of any person in the Town, the Town Board or its designee may enter the property of any person without notice and at any time.

#### **SEC. 5-1-6 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 a Fire Department, and no vehicle shall be driven over any unprotected hose of a 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 three hundred (300) feet from the place of fire without the consent and authority of the Fire Chief or any law enforcement officer.

## **SEC. 5-1-7 FIREMEN MAY ENTER ADJACENT PROPERTY.**

- a) **Entering Adjacent Property.** It shall be lawful for any fireman, while acting under the direction of a 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/her 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, a 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. 5-1-8 DUTY OF BYSTANDERS TO ASSIST.**

Every person present at a fire shall be subject to the orders of a 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. 5-1-9 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. 5-1-10 OPEN BURNING.**

- a) **Open Burning Restricted.** No person, firm or corporation shall set, maintain or build any outdoor fire within the limits of the Town upon any property zoned commercial, industrial, agricultural or residential (or which are predominantly commercial, agricultural, industrial or residential in nature regardless of zoning classification), except as set forth below in this Section. This prohibition on burning includes burning of leaves, vegetation, scrap lumber,

rubbish, garbage, oily substances, asphalt, tires, plastic, painted, stained or treated lumber, pressed wood or plywood, building materials, rubber products, and construction waste and debris at construction sites, other than small amounts of paper. Any person wishing to conduct open burning that may be permitted by this Code shall provide advance notice to the Fond du Lac County Sheriff's Department (non-emergency number) immediately prior to conducting the open burning.

- b) **Open Burning Regulations.** The following regulations shall be applicable when permitted open burning is conducted:
- 1) All open burning shall be performed in a safe, pollution-free manner, when wind and weather conditions are such as to minimize adverse affects, and in conformance with local and state fire protection regulations. Open burning shall not be used to covertly burn refuse, garbage, plastic, construction debris or other prohibited materials. Open burning shall not regularly be used as an alternative to proper collection and disposal requirements/services.
  - 2) The size of the pile of material to be burned shall not exceed four (4) feet in any direction measured horizontally, or three (3) feet measured vertically, unless a waiver is recommended by the Fire Chief.
  - 3) The pile of material being burned shall be at least fifty (50) feet away from any structure, wood or lumber pile, wooden fence, trees, or bushes. Provisions shall be made to prevent the fire from spreading to within fifty (50) feet of such items, or the fire shall otherwise be contained in a Fire Department approved incinerator, burner, device or site which is located at least fifteen (15) feet from any structure, wood or lumber pile, wooden fence, trees, or bush(es).
  - 4) Any ashes created by burning such material as is lawful under this Section are to be disposed of in a manner authorized by law.
  - 5) Open burning shall be constantly attended and supervised by a competent person of at least sixteen (16) years of age until such fire is extinguished. This person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire while burning and/or extinguishing such fire.
  - 6) No materials may be burned upon any street, curb, gutter, sidewalk or public right-of-way; work conducted by Town or County maintenance personnel are excepted from this prohibition.
  - 7) Fire pits are permitted for the burning of allowable materials. Fire pits of two (2) feet in diameter must be twenty-five (25) feet from buildings.
- c) **Fire Response Costs.** In the event an open burning event results in a response by Fire Department and/or other emergency personnel, the cost of such response shall be billed to the property owner, and, if necessary placed on the property tax roll for collection.

## CHAPTER 2

### Fire Prevention and Safety Codes

5-2-1	Intent of Code
5-2-2	Adoption of State Codes
5-2-3	Application to New and Existing Conditions
5-2-4	Orders to Eliminate Fire Hazards
5-2-5	Service of Orders
5-2-6	Investigation of Fires
5-2-7	Banning and/or Regulating the Use of Fire, Burning Materials, and Fireworks During Existence of Extreme Fire Danger
5-2-8	Grills
5-2-9	Fire Pits
5-2-10	Outdoor Wood-Fired Burner/Furnace

#### SEC. 5-2-1 INTENT OF CODE.

It is the intent of this Chapter to prescribe regulations consistent with recognized standard practice for the safeguarding to a reasonable degree of life and property from the hazards of fire and explosion arising from the storage, handling, and use of hazardous substances, materials, and devices, and from conditions hazardous to life and property in the use or occupancy of buildings or premises.

