

CHAPTER 5

FIRE AND RESCUE PROTECTION

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5.01 FIRE AND RESCUE DEPARTMENT RECOGNIZED.

Pursuant to §60.55 and §61.65 of the Wisconsin Statutes, the Town of Somers Fire and Rescue Department (herein referred to as "Department") is officially recognized as the fire and rescue department of the Town and the duties of firefighting, fire prevention, and emergency medical services for the Town are delegated to such department.

5.015 BOARD OF FIRE COMMISSIONERS.

(A) **Creation.** Pursuant to §60.55, §61.65 and §62.13, Stats., there shall be created a Board of Fire Commissioners consisting of five (5) citizens, any three (3) of whom shall constitute a quorum.

(B) **Appointment.** The Town Chairperson shall annually, between the last Monday of April and the first Monday of May, appoint in writing to be filed with the Secretary of the Board of Fire Commissioners and the Clerk of the Town, one (1) member for a term of five (5) years. No appointment shall be made which will result in more than three (3) members of the Commission belonging to the same political party. The initial appointments to the Commission shall be made by the Town Chairperson and shall be staggered so as to expire in the years 2000, 2001, 2002, 2003 and 2004, respectively. All members of the Commission must be residents of Somers.

(C) **Powers.** The Commission shall have such powers as are enumerated in §62.13, Stats., including, but not limited to, the appointment of the Chief of the Department, who shall hold office during good behavior, subject to suspension or removal by the Commission for cause, and to discipline full-time employees of the Department. The Board of Fire Commissioners shall not have the optional powers of the Commission conferred in §62.13(6), Stats., unless and until such powers are conferred upon them by the electors as provided in such subsection.

(D) **Compensation.** The members of the Board of Fire Commissioners shall serve without compensation; however, they shall be entitled to per diem expenses of Forty (\$40.00) Dollars per session or reimbursements as are authorized by the Town Board.

5.02 OPERATION OF THE DEPARTMENT.

The Department shall adopt Standard Operating Guidelines, Policies and Procedures, and Work Rules for its control, management and governance and for regulating the departmental operation and business proceedings as set by the Chief, Town of Somers Ordinances, Wisconsin State Statute, federal law, the National Fire Protection Association (NFPA) and other fire and rescue professional standards.

5.03 APPROPRIATIONS.

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

5.04 COMPENSATION.

The officers and members of the Department shall receive such compensation from the Town as may from time to time be approved by the Town Board.

5.05 ORGANIZATION.

(A) **Generally.** The organization and internal regulation of the Department shall be governed by the provisions of this chapter and as is otherwise provided by law or ordinance.

(B) **Composition.** The Department shall consist of the following officers: one (1) Chief, two (2) Assistant Chiefs, six (6) Captains and five (5) Lieutenants, together with as many drivers and firefighters, as may be appointed by the Chief and approved by the Fire Commission; provided that at no time shall the Department consist of less than the number of members that are required by the Wisconsin Statutes.

(C) **Selection of Chief.** Pursuant to §62.13(3) of the Wisconsin Statutes, the Chief shall be appointed by a majority vote of the members of the Fire Commission in accordance with the job description requirements for such position as have been adopted by the Town Board, such job description being incorporated herein by reference.

5.06 POWERS AND DUTIES OF CHIEF.

(A) **General Supervision.** The Chief shall have the general supervision of the Department, which supervision shall be subject to and not conflict with this chapter, the Town Employee Handbook and shall enforce observance of this chapter. He shall be responsible for the personnel and general efficiency of the Department.

(B) **Command at Incidents.** The Chief shall have complete command of and entire responsibility for all firefighting, rescue and hazmat operations, plan the control of the same, direct the action of the Department when it arrives at the incident, observe that the Department does its duty, and release staff at an incident when deemed proper. In the absence of the Chief, the next highest ranking officer of the Department shall be responsible and shall exercise the same authority as the Chief.

