

TITLE 5

Public Safety

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Title 5 – Chapter 1

Fire Protection

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Sec. 5-1-1 Fire Protection.

(a) **General Authority.**

(1) The Town Board shall provide for fire protection for the Town of Oshkosh. Fire protection for the Town, or any portion of the Town, may be provided in any manner, including:

- (a) Establishing a Town fire department.
- (b) Joining with another town, village, or city to establish a joint fire department. If the Town Board establishes a joint fire department with a village under §61.65(2)(1)3, Wis. Stats., the Town Board shall create a joint board of fire commissioners with the village under §61.65(2)(b)2, Wis. Stats.
- (c) Contracting with any person.
- (d) Utilizing a fire company organized under Ch. 213, Wis. Stats.

(2) The Town Board may provide for the equipping, staffing, housing, and maintenance of fire protection services.

(b) **Funding.** The Town 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.

State Law Reference: §60.55, Wis. Stats.

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. The Town Board may purchase equipment for medical and other emergency calls.

State Law Reference: §60.565, Wis. Stats.

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 of Oshkosh at the time of a fire or when a Fire Department is using such streets 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, excepting 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 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) **Firefighters 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 of Oshkosh shall be the Fire Inspectors of the Town of Oshkosh 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 Industry, Labor and Human Relations, particularly §101.14, Wis. Stats.

- (b) While acting as Fire Inspectors pursuant to §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 of Oshkosh 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 Town Board for further action.
- (c) The Chief of the Fire Department(s) 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) months period shall begin on January 1 and July 1 of each year.
- (d) 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.

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

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 one block from the place of fire without the consent and authority of the Fire Chief or any law enforcement officer.

Sec. 5-1-7 Firefighters May Enter Adjacent Property.

- (a) **Entering Adjacent Property.** It shall be lawful for any firefighter 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 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. 5-1-9 Fire Protection Charges.

- (a) **State Authority.** Pursuant to §60.55, 60.555 and 60.557, Wis. Stats., the Town of Oshkosh hereby establishes a policy and procedure for payment of fire costs incurred by the Town of Oshkosh as set forth in this Section.
- (b) **Liability for Fire Protection Costs.** Each owner of real estate located within the Town of Oshkosh is provided with fire protection by the Town of Oshkosh through its fire department. However, in the event that extra equipment, such as a back hoe, ambulance standby service or any other cost to be incurred beyond "normal or customary fire department procedure" must be called in at the discretion of the Fire Department Chief or other person in charge, the owner of the real estate is responsible for the actual costs of the extra equipment or supplementary essentials which is necessary.
- (c) **Liability for Fire Calls When Fire Departments Other Than Authorized Fire Departments.** Any owner of real estate located within the Town of Oshkosh who shall request fire protection for such property directly from any fire department other than the Town of Oshkosh Fire Department, or from any other contractor, shall be responsible for the full costs billed to the Town for the fire call from such fire department. This Section shall not apply to the costs of any other fire department responding to the request of the Town of Oshkosh Fire Department under a mutual aid agreement.
- (d) **Invoice and Payment Procedure; Special Charge and Lien.** Costs of fire calls chargeable under this Section shall be invoiced by the Town Clerk to the property

owner(s) and shall be paid to the Town Treasurer within ninety (90) days of the date of the bill. Invoices which are unpaid ninety (90) days after their dates which are outstanding for more than ninety (90) days and are unpaid as of November 1, of any year, shall become a lien against the real estate for which fire protection was provided and this amount, including interest, shall be placed on the tax role as a delinquent special charge against such real estate pursuant to §66.60, Wis. Stats.

Title 5 – 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	Outdoor Burning
5-2-8	Banning and/or Regulating the Use of Fire, Burning Materials, and Fireworks During Existence of Extreme Fire Danger

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 if it 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.

Hazardous Materials

- 5-3-1 Disclosure of Hazardous Materials and Infectious Agents;
Reimbursement for Cleanup 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 Cleanup 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 serving the Town of Oshkosh 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 Agents*** 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 lot-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 §144.62, 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 material;
 - (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 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 of Oshkosh, 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 gas 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 the public or private resources and allow the recovery of any and all costs incurred by the Town of Oshkosh.
- (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. 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 Oshkosh Town Board can take appropriate action.
- (i) **Enforcement.** The Fire Chief as well as Winnebago Sheriff's Department deputies, shall have authority to issue citations or complaints under this Section.

- (j) **Civil Liability.** Any person, firm or corporation in violation of this Section shall be liable to the Town of Oshkosh for any expenses incurred by the Town of Oshkosh or loss or damage sustained by the Town of Oshkosh by reason of such violations.
- (k) **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 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 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.

Title 5 – Chapter 4

Disposal of Surplus Property

5-4-1 Disposal of Surplus Town Property

Sec. 5-4-1 Disposal of Surplus Town Property.

(a) **Definitions.**

- (1) “Surplus Town Property” is that property which is owned by the Town of Oshkosh and which has no further usefulness to the Town. An item of property shall be considered to have no further usefulness when:
 - a. The item or its function has been totally replaced by other Town property and no probable future function exists for it; or
 - b. The Town no longer performs the service for which the item was purchased and no other service can reasonably be provided by the item; or
 - c. The item is no longer able to reliably or economically perform the work required of it.
- (2) Surplus property as defined in this Chapter shall not include land or buildings but shall include fixtures and such salvage as may be taken from a building without structural damage when such fixtures and salvage are not part of a demolition contract. Surplus Town property shall not include property, which is obtained by the Town as a result of abandonment or loss by the property’s original owner. Surplus Town property shall not include library materials used by the public library for lending purposes.