#### SEC. 5-2-2 ADOPTION OF STATE CODES.

- a) The following orders, rule, and regulations of the Department of Commerce, 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:
- 1) Wis. Adm. Code Ch. Comm. 1; Safety.
  - 2) Wis. Adm. Code Ch. Comm. 5; Explosives and Blasting Agents.
  - 3) Wis. Adm. Code Ch. Comm. 7; Cleaning and Dyeing.
  - 4) Wis. Adm. Code Ch. Comm. 8; Flammable and Combustible Liquids.
  - 5) Wis. Adm. Code Ch. Comm.9; Liquefied and Petroleum Gases.
  - 6) Wis. Adm. Code Ch. Comm. 14; Fire Protection
  - 7) Wis. Adm. Code Ch. Comm. 20; Dusts, Fumes, Vapors and Gases.
  - 8) Wis. Adm. Code Ch. Comm. 35; Safety in Construction.
  - 9) Wis. Adm. Code Ch. Comm. 43; Anhydrous Ammonia Code.
  - 10) Wis. Adm. Code Ch. Comm. 50; Administration and Enforcement.
  - 11) Wis. Adm. Code Ch. Comm. 51; Definitions and Standards.
  - 12) Wis. Adm. Code Ch. Comm. 52; General Requirements.
  - 13) Wis. Adm. Code Ch. Comm. 53; Structural Requirements.
  - 14) Wis. Adm. Code Ch. Comm. 54; Factories, Office and Mercantile Buildings.
  - 15) Wis. Adm. Code Ch. Comm.55; Theatres and Assembly Halls.
  - 16) Wis. Adm. Code Ch. Comm. 56; Schools and Wis. Adm. Other Places of Instruction.
  - 17) Wis. Adm. Code Ch. Comm. 57; Apartment Buildings, Hotels, and Places of Detention.

- 18) Wis. Adm. Code Ch. Comm. 58; Health Care, Detention, and Correctional Facilities.
- 19) Wis. Adm. Code Ch. Comm. 59; Hazardous Occupancies.
- 20) Wis. Adm. Code Ch. Comm. 60; Child Day Care Facilities.
- 21) Wis. Adm. Code Ch. Comm. 61; CBRF.
- 22) Wis. Adm. Code Ch. Comm. 62; Specialty Occupancies.
- 23) Wis. Adm. Code Ch. Comm. 64; Heating, Ventilating, and Air Conditioning.
- 24) Wis. Adm. Code Ch. Comm. 65; Fire Prevention.
- 25) Wis. Adm. Code Ch. Comm. 70; Historic Building Code.
- 26) Wis. Adm. Code Ch. Comm. 160-164; Existing Building Code.
- 27) Wisconsin Electrical Code.

The following codes of the National Fire Protection Association (NFPA) are hereby adopted by reference and made a part of the Town Fire Prevention Code:

- (1) Volume IV -- Extinguishing Equipment.

Whenever the provisions of the aforementioned codes conflict, the stricter interpretation shall apply.

Official copies of each of said codes are on file in the office of the Town Clerk and Town Fire Department and shall remain so filed and be, at all reasonable times, open to inspection by any interested persons.

### **SEC. 5-2-3 APPLICATION TO NEW AND EXISTING CONDITIONS.**

The provisions of this Chapter shall apply equally to new and existing conditions except that existing conditions not in strict compliance with the terms of this Chapter shall be permitted to continue where the exceptions do not constitute a distinct hazard to life or adjoining property.

### **SEC. 5-2-4 ORDERS TO ELIMINATE FIRE HAZARDS.**

Whenever any of the officers, members, or inspectors of a Fire Department serving the Town finds any building or any dangerous premises or hazardous conditions as follows, he/she shall order such dangerous conditions or materials to be removed or remedied in such manner as may be specified in said order:

- a) Dangerous or unlawful amounts of combustible or explosive matter.
- b) Hazardous conditions arising from defective or improperly installed equipment for handling or using combustible or explosive matter.
- c) Dangerous accumulations of rubbish, wastepaper, boxes, shavings, or other highly flammable materials.
- d) Accumulations of dust or waste material in air conditioning systems or of grease in kitchen exhaust ducts.
- e) Obstructions to or on fire escapes, stairs, passageways, door, or windows liable to interfere with the operation of the Fire Department or egress of occupants in case of fire.
- f) Any building or other structure which, for want of repairs, lack of sufficient fire escapes or

other exit facilities, automatic or other fire alarm apparatus or fire extinguishing equipment, or by reason of age or dilapidated condition, or from any other cause, creates a fire hazard or a threat to life and safety.

