Title 5 – Chapter 2

Fire Prevention and Safety Codes

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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 Wisconsin Department of Commerce (formerly the Department of Industry, Labor and Human Relations), 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. ILHR 1; Safety.

(2) Wis. Adm. Code Ch. ILHR 5; Explosives and Blasting Agents.

(3) Wis. Adm. Code Ch. ILHR 7; Cleaning and Dyeing.

(4) Wis. Adm. Code Ch. ILHR 8; Flammable and Combustible Liquids.

(5) Wis. Adm. Code Ch. ILHR 9; Liquefied and Petroleum Gases.

(6) Wis. Adm. Code Ch. ILHR 14; Fire Protection.

(7) Wis. Adm. Code Ch. ILHR 20; Dusts, Fumes, Vapors and Gases.

(8) Wis. Adm. Code Ch. ILHR 35; Safety in Construction.

(9) Wis. Adm. Code Ch. ILHR 43; Anhydrous Ammonia Code.

(10) Wis. Adm. Code Ch. ILHR 50; Administration and Enforcement.

(11) Wis. Adm. Code Ch. ILHR 51; Definitions and Standards.

(12) Wis. Adm. Code Ch. ILHR 52; General Requirements.

(13) Wis. Adm. Code Ch. ILHR 53; Structural Requirements.

(14) Wis. Adm. Code Ch. ILHR 54; Factories, Office and Mercantile Buildings.

(15) Wis. Adm. Code Ch. ILHR 55; Theatres and Assembly Halls.

(16) Wis. Adm. Code Ch. ILHR 56; Schools and Other Places of Instruction.

(17) Wis. Adm. Code Ch. ILHR 57; Apartment Buildings, Hotels, and Places of Detention.

(18) Wis. Adm. Code Ch. ILHR 58; Health Care, Detention, and Correctional Facilities.

(19) Wis. Adm. Code Ch. ILHR 59; Hazardous Occupancies.

(20) Wis. Adm. Code Ch. ILHR 60; Child Day Care Facilities.

(21) Wis. Adm. Code Ch. ILHR 61; CBRF

(22) Wis. Adm. Code Ch. ILHR 62; Specialty Occupancies.

(23) Wis. Adm. Code Ch. ILHR 64; Heating, Ventilating, and Air Conditioning.

(24) Wis. Adm. Code Ch. ILHR 65; Fire Prevention.

(25) Wis. Adm. Code Ch. ILHR 70; Historic Building Code.

(26) Wis. Adm. Code Ch. ILHR 160-164; Existing Building Code.

(27) Wisconsin Electrical Code.

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

(1) Volume IV – Extinguishing Equipment.

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

(d) Official copies of each of said codes are now on file in the office of the Town Clerk and Fire Departments serving the Town 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 the Fire Department shall find any building or upon any premises dangerous or hazardous conditions as follows, he or they will 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 such orders 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.

(a) The Fire Department serving the Town of Oshkosh 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 begin immediately upon the occurrence of such a fire by the fire officer in whose district the fire occurs, and it if appears that such fire is of suspicious origin, the

Chief of the Fire Department shall take charge immediately 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.

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

Sec. 5-2-7 Open Burning.

(a) **Open Burning Prohibited.** No person, firm or corporation shall build any outdoor fire within the limits of the Town of Oshkosh excepting as set forth in

Subsection (b) of this Section. In order to protect the public health and safety, existing burning barrels and incinerators shall comply with the provisions of this Section within thirty (30) days of its original effective date.

(b) **Exceptions.**

(1) Outdoor cooking over a fire contained in a device or structure designed for such use is permissible;

(2) Controlled burning of grass or similar vegetation for environmental management purposes, with the prior written approval of the Fire Chief, may be permitted;

(3) Ceremonial campfire or bonfires.

(4) Incinerators or refuse burning barrels with a wire mesh cover and air openings no larger than one-half (1/2) inch. Only clean, untreated and unpainted wood, paper and cardboard generated by the property owner may be burned in an incinerator or burning barrel; the burning of wet rubbish, oily substances, asphalt, plastic and rubber products or household garbage is prohibited. Burning barrels and incinerators shall be located a minimum of twenty (20) feet from property lines and at least thirty (30) feet from any neighboring residence, and be placed in rear or side yard areas only.

(5) Other occasions of desirable outdoor burning not specified by this Subsection, but not as an alternative to refuse removal or disposal of which other methods are available, may be granted single occasion approval as in Subsections (2) and (2) above.

(6) Whenever approval and special permit are granted by the Fire Chief under Subsection (b)(5) of this Section, the permit may specify and be conditioned on observance of safety restrictions and insurance requirements set forth herein.

(7) The following applies Subsection (b) exceptions. The above-mentioned exceptions are allowed provided, however, that such burning is:

(a) Monitored by a responsible person until the fire has extinguished itself completely.

(b) Conducted on days when excessive wind or atmospheric conditions will not result in danger to public health or safety.

(c) Located off the public street pavement, street gutter, or right-of-way.

(d) Located at least twenty (20) feet from any neighboring residence.

(e) Not used for covert incineration of offensive substances or materials.

(c) **Chief May Prohibit.** The Fire Chief is permitted to prohibit any or all bonfires and outdoor rubbish fires when atmospheric conditions or local circumstances make such fires hazardous.

(d) **Burning on Streets.** No materials may be burned upon any street, curb, gutter, sidewalk or public-right-of-way.

(e) **Liability.** Persons utilizing and maintaining outdoor fires shall be responsible for any liability resulting from damage caused by his/her fire.

Sec. 5-2-8 Banning and/or Regulating the Use of Fire, Burning Materials, and Fireworks During Existence 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 Town of Oshkosh. This extreme danger of fire affects the health, safety, and general welfare of the residents of the Town of Oshkosh 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 §66.325, Wis. Stats., and when a burning state of emergency is declared, it may 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 §66.325, Wis. Stats., burning emergencies shall become effective upon the time and date of the Town Chairperson or Winnebago 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 Winnebago County Board.