(b) **Determination of Surplus.**

- (1) Whenever an item of Town property is determined to be surplus Town property on the basis that the Town no longer performs the service, for which the item was purchased, the Town Board shall determine whether or not the item is surplus Town property.
- (2) Whenever the fair market value of the item is more than Five Hundred Dollars (\$500.00), the Town Board shall determine whether or not the item is surplus Town property.

(c) **Disposition of Surplus Town Property.**

- (1) Whenever the Town Board determines that an item of property is surplus Town property, it shall dispose of such property as it determines.
- (2) Whenever this Section provides for an auction or other disposition of any property, the Town Board shall be authorized to hire an auctioneer or take such other action as is necessary to properly dispose of the property

provided, however, that the fees of such auctioneer and all such costs, other than those for Town labor and the use of Town property, do not exceed the payment received by the Town from the auction or sale of the property.

Title 5 – Chapter 5

Emergency Management

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Sec. 5-5-1 Declaration of Policy.

To prepare the Town of Oshkosh to cope with emergencies resulting from enemy action and man-made or natural disaster, it is declared to be necessary to establish an organization for emergency management for the Town by conferring upon the Town Chairperson, and others specified, duties and powers consistent with Ch. 166, Wis. Stats.

Sec. 5-5-2 Definitions.

The following definitions are applicable in this Chapter:

- (a) **Emergency Management.** Includes “civil defense” and means all measures undertaken by or on behalf of the Town:
 - (1) To prepare for and minimize the effect of enemy actions and natural or man-made disaster upon the civilian population.
 - (2) To effectuate emergency repairs to, or the emergency restoration of, vital public utilities and facilities destroyed or damaged by such action.
- (b) **Civil Defense.** All measures undertaken by or on behalf of the state, county and municipalities to prepare for and minimize the effects of enemy action upon the civilian population.

Sec. 5-5-3 Emergency Management Committee.

- (a) **How Constituted.** There is hereby created an Emergency Management Committee composed of the Town Chairperson, a member of the Fire Department and a member of EMS Departments.
- (b) **Duties.** The Emergency Management Committee shall be an advisory and planning group and shall advise the Coordinator of Emergency management and the Town Board of all emergency management matters. It shall meet at the discretion of the Town Chairperson or Coordinator. It shall annually prepare a budget for emergency management and present it to the Town Board for adoption. It shall prepare an annual report for the Town Board. The Emergency

Management Committee shall investigate funding from the state and federal governments to reimburse the Town for emergency management costs.

- (c) **Authority.** The Coordinator or one of the appointed deputy Coordinators shall be advised of any incident that may be or is a threat to life or property of the citizens of the Town. These incidents can be man-made or natural in origin. The Coordinator or his/her appointed deputy shall coordinate with existing services to deliver appropriate emergency services.

Sec. 5-5-4 Coordinator of Emergency Management Services.

- (a) **Coordinator.**

- (1) ***Powers and Duties.***

- (a) The powers and duties of the Coordinator of Emergency Management for the Town are pursuant to Ch. 166, Wis. Stats.
 - (b) The Coordinator of Emergency Management shall develop and promulgate emergency management plans for the Town consistent with state and county plans.
 - (c) The Coordinator of Emergency Management shall work with the County Office of Emergency Management under any joint agreements that are in place.
 - (d) The Coordinator of Emergency Management shall direct the emergency management program and perform such other duties related to emergency management as required by the Town Chairperson and Emergency Management Committee of the Town.
 - (e) The Coordinator shall direct the Town Emergency Management training programs and exercises.
 - (f) The Coordinator shall direct the Town participation in Emergency Management training programs and exercises. If ordered by the county head of Emergency Management Services, the Coordinator shall prepare and submit services; the Coordinator shall prepare and submit reports in emergency management programs and exercises.

- (2) ***Appointment and Term.***

- (a) The Coordinator shall be appointed by the Town Chairperson and confirmed by the Town Board.
 - (b) The term of office of the Coordinator shall be until a successor is appointed and qualified.

- (b) **Deputy Coordinator.**

- (1) ***Appointment.*** The Deputy Coordinator shall be appointed by the Town Chairperson and confirmed by the Town Board. There may be as many Deputy Coordinators as deemed necessary by the Town Chairperson.
 - (2) ***Term.*** The term of office of Deputy Coordinator(s) shall be until a successor is appointed and qualified.

Sec. 5-5-5 Sharing of Costs.

- (a) **County Obligations.** The County Board shall provide regular offices and such supplies that are necessary to carry on a day-to-day basis. The costs will be defrayed by the County with the help of any federal or state financial aid that may be available.
- (b) **Town Obligations.** The Town will provide emergency office space, furnishings, clerical help and such office supplies that are necessary to deal with an emergency operation affecting the Town. The costs will be paid by the Town with the help of any federal or state financial aid that may be available.

Sec. 5-5-6 Utilization of Existing Services and Facilities.

- (a) **Policy.** In preparing and executing the Emergency Management program, the services, equipment, supplies and facilities of the existing departments and agencies of the Town shall be utilized to maximum extent practicable; and the heads and personnel of all such departments and agencies are directed to cooperate and extend such services and facilities as are required of them.
- (b) **Responsibility.** In order to assure that in an emergency all the facilities of the existing Town government are expanded to the fullest to meet such emergencies, department and agency heads assigned to specific responsibilities under the Town Emergency Operations Plan will fulfill emergency and non-emergency duties as prescribed to the plan.