#### **SEC. 5-2-5 SERVICE OF ORDERS.**

- a) The service of an order as mentioned in Section 5-2-4 may be made upon the owner, occupant, or other person responsible for the conditions, either by delivering a copy of the same personally or by delivering the same to and leaving it with any person in charge of the premises, or in case no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of the said premises. Whenever it may be necessary to serve such an order upon the owner of premises, such order may be served either by delivering to and leaving with the said person a copy of the said order or, if the owner is absent from the jurisdiction of the officer making the order, by mailing such copy to the owner's last-known post office address.
- b) If buildings or other premises are owned by one (1) person and occupied by another under lease or otherwise, the orders issued in connection with the enforcing of the Chapter shall apply to the occupant thereof, except where the rules or orders require the making of such additions to or changes in the premises themselves, such as would immediately become real estate and be the property of the owner of the premises; in such cases the rules or orders shall affect the owner and not the occupant unless it is otherwise agreed between the owner and the occupant.

#### **SEC. 5-2-6 INVESTIGATION OF FIRES.**

The Town Fire Department shall investigate the cause, origin, and circumstances of every fire occurring in the Town which is of suspicious nature or which involves loss of life or injury to persons or by which property has been destroyed substantially damaged. Such investigations shall be begun immediately upon the occurrence of such a fire by the fire officer in whose district the fire occurs, and if it appears that such fire is of suspicious origin, the Fire Chief shall immediately take charge of the physical evidence, shall notify the proper authorities designated by law to pursue the investigation of such matters and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case.

Appropriate law enforcement agencies, upon request of the Fire Chief, may assist in the investigation of any fire which, in the opinion of the Fire Chief, is of suspicious origin.

#### **SEC. 5-2-7 BANNING AND/OR REGULATING THE USE OF FIRE, BURNING MATERIALS, AND FIREWORKS DURING EXISTENCE OF EXTREME FIRE DANGER.**

- a) **Declarations of Emergency.** When there is a lack of precipitation, there may be an extreme danger of fire within the Town. This extreme danger of fire affects the health, safety, and general welfare of the residents of the Town 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 Town during said emergency.
- b) **Regulation of Fires, Burning Materials, and Fireworks.** Pursuant to Sec. 166.23, 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 Town 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 Town where adequate fire prevention measures have been taken.
- c) **Period of Emergency.** Pursuant to Sec. 166.23, Wis. Stats., burning emergencies shall become effective upon the time and date of the Town Chairperson or County Board 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 Town Board, or when applicable, the County Board.

#### **SEC. 5-2-8 GRILLS.**

- a) **Applicability.** The following restrictions shall apply to all apartments and multi-family rental units in the Town;
  - 1) No grills (including propane grills, charcoal grills, and electric grills), deep fryers, smokers, or any similar cooking apparatus with an open flame may be used or stored on balconies or used on any deck made of combustible material or within ten (10) feet of any building.
  - 2) No charcoal, propane, or other fuel containers may be used or stored on balconies.
  - 3) No grill (including propane grills, charcoal grills, and electric grills), deep fryers, smokers, or any similar cooking apparatus with an open flame may be stored indoors or within ten (10) feet of any building unless it has fully cooled.
- b) **Enforcement.** If the Town determines that a violation of this section has occurred, it shall provide notice to the person causing the violation or the owner or occupant of the premises where such violation has occurred. The notice shall direct the person to abate or remove the violation within three (3) days. The notice shall also state that unless the violation is abated or removed, the Town shall cause the violation to be abated or initiate legal action against the person causing the violation or the owner or occupant of the premises where such violation exists.
  - 1) If the violation is not abated or removed within the time provided in the notice, the Town may abate or remove the violation.

- 2) If the Town determines that the violation does not threaten immediate danger to the public health, safety, or welfare, the Town may initiate an action to abate or enjoin the violation in circuit court.
- 3) In addition to such injunctions and abatement orders as may be necessary, the person violating this section shall be subject to forfeitures of \$50.00 to \$200.00 for each violation of this Ordinance. Each day that a violation continues shall be considered a separate offense for purposes of calculating forfeitures. The Town may also recover the costs of prosecution, including reasonable attorneys' fees, from any person found to have violated this section.