(C) **Budgets.** No later than September 1 of each year, the Chief, on behalf of the Department, shall file with the Town Clerk/Treasurer on the forms provided, a detailed estimate of the appropriations needed for the operation of the Department during the ensuing fiscal year.

(D) **Reports.**

(1) **Building damage.** The Chief shall submit a written report to the Building Inspector of all fire calls in which there is damage to buildings. Such report shall include the time, location, nature and extent of damage to buildings.

(2) **Annual department report.** In addition, the Chief shall prepare a report for the annual town meeting relating to the activities of the Department in the preceding year.

(E) **Enforcement of Fire Prevention Ordinances.** The Chief shall enforce all fire prevention ordinances of the Town and State laws and regulations pertaining to fire prevention and shall keep citizens informed on fire prevention methods and on the activities of the Department.

(F) **Fire Record.** The Chief shall keep records of every fire to which the Department was called and shall enter in such record the locality and origin of the fire, the cause of delay (if any) in responding, the method of extinguishing and the equipment used, the estimated fire loss, the time the fire was extinguished, the names of the firefighters responding and general remarks.

(G) **Apparatus Inventory.** The Chief shall keep an inventory of all apparatus and equipment. This inventory, which shall include dates of applicable service tests, shall be provided annually to the Town Clerk/Treasurer for insurance purposes.

(H) **Duties of Commanding Officer.** The Chief shall perform such other duties as are usually incumbent on the commanding officer of a department and as are detailed in the job description for such position.

5.07 CONTROL AND CARE OF APPARATUS.

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

(B) **Use.** No apparatus shall be used for any purpose except for emergencies within the Town, or in training therefor, except pursuant to an agreement by the Town Board after the Chief has given his recommendations on such use, i.e. MABAS. A written report of all such uses shall be made quarterly to the Town Board.

(C) **Damage to Equipment.** No person shall willfully damage any hose, hydrant or apparatus belonging to the Town; and no vehicle shall be driven over any unprotected hose of the Department when laid over any street, private driveway, track or other place to be used at any incident or alarm of fire without the consent of the Department official in command.

5.08 AUTHORITY OF DEPARTMENT AT INCIDENT.

(A) **Police Powers at Incidents.** The Chief and Assistant Chief or the officers in command at any incident shall have full and complete police authority at such incident. Any officer of the Department may cause the arrest of any person who fails to give the right-of-way to the Department in responding to an incident.

(B) **Control at Incidents.** The Chief may prescribe certain limits in the vicinity of any incident within which no person except emergency personnel, and those admitted by order of any officer of the Department may come. The Chief may cause the removal of any property whenever it becomes necessary for the preservation of such property, prevent the spread of fire, or to protect the adjoining property; and during the progress of any incident, he may order the removal or destruction of any property necessary to prevent the further spread of fire or hazard that may exist. The Chief may also cause the removal of all wires, other facilities, and the turning off of all electricity or other services where the same impede the work of the Department during the progress of an incident.

(C) **Entering Premises.** Any firefighter acting under the direction of the Chief or officer in command may enter upon the premises adjacent to or in the vicinity of any building or other property to investigate or extinguish a fire; and if any person hinders, resists or obstructs a firefighter in the discharge of the duties as herein provided, the person so offending shall be guilty of resisting a firefighter in the discharge of the duties.

(D) **Duties of Bystanders.** Every person who is present at an incident shall be subject to the orders of the Chief or officer in command and may be required to assist at the incident scene or in removing or guarding property. Such officer may cause the arrest of any person who refuses to obey such orders.

5.085 DISCIPLINARY PROCEDURES.

All full-time employees of the Department shall be subject to the current version of the Town of Somers Employee Handbook or union contract approved by the Town Board and, in this regard, shall be entitled to all rights, privileges or benefits conferred thereby and shall be subject to all rules, policies or regulations contained therein. To the extent that a dispute, grievance or other issue arises concerning a full-time employee of the Department, such dispute, grievance or issue shall be resolved by the Board of Fire Commissioners created under §5.015 of these ordinances to the extent that the issues raised shall involve or shall be addressed by either these ordinances, the union contract or the Town Employee Handbook. In all other instances involving part-time or paid-on-call employees where the issue raised pertains to either these ordinances or the Town Employee Handbook, the Town Board shall control the ultimate disposition of such dispute, grievance or issues raised pursuant to the provisions of the Town Employee Handbook. It shall be the responsibility of the Chief to make an initial determination on the appropriate mechanism for review of any issue raised by a member; however, nothing herein shall preclude any member, whether full-time employee, part-time or paid-on-call member, from bringing any appropriate matter before the Board of Fire Commissioners for consideration.

5.09 FIRE INSPECTORS.

(A) **Chief to be Fire Inspector.** Pursuant to §101.14, Wis. Stats., the Chief shall hold the office of Fire Inspector and may appoint one (1) or more Deputy Fire Inspectors, who shall perform the same duties and have the same powers as the Fire Inspector.

(B) **Duty of Inspection.**

(1) **Inspections required.** The Fire Inspector shall inspect semi-annually all public and commercial buildings, premises and thoroughfares within the Town to correct any condition liable to cause fires or to impede access. Repairs or alterations necessary to remove a hazardous condition shall be made within a reasonable time at the owner's expense. The Inspector shall also investigate the storage and handling of explosives and flammable liquids within the Town.

(2) **Special inspection warrant.** If consent to entry to personal or real properties which are not public buildings, or to portions of public buildings which are not open to the public, has been denied, the Fire Inspector shall obtain a special inspection warrant under §66.0119, of the Wisconsin Statutes.

(C) **Record and Reports of Inspections.** The Fire Inspector shall keep a written record of each property inspected which shall conform to the requirements of the Wisconsin Department of Workforce Development, and shall complete the quarterly report of inspections required by such department.

(D) **Correction of Fire Hazards.** When any inspection by the Fire Inspector or a deputy reveals a fire hazard, the Inspector or deputy may serve a notice in writing upon the owner of the property, giving such owner a reasonable time in which to remove the hazard. If the fire hazard is not removed within the time allowed, it shall be deemed a nuisance; and the Fire Inspector may have the same removed by the Town, and the cost of such removal shall be recovered in an action by the Town against the owner of the property and may be entered in the tax roll as a special charge against the property.

(E) **Compliance with Fire Inspector.** No person shall hinder or obstruct the Fire Inspector in the performance of a lawful duty or refuse to observe any lawful direction given.

5.10 FIRE PREVENTION.

(A) **State Fire Prevention Manual, Adopted.** The Wisconsin Fire Prevention Manual detailing provisions for the prevention of fire is adopted and by reference made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by such manual is required or prohibited by this section.

(B) **Conflicting Provision.** In case of a conflict between the provisions of this section or between this section and existing Town ordinances, the strictest provision shall apply.

(C) **Copies to Be on File.** Copies of the State Fire Prevention Manual shall be available for inspection during reasonable hours in the Town Clerk/Treasurer's office.

5.11 OPEN BURNING AND FIREWORKS RESTRICTED.

(A) **Definitions.** As used in this ordinance, the term "Chief" shall mean the Chief of the Department or a qualified member of the Department designated by the Chief to carry out the duties of the Chief as set forth in this ordinance. The Chief shall advise the Town Clerk/Treasurer in writing of such designated persons.

(B) **Wisconsin Statutes Adopted.** The following sections of the Wisconsin Statutes are hereby adopted as same may be from time to time amended and made a part hereof as if set forth in full:

(1) SECTION 101.14 FIRE INSPECTIONS, PREVENTION, DETECTION AND SUPPRESSION.

(C) **Wisconsin Administrative Code.** The following sections of the Wisconsin Administrative Code are hereby adopted and made a part hereof in the same manner as if set forth in full and as said fire code shall from time to time be amended. Said amendments shall be incorporated herein without further action on the part of the Town Board.