#### **SEC. 5-2-9 FIRE PITS.**

a) **Applicability.** The following restrictions shall apply throughout the Town:

- 1) No recreational fire may be closer than 25 feet from any building, structure, shed, garage, or any other combustible material.
- 2) Fire pits are allowed for the burning of allowable materials (those materials not prohibited by Section 5, below). Fire pits of 2 feet in diameter or smaller must be at least 25 feet from any building, structure, shed, garage, or any other combustible material. Fire pits larger than 2 feet in diameter must be at least 50 feet from any building, structure, shed, garage, or any other combustible material. A fire pit shall be surrounded on the outside by a non-combustible material such as concrete, block, or rocks.
- 3) Portable fire pits, defined as devices commercially designed and intended to contain and control outdoor wood fires, must be used in accordance with the manufacturer's recommendations and in compliance with all provisions in this ordinance and must be used upon a non-combustible surface.
- 4) No recreational fire may be started or allowed to continue burning when the wind direction or wind speed will cause smoke, embers, or other burning materials to be carried by the wind toward any building or other combustible materials. Smoke from any recreational fire may not create a nuisance for neighboring property owners. A fire shall be extinguished immediately upon the complaint of a neighboring property owner of any smoke nuisance.
- 5) Material for recreational fires may not include rubbish, garbage, recyclable items, trash, any material made of or coated with rubber, plastic, leather, or petroleum-based materials, painted or treated woods, green grass or green leaves, and shall not contain any flammable or combustible liquids.
- 6) Adequate fire suppression equipment, such as a garden hose, fire extinguisher, or water buckets shall be immediately available to extinguish or control a recreational fire.
- 7) All recreational fires shall be attended at all times by at least one responsible person over the age of 16 beginning with the ignition of the fire and ending when the fire is completely extinguished.
- 8) The property owner and any person who has started a recreational fire shall hold the Town harmless from any and all liability for any damage caused by the fire.

- 9) Any person who has started or maintains a recreational fire shall pay any and all costs incurred by the Fire Department for any service-related call as a result of the recreational fire if it is not in compliance with this ordinance. In addition, any person making consistent complaints about fires found to be in compliance with this ordinance will be charged for the call at the discretion of the Fire Chief.
  - 10) Recreational fires are not allowed when high fire hazard conditions exist.
  - 11) Recreational fires may be burned between the hours of 9 a.m. and midnight, unless special permission to exceed these hours is given by the Town. All fires must be extinguished before leaving them unattended.
- b) **Enforcement.** Any person found by the Town to have violated this ordinance shall be subject to forfeitures in accordance with the Town's forfeiture schedule. Each violation of this ordinance is a separate offense for purposes of calculating forfeitures.

### **SEC. 5-2-10 OUTDOOR WOOD-FIRED BURNER/FURNACE**

- a) **Legislative Intent.** Although outdoor wood-fired burners/furnaces may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, especially the offensive odors and potential health effects of uncontrolled emissions. Therefore, this ordinance is intended to ensure that outdoor burners/furnaces are utilized in the manner that does not create a nuisance and is not detrimental to the health and safety of Town residents.
- b) **Statutory Authority.** This ordinance is adopted pursuant to Wis. Stat. § 60.10 and Wis. Stat. § 60.555 to prevent, detect, and suppress fire and fire-related hazards and to promote public health, safety, and welfare in the Town.
- c) **Definitions.**
  - 1) Clean Wood. Wood that does not have paint, stain, or other types of coatings, and wood that has not been treated with substances, including but not limited to copper arsenate, creosote, or pentachlorophenol, and wood pellets made from clean wood.
  - 2) Code Enforcement Officer. The Code Enforcement Officer or other person appointed by the Town Board to administer and enforce the ordinances.
  - 3) Existing Outdoor Wood-Fire Burners/Furnace. Any burner/furnace installed before the effective date of this ordinance.
  - 4) Outdoor Wood-Fired Burners/Furnaces. A fuel burning device designed to burn wood or other manufacturer approved fuel products that is manufactured specifically for outdoor installation or installation in buildings not normally occupied by humans and heats building space and/or water via the distribution, typically through pipes, of a fluid heated in the device.
  - 5) Stack or Chimney. Any vertical structure enclosing a flue or flues that carry off smoke or exhaust.
- d) **Permits.** Any person desiring to install an outdoor wood-fired burner/furnace within the Town must obtain a permit from the Permit Issuer and shall pay a permit fee set by the Town