(1) CHAPTER SPS 320 - 325 UNIFORM DWELLING CODE

(2) CHAPTER SPS 326 MANUFACTURED HOMES COMMUNITIES

(3) CHAPTER SPS 328 SMOKE DETECTORS & CARBON MONOXIDE DETECTORS

(4) CHAPTER SPS 330 FIRE DEPARTMENT SAFETY AND HEALTH

(5) CHAPTER SPS 343 ANHYDROUS AMMONIA

(6) CHAPTER SPS 362 AND SPS 364 BUILDINGS AND STRUCTURES AND HEATING, VENTILATING AND AIR CONDITIONING

(7) CHAPTER SPS 366 EXISTING BUILDINGS

(D) **Corrective Orders.** Whenever the Chief shall find a violation or a condition which must be corrected to bring the premises or the structure into compliance with the fire code, the Chief shall issue such an order to the owner, agent or manager thereof setting forth the nature of the violation and the time in which it shall be corrected. In the event the Chief shall find an extreme or hazardous condition which must for the protection of the public be corrected or removed immediately, the Chief shall have the authority to take such steps as may be necessary to protect the public and property, including closing and

vacating of a building structure or premises. The Chief shall also have authority to take such steps as may be necessary, including obtaining appropriate court orders to enforce any order of the Chief correcting a hazardous or potential fire condition.

(E) **Fireworks Prohibited.** The use, possession and sale of fireworks within the Town is prohibited unless the Fire Chief has issued a permit in the manner set forth in §167.10(2), Wis. Stats. as used in this section of this ordinance the term fireworks includes the definitions set forth in §167.10(1), Wis. Stats., and including subsections (e),(f),(i),(j),(k),(l),(m) and (n).

(1) **Parental Liability.** A parent or guardian of a minor who consents to the use of fireworks by the minor is liable for all damage caused by the minor's use of fireworks.

(2) **Enforcement.** The Town Chairperson or the Chief may petition the Circuit Court in the name of the Town for an order enjoining violations of this section and any person who shall violate this section or any court order enjoining violations of this section of this ordinance may, upon order of the court have said fireworks seized and destroyed.

(F) **Violators to Pay Cost.** Any person who shall kindle or maintain any fire in violation of this ordinance shall not only be responsible for the forfeitures and penalties set forth herein, but shall also be liable for the full costs incurred by the Town of Somers to extinguish such a fire, including any response by the Department.

(G) **Penalties.** Any person who shall be convicted of violation of subsections (C), (D), or (E) shall, upon conviction, forfeit not less than One Hundred Fifty (\$150.00) Dollars nor more than Five Hundred (\$500.00) Dollars for the first violation and not less than Two Hundred (\$200.00) Dollars nor more than Five Hundred (\$500.00) Dollars for a second violation within one (1) year.

A parent or legal guardian of a minor who consents to the use of fireworks by the minor shall forfeit not more than Five Hundred (\$500.00) Dollars. Cost of prosecution shall be in addition to any forfeitures imposed by the court.

5.115 OUTDOOR BURNING.

(A) **Purpose.** The purpose of this section is intended to promote the public health, safety and welfare and to safeguard the health comfort living conditions, safety and welfare of the citizens of the Town of Somers due to the air pollution and fire hazards of open burning and outdoor burning.

(B) **Applicability.**

(1) Generally this section applies to all outdoor burning and refuse burning within the Town of Somers.

(2) This section does not apply to burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation unless the material being burned includes refuse as defined in this section.

(3) This section does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

(C) **Definitions.** The following definitions are applicable in this section:

(1) **Campfire.** A small outdoor fire intended for recreation or cooking not including a fire intended for disposal of waste wood or refuse. Maximum size of wood stack two (2') feet by two (2') feet by two (2') feet high.

(2) **Clean Wood.** Natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives, and does not contain resins or glues as in plywood or other composite materials.

(3) **Confidential Papers.** Printed material containing personal identification or financial information that the owner wishes to destroy.

(4) **Chief.** The Chief of the Town of Somers or other person authorized by the Chief.

(5) **Outdoor Burning.** Open burning or burning in an outdoor wood-fire furnace.

(6) **Open Burning.** Kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or chimney.

(7) **Outdoor Wood-fired Furnace.** A wood-fired furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.

(8) **Refuse.** Any waste material except clean wood.

(D) **General Prohibition on Open Burning, Outdoor Burning and Refuse Burning.**

(1) Open burning, outdoor burning and refuse burning are prohibited in the Town of Somers, unless the burning activity is specifically permitted by this section.

(2) Burning any substance in burn barrels, incinerators or similar devices shall be prohibited anywhere in the Town.

(E) **Materials That Shall Not Be Burned.** Unless specific written approval has been obtained from the Wisconsin Department of Natural Resources, the following materials shall not be burned in an open fire, furnace, stove or any other indoor or outdoor incineration or heating device. The Town of Somers shall not issue a permit for burning any of the following materials without air pollution control devices and a written copy of an approval by the Wisconsin Department of Natural Resources.

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

(F) **Open Burning of Leaves, Brush, Clean Wood and Other Vegetative Debris.** Open burning of leaves, weeds, brush, stumps, clean wood, or other dry vegetative debris is allowed only in accordance with the following provisions:

- (1) All allowed open burning shall be conducted in a safe, nuisance free manner, when wind and weather conditions are such as to minimize adverse effects and not create a health hazard or a visibility hazard on roadways, railroads or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations.
- (2) Except for barbecue, gas and charcoal grills, no open burning shall be undertaken during periods when either the Chief or the Wisconsin Department of Natural Resources has issued a burning ban applicable to the area.
- (3) Open burning shall be conducted only on the property on which the

materials were generated.

(4) Unless explicitly allowed elsewhere in this section, a commercial enterprise may open burn only at a facility approved by and in accordance with the provisions established by the Chief and the Wisconsin Department of Natural Resources.

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

(6) Outdoor campfires and small bonfires for cooking, ceremonies or recreation are permitted, provided that the fire is confined by a control device or structure such as fire ring or fire pit. Bonfires are allowed only if approved by and in accordance with provisions established by the Chief.

(7) Burning of trees, stumps, limbs, brush or weeds for clearing or maintenance of rights-of-way is allowed if approved by the Chief and in accordance with other provisions of this section.

(8) In emergency situations such as natural disasters burning that would otherwise be prohibited is allowed if specifically approved by the Wisconsin Department of Natural Resources.

(9) Open burning under this section shall be conducted only following issuance of, and in accordance with a permit issued under subsection (J) below.

(10) When burning more than a four (4') foot by four (4') by four (4') high pile or burning any open land or field, the Department must be notified and inspection scheduled before the burn can start.

(11) Open burning shall only be conducted at a location at least twenty-five (25') feet from the nearest building which is not on the same property.

(12) Open burning shall only be conducted at a location at least twenty-five (25') feet from the nearest building on the same property, except for barbeque, gas and charcoal grills or screened fire pits. Gas or charcoal barbeque grills, or screened fire pits, may not be operated within ten (10') feet from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Chief.

(13) Barbeque, gas and charcoal grills or screen fire pits may not be used on any second story or higher balconies, porches or landings.

(14) Except for campfires, permitted bonfires or fires in approved fire pits, open burning shall be conducted only during daylight hours.

(15) Open burning shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

(16) No materials may be burned upon any street, curb, culvert, gutter or sidewalk or on the ice of a lake, pond, stream or water body, or in areas identified as having soil with high peat content.

(17) No open burning may be conducted on days when the Wisconsin Department of Natural Resources has declared an ozone action day applicable to Kenosha County.

(18) Flammable liquids shall not be used to start or propagate any open burning regulated by this section.