Board.

e) **Suspension of Permit.**

A permit issued pursuant to this ordinance may be suspended if the Code Enforcement Officer determines that the welfare of safety of the Town residents due to one or any of the following conditions merit:

- 1) Malodorous air contaminants from the burner/furnace are detectable outside the property of the person on whose land the burner/furnace is located.
- 2) The emissions from the burner/furnace interferes with the reasonable enjoyment of life on neighboring property.
- 3) The emissions from the burner/furnace cause damage to vegetation on neighboring property.
- 4) The emissions from the burner/furnace are or may be harmful to human or animal health.
- 5) The burning of any material not allowed by this ordinance.

A suspended permit may be reinstated once the condition which resulted in suspension is remedied and reasonable assurances are given that such condition will not occur.

f) **Installation of Outdoor Wood-Fired Burners/Furnaces.**

Any person desiring to install an outdoor wood-fired burner/furnace within the Town shall obtain a permit from the Permit Issuer. The application for such a permit shall meet the following requirements:

- 1) A plan showing all property lines, the locations and distances of all dwellings or occupied buildings on adjoining properties, and the proposed location of the burner/furnace.
- 2) Locate the burner/furnace at least 100 feet from any occupied structure not located on the lot on which the burner/furnace will be located.
- 3) Locate the burner/furnace using the setbacks stated in the Zoning Code for accessory buildings.
- 4) Provide a copy of the manufacturer's specifications and instructions, which the applicant will follow and not alter at any time. Where the manufacturer's specifications and instructions conflict with the Town's ordinances, the more restrictive shall apply.
- 5) Provide proof that the burner/furnace meets UL (Underwriters Laboratories) or ANSI (American National Standards Institute) standards.
- 6) All outdoor burners/furnaces shall be equipped with properly functioning spark arrestors.

The application shall be signed by all owners of the lot on which the burner/furnace will be located and the contractor installing the burner/furnace.

g) **Replacements.** If a burner/furnace is replaced or upgraded, a permit shall be required and must comply with all sections of this ordinance.

h) **Use of Outdoor Wood-Fired Burner/Furnaces.**

- 1) The only substance that may be burned in the burner/furnace is clean wood (see definition.)
- 2) No person shall burn any of the following in the burner/furnace:
  - a. Any wood that does not meet the definition of clean wood.
  - b. Tires
  - c. Lawn clippings or leaf waste.
  - d. Rubbish, garbage, recyclables, including but not limited to food wastes, food and beverage packaging or food wraps.
  - e. Materials containing plastic.
  - f. Waste petroleum products.
  - g. Paint and paint thinners.
  - h. Any type of paper or cardboard.
  - i. Construction and demolition debris.
  - j. Plywood or other composite wood products.
  - k. Particleboard.
  - l. Manure.
  - m. Animal carcasses.
  - n. Asphalt products.
  - o. Used cooking oils.
- 3) The burner/furnace shall at all times be operated and maintained in accordance with the manufacturer's specifications.

- 4) The burner/furnace shall be maintained and operated in compliance with all Federal, State and Local requirements.
- 5) Any ash or other by-products from the operation of the burner/furnace shall be disposed of in accordance with Federal, State and Local requirements.

i) **Enforcement and Penalties.**

1) Enforcement.

- a. The Code Enforcement Officer shall enforce the terms of this ordinance.
- b. The Code Enforcement Officer or Town Board designed individual may inspect the premises, building or structure to determine whether or not any violation of this ordinance exists.
- c. A written notice will be provided to the property owner disclosing the violation of this ordinance and recommending how the violation can be corrected.
- d. Once the notice of violation is issued, the property owner will be given 5 days to correct the violation or penalties may occur.

2) Penalties.