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

(G) **Outdoor Wood-fired Furnaces.** An outdoor wood-fired or solid-fuel furnace may be installed and used in the Town of Somers only in accordance with the following requirements.

(1) The outdoor wood-fired or solid fuel furnace shall be installed and used only in an area zoned for agricultural or conservancy use.

(2) The outdoor wood-fired or solid fuel furnace shall not be used to burn any of the prohibited materials listed in subsection (E).

(3) The outdoor wood-fired or solid fuel furnace shall be located at least five hundred (500') feet from the nearest building that is not on the same property as the outdoor wood-fired furnace.

(4) The outdoor wood-fired or solid fuel furnace shall have a chimney that extends at least fifteen (15') feet above the ground surface. If there are any residences within five hundred (500') feet, the chimney shall also extend at least as high above the ground surface as the height of the roofs of all such residences. The Chief may approve a lesser height on a case-by-case basis if necessary to comply with the manufacturer's recommendations and if the smoke from the lower chimney height does not create a nuisance for neighbors.

(5) An annual permit for the use of an outdoor wood-fired furnace is not required.

(6) Existing outdoor wood-fired or solid fuel furnace installations (as of May 1, 2009) will not be subject to the distance limitations listed in this section until or

unless repairs or replacement of existing equipment or facilities would exceed fifty (50%) percent of the cost of a new installation.

(H) **Department Practice Burns.** The Department may burn a standing building if necessary for firefighting practice and if the practice burn complies with the requirements of the Wisconsin Department of Natural Resources.

(I) **Exemption For Burning Certain Papers.**

(1) Notwithstanding the other provisions of this section, paper and cardboard products may be used as a starter fuel for a fire that is allowed under this section.

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

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

(J) **Burn Permits.**

(1) No person shall start or maintain any open burning without a burning permit issued by the Chief or designee. This section shall not apply to leaves and plant clippings, lawn residue, etc., which may be burned on the owner's land or in an adjacent ditch for a period of thirty (30) days commencing April 15 and continuing through May 15 and for forty-five (45) days commencing on October 15 and continuing through November 30.

(2) The owner or occupant of the property shall obtain an annual burning permit. Annual burning permits expire on December 31 of each year. Burning permits may be obtained at the Town Hall during normal working hours.

(3) Permit fees shall be as follows:

(a) Original permit fees shall be Twenty-five (\$25.00) Dollars.

(b) Annual renewals will be Fifteen (\$15.00) Dollars.

(4) Every day before burning a permit holder must call the information number on the permit. The permit holder will be told if they can burn on that day. If the prerecorded message states that burning is prohibited on the given day, NO BURNING IS ALLOWED.

(5) When weather conditions warrant, the Chief or the Wisconsin Department of Natural Resources may declare a burning moratorium on all open burning and

temporarily suspend previously issued burning permits for open burning.

(6) A burning permit issued under this section shall require compliance with all applicable provisions of this section and any additional special restrictions deemed necessary to protect public health and safety. Any violation of the conditions of a burning permit shall be deemed a violation of this section. Any violation of this section or the burning permit shall void the permit.

(7) Annual burn permits are not required for outdoor campfires for cooking, ceremonies or recreation, gas or charcoal barbeque grills or screened fire pits. All other applicable parts of this section apply.

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

(L) **Right of Entry and Inspection.** The Chief or any authorized officer, agent, employee or representative of the Town of Somers who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this section. (Note: if the owner or occupant of the premises denies access to the property for this purpose, a special inspection warrant may be obtained pursuant to the Wisconsin Statutes.)

(M) **Enforcement and Penalties.**

(1) The Chief and the officers/members of the Department are authorized to enforce the provisions of this section.

(2) Any person who shall be in violation of this section of this ordinance shall upon conviction forfeit not less than One Hundred (\$100.00) Dollars, plus costs of prosecution and in default of payment thereof, imprisonment in the county jail for not more than ten (10) days. Each day of violation shall constitute a separate offense.

5.12 HAZARDOUS MATERIAL.

(A) **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 unto the ground, surface waters, subsurface waters, or aquifers, or within the Town of Somers, except those areas specifically licensed for waste disposal activities 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.

(B) **Containment, Cleanup And Restoration.** Any person, firm or corporation in violation of the above section shall, upon direction of any emergency government officer, the Chief of the

Department, or designee, begin immediate actions to contain, cleanup and remove to an 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 men 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 of Somers as hereafter set forth in subsection (C).

(C) **Emergency Services Response.** Includes, but is not limited to: fire services, emergency medical services, law enforcement. A person, firm or corporation who possesses or controls a hazardous substance which is discharged or who causes the discharge of 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 of response personnel as required by the responding agencies medical advisor.

(D) **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 Department personnel for the purpose of evaluating the threat to the public and monitoring containment, clean up and restoration activities.

(E) **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 Coordinator of Emergency Government, his assistant, or the senior fire officer of the Department 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 and Director of Emergency Government can take appropriate action.

(F) **Enforcement.** The Coordinator of Emergency Government and his deputies, as well as the Chief of the Department or his designee, or the Kenosha County Sheriff's Department shall have authority to issue citations or complaints under this section.

(G) **Civil Liability.** Any person, firm or corporation in violation of this section shall be liable to the Town of Somers for any and all costs incurred by the Town, or loss or damage sustained by the Town by reason of such violation.

(H) **Penalties.** Any person who shall be in violation of this section of this ordinance shall upon conviction forfeit not less than Five Hundred (\$500.00) Dollars plus costs of prosecution and in default of payment thereof, imprisonment in the County Jail for not more than ten (10) days. Each day of violation shall constitute a separate offence.

5.13 FALSE ALARMS.

(A) **False Alarms.** No person shall suffer, permit, give or cause to be given by any person whatsoever a false fire alarm with the intent that the Department shall respond to such alarm.

(B) **Fire Alarm Control System.** Any person who shall install a mechanical or electrical device which upon being activated transmits a signal for the purpose of obtaining a response by the Department shall be responsible for proper installation, maintenance and testing of said alarm system to prevent a false alarm from being transmitted.

(C) **Costs to Be Assessed.** Any person who shall cause a false fire alarm to be given, whether by personal call, a fire control system or otherwise, and such false alarm causes the Department to respond, shall be responsible to the Town of Somers for all costs resulting from such false alarm. Costs shall be determined by the Town Board and shall include fire engines and apparatus, rescue squad equipment, wages paid to personnel and a surcharge for administration and overhead of the Department.

The Chief shall provide a statement of such charges to the Town Clerk/Treasurer who shall bill the owner of the premises in the event of a false alarm by a fire control system, or the person who caused said alarm to be given. In the event charges are not paid within thirty (30) days, the Town Board shall take appropriate collection action.

(D) **Report to the District Attorney.** The Chief shall report all responses or intentional false alarms to the Kenosha County District Attorney for prosecution.

5.14 RESCUE SQUAD FEES ESTABLISHED.

(A) **Intent.** Section 60.565, Wis. Stats., requires that the Town Board shall provide ambulance services by contract or municipal maintenance and the Town has had such services for many years maintained by the general fund of the Town. The cost of these services has increased to a point where the Town Board finds that the cost of such services should be borne by those who use the services.

(B) **Charges for Emergency Ambulance Services.** Any person who utilizes emergency services shall pay for emergency rescue services, including equipment and transporting from the scene of the required service to a hospital, according to the schedule of fees hereinafter set forth in subsection (D) below. Active paid-on-call members of the Department or retired members with vested rights and members of their immediate families living at home shall be exempt from the payments of such fees.

(C) **Applicability of Fees.** I-99 advanced life support intercepts means, when it is necessary for a patient that is being transported by a non-I-99 ambulance service, to require the services of a I-99 advanced life support ambulance service. This includes, when necessary, for two ambulance services to be involved in the transport of a patient, when either the patient is transferred from the non-I-99 ambulance to the I-99 ambulance or where the I-99 staff and/or equipment board the non-I-99 ambulance.