- a. Any person who has violated or permitted violation of any provisions of this ordinance shall upon judgment be sentence to pay a fine of not less than one hundred dollars (\$100) per day nor m ore than one thousand dollars (\$1,000) for each day the violation exists after notice from the Town, together with the costs of suit and attorneys' fees. Each violation may be considered a separate offense for which separate conviction may be sought. All judgments, costs, interests and reasonable attorneys' fees collected for violation of this ordinance will be turned over to the Town.
- b. In addition to the fines and judgments, the Town retains the right to pursue all other available remedies at law or in equity under the laws of the State of Wisconsin.

j) **Municipality Exempt from Liability.**

The Town of Fond du Lac and its agents, officials and representatives shall not, under any circumstances, be liable or responsible for damages caused to any person or property by reason of issuance of any permit under the provisions of this ordinance, or by reason of the conduct of any burning activity in compliance with the terms and provisions of this ordinance. The person or party responsible for any such burning activity shall bear sole liability of any damages caused as a result thereof.

k) **Severability.**

The provisions of this ordinance are severable. If any sentence, clause or section is for any reason found to be unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this ordinance. It is hereby declared as the legislative intent that this ordinance would have been adopted had such unconstitutional, illegal or invalid provisions had not been included herein.

## CHAPTER 3

### Hazardous Materials

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

#### **SEC. 5-3-1 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 Town Fire Department serving the Town as prescribed by this Section.
- 2) The provisions of this Section shall apply to all persons, firms or organizations other than farms engaged in production agriculture 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. Hazardous materials includes the list of hazardous wastes which are promulgated by the U.S. Environmental Protection Agency under Sec. 6821(b) of the resource conservation and recovery act as amended and as further set forth in Chapter 291, Wis. Stats.

##### **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 materials.
- 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) **Prohibited Discharges.** No person, firm, or corporation shall discharge or cause to be discharged, leaked, leached, or spilled upon any public or private street, alley, public, or private property, or onto the ground, surface waters, subsurface waters, or aquifers, or within the Town, except those areas specifically licensed for waste disposal, landfill activities or farming activities using accepted farming practices and to receive such materials, any explosive, flammable, or combustible solid liquid or gas, any radioactive material at or above Nuclear Regulatory Restriction levels, etiologic agents, or any solid, liquid, or as creating a hazard, potential hazard, or public nuisance or any solid, liquid, or gas having a deleterious effect on the environment.
- e) **Containment, Cleanup, And Restoration.** Any person, firm, or corporation in violation of the above section shall, upon direction of any emergency government officer of the Fire Department, begin immediate actions to contain, clean up, and remove to any approved repository the offending material(s) and restore the site to its original condition, with the offending person, firm, or corporation being responsible for all expenses incurred. Should any person, firm, or corporation fail to engage the necessary persons and equipment to comply or to complete the requirements of this Section, the office of emergency government may order the required actions to be taken by public or private resources and allow the recovery of any and all costs incurred by the Town.
- f) **Emergency Services Response.** Any emergency services response includes, but is not limited to, fire service, emergency medical service, and law enforcement personnel. A person, firm, or corporation who possesses or controls a hazardous substance shall be responsible for reimbursement to the responding agencies for actual and necessary expenses incurred in carrying out their duties under this ordinance. The property owner will be billed a service fee if a fire department must respond. Actual and necessary expenses may include but not be limited to replacement of equipment damaged by the hazardous material, cleaning, decontamination, and maintenance of the equipment specific to the incident, costs incurred in the procurement and use of specialized equipment specific to the incident, specific laboratory expenses incurred in the recognition and identification of hazardous substances in the evaluation of response, decontamination, clean up, and medical surveillance, and incurred costs in future medical surveillance of response personnel as required by the responding agencies medical advisor.
- g) **Site Access.** Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to emergency government officers and staff and to law enforcement and fire department personnel for the purpose of evaluating the threat to the public and monitoring containment, clean up, and restoration activities.
- h) **Public Protection.** Should any prohibited discharge occur that threatens the life, safety, or health of the public at, near, or around the site of a prohibited discharge, and that the situation is so critical that immediate steps must be taken to protect life and limb, the senior law enforcement or fire official on the scene of the emergency may order an evacuation of the area or take other appropriate steps for a period of time until the Town Board can take appropriate action.
- i) **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 Town for actual and necessary expenses incurred by the Town 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 circumstances.

**SEC. 5-3-2 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 Comm. 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 Town 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

### Rapid Entry Lock Box

5-4-1	Purpose
5-4-2	Structures Required to Have Rapid Entry Key Lock Box
5-4-3	Exemptions
5-4-4	Installation
5-4-5	Types
5-4-6	Rules and Regulations
5-4-7	Contents
5-4-8	Security Padlocks
5-4-9	Owner's Responsibility

#### **SEC. 5-4-1 PURPOSE.**

The Town Board of the Town of Fond du Lac has determined that the health, safety, and welfare of the citizens of the Town are promoted by requiring certain structures to have a rapid entry key lock box installed on the exterior of the structure to aid the Town of Fond du Lac Volunteer Fire Department in gaining access to the structure when responding to calls for emergency service. The rapid entry key lock box system is being adopted nationally and will operate on a master key basis that will expedite entry into a structure during an emergency and will eliminate forced entries into structure thereby avoid costly and time-consuming efforts in gaining access to the locked structures during an emergency.