(1) **Provision of service.** The Town provides emergency ambulance service to persons needing emergency medical attention after the sudden onset of a medical condition or trauma manifesting itself by acute symptoms of such severity, including severe pain, that the absence of immediate attention could reasonably be expected to result in placing the patient's health in serious jeopardy, or the serious impairment of bodily functions, or serious dysfunction of any bodily organ or part.

(2) **Outlying areas with a mutual aid agreement.** In all cases where the emergency service of the Town is summoned in response to an emergency call in areas outside the Town where a mutual aid agreement does exist, every person receiving such emergency service, the administration of medical drugs and disposable medical equipment use in attending at the scene of the incident and transporting such person to an emergency hospital shall be charged for such service in accordance with the pertinent mutual aid agreement.

(3) **Outlying areas without a mutual aid agreement.** In all cases where the emergency service of the Town is summoned in response to an emergency call in areas outside of the Town where no mutual aid agreement exists, every person receiving such emergency service, the administration of medical drugs and disposable medical equipment used in attending at the scene of the incident and transporting such person to a private or emergency hospital shall be charged for such service.

(4) **I-99 advanced life support intercepts.** In all cases where I-99 advanced life support intercept service is requested from the Town by a municipal ambulance service or rescue squad that does not provide a I-99 level of care, that municipality or rescue squad shall be billed for the I-99 service provided.

(D) **Schedule of Fees for Service, Transfer Service and Disposable Medical Equipment.** The Town Board shall establish a Schedule of Fees which may be revised from time to time by the Town Board.

5.145 FIRE DEPARTMENT FEES ESTABLISHED.

(A) **Intent.** Section 60.55, Wis. Stats., authorizes the Town Board to provide for fire protection for the Town and delineates the manner in which such services may be funded. The cost of fire services has increased to a point where the Town Board now finds that the cost of such services should at least be partially borne by those who utilize such services.

(B) **Charges for Emergency Fire Services.** When emergency fire services are mandated and/or utilized in connection with a motor vehicle accident or incident, payment shall be made for fire services, including equipment and manpower required to discharge such service, according to the schedule of fees hereinafter set forth in subsection (D). Fees may be charged to the owner of the vehicle,

to the operator(s), or jointly or severally as the circumstances may dictate.

(C) **Intentional Conduct.** Various ordinances of the Town of Somers including, but not limited to, Section 5.06, Section 5.11, Section 5.12 and Section 5.13 of the Code of Ordinances, requires the calculation and/or imposition of costs associated with fire services. In accordance with the provisions of such ordinances, in those cases where specific wrongdoing has caused the Town to expend funds unnecessarily for fire services, it is the intention of the Town Board to recoup such funds from the wrongdoer as may be authorized by Town ordinance or state statute.

(D) **Schedule of fees.**

(1) **Equipment.** The Town Board shall, from time to time, establish a schedule of fees for the use of Department equipment.

(2) **Miscellaneous costs.** The foregoing fee schedule does not include the costs of manpower utilized to man the incident, which costs shall be at the then-prevailing rates paid by the Town to the Department personnel either directly or indirectly involved in the incident.

(3) **Incurrence of Extraordinary Costs.** From time to time because of the unusual nature of a particular incident, specialized equipment or independent contractors are required to be utilized by the Department. In such instances, and regardless of whether there is intentional wrong doing associated with the incident which causes the incurrence of the extraordinary expenses, the property owner and/or such other person or persons as can be readily identified shall be responsible for reimbursement to the Town for all expenses incurred by the Department in utilizing such extraordinary services or equipment and such expenses may be imposed upon the real property in the form of a special assessment

5.15 PENALTY.

Except as provided in certain subsections of this ordinance, any person who shall violate any provision of this chapter shall be subject to a penalty as provided in §25.04 of this municipal code.