#### **SEC. 5-4-2 STRUCTURES REQUIRED TO HAVE RAPID ENTRY KEY LOCK BOX.**

The following structures or properties located within the Town shall be equipped with a rapid entry key lock box at an accessible location near the main entrance of the structure or property or at such other location approved by the Fire Chief:

- a) All commercial and industrial buildings including those with fire sprinkler systems and/or alarms.
- b) All public and institutional buildings.
- c) All multi-family residential dwellings that have restricted access through locked doors and have common corridors for access to the living units or mechanical rooms.
- d) Any building where the Fire Chief determines that lack of access may result in loss of life or extensive property or environmental damage, based on factors including, but not limited to fire load, occupant load, exposures, building construction, age of building, and storage or use of hazardous materials.

- e) Condominium complexes, where the Fire Chief determines that lack of access may result in loss of life or extensive property damage, based on factors including, but not limited to, occupant load and building construction.
- f) All properties having security gates or devices which limit access to the building or property.
- g) The lock box shall be located at a height of not less than four (4) feet and not more than six (6) feet above the final grade.

**SEC. 5-4-3 EXEMPTIONS.**

The following structures and properties are exempt from the rapid entry key lock box requirement:

- a) All single and two-family dwellings
- b) All structures or properties listed in subsection 5-4-2 hereof that are in existence and occupied on the effective date of this section, subject to the provisions of subsection 5-4-4(b) hereof.
- c) Any structure or property where the Fire Chief determines, on a case-by-case basis, that a rapid entry key lock box is not necessary, provided that the owner and tenant, if any, of the structure or property executes and delivers to the Fire Department a Waiver of Liability (on a form to be provided by the Fire Department) for any damage caused by the Fire Department upon entering the structure or property during an emergency.

**SEC. 5-4-4 INSTALLATION.**

- a) All newly constructed structures subject to this section shall have the rapid entry key lock box installed and operational prior to the issuance of an occupancy permit.
- b) Any structure or property exempt pursuant to subsection 5-4-3(b) hereof that is subsequently structurally altered or modified in any way, or that is sold or leased to a new tenant, shall have a rapid key entry lock box installed and operational prior to issuance of a certificate of compliance or occupancy certificate for the property, or prior to the closing of the sale or commencement of the lease for the structure or property if no certificate of compliance or occupancy certificate is issued for the structure or property.

**SEC. 5-4-5 TYPES OF KEY LOCK BOX.**

The Fire Chief shall designate the type of rapid entry key lock box system to be implemented within the Town and shall have the authority to require all structures or properties listed in 5-4-2 hereof to use the designated system.

**SEC. 5-4-6 RULES AND REGULATIONS.**

The Fire Chief shall be authorized to promulgate rules and regulations for the use of the rapid entry key lock box system.

**SEC. 5-4-7 CONTENTS.**

The rapid entry key lock box shall contain the following:

- a) All the keys for locked points of ingress and egress whether on the interior or exterior of such building or property
- b) The keys to all fire alarm panels
- c) The keys to elevator rooms and controls
- d) The keys to all locked electrical or mechanical equipment rooms
- e) Any other keys or information as required by the Fire Department.

**SEC. 5-4-8 SECURITY PADLOCKS.**

When a property is protected by a locked fence or access gate and where immediate access to the property is necessary for life saving or firefighting purposes, the Fire Chief may require a security padlock to be installed at a location approved by the Fire Chief. The padlock shall be of the type approved by the Fire Chief and keyed to the Fire Department access key.

**SEC. 5-4-9 OWNER'S RESPONSIBILITY.**

Building and property owners are required to:

- a) Purchase and install an approved rapid entry key lock box device by contacting the Fire Department to obtain the necessary authorization forms.
- b) Provide the proper keys to the Fire Department for the required access.
- c) Notify the Fire Department when the locks or keys have been changed.
- d) Keep the immediate area of the rapid entry key lock box free and clear of any and all obstructions.