

CHAPTER 5  
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## **ADMINISTRATION**

**5.01 RECOGNITION AS VOLUNTEER FIRE DEPARTMENT.** The existing Sussex Voluntary Fire Company not having been organized under Chapter 213, Wis. Stats., is officially recognized by the Village Board. It is hereby disbanded pursuant to sec. 213.04, Wis. Stats. In lieu thereof the members of such fire organization are hereby officially recognized as the Sussex Volunteer Fire Department, and the duty of fire fighting and the prevention of fires in the Village is delegated to such Department. Its organization and internal regulation shall be governed by the provisions of this chapter.

**5.02 BOARD OF FIRE COMMISSIONERS.** There is hereby created a Board of Fire Commissioners.

### (1) APPOINTMENT AND TERM OF OFFICE.

(a) The Board of Fire Commissioners shall consist of five Commissioners, all of whom shall be citizens of the Village. The members shall be appointed by the Village President subject to the approval of the Village Board. No member of the Board of Fire Commissioners shall be an active member of the Fire Department. The Village President shall appoint one Village Board member to act as a liaison to the Board of Fire Commissioners, to observe open session actions of the Board of Fire Commissioners and to report back to the Village Board regarding such matters.

(b) The term of office of the members of such Board of Fire Commissioners shall be five (5) years, except the terms of the Commissioners first elected shall expire successively one year on each succeeding May 1. The term of the Village Board liaison to the Board of Fire Commissioners shall be one year.

### (2) DUTIES AND RESPONSIBILITIES.

(a) The Board of Fire Commissioners shall have the following duties and responsibilities.

1. To elect a chairperson and vice-chairperson.
2. To appoint a secretary of the Board of Fire Commissioners.
3. To appoint the chief of the Fire Department who shall hold office for an initial term of three (3) years and to reappoint the chief of the Fire Department who shall hold office for subsequent terms as established by the Board of Fire Commissioners, subject to suspension or removal by the Board of Fire Commissioners for cause. In the event that the chief retires, resigns or is removed by the Board, the chief appointed to fill the resulting vacancy shall serve the remainder of the term of the prior chief.
4. To review, approve, disapprove, amend or suspend the rules or bylaws of the Fire Department.
5. The Fire Chief shall appoint subordinates subject to the approval of the Board of Fire Commissioners.
6. To establish rules for the functioning of the Board of Fire Commissioners.
7. To hear appeals on disciplinary actions taken by the Fire Chief against subordinates with the authority to uphold, modify or overturn the action of the Fire Chief, pursuant to SS 62.13(5) and as set in the rules for the functioning of the Board of Fire Commissioners.

8. All other duties as required by Section 61.65 and 62.13, Wis. Stats.

9. To adopt rules which provide for examination of physical and educational qualification and experience for all candidates for the Department. See Fire Department Policy #A101.

(b) The Board of Fire Commissioners shall have no management or operational responsibilities other than those outlined above and do not have the optional powers outlined in SS 62.13(6), Wis. Stats.

(3) APPEAL. Appeal from a decision of the Board of Fire Commissioners shall be to Circuit Court.

**5.03 BYLAWS.** The Sussex Volunteer Fire Department shall recommend bylaws for the control, management and government and for the regulation of business and proceedings of the Department to the Board of Fire Commissioners for review and approval. Said bylaws shall be reviewed by the Village Board at regular five (5) year intervals.

**5.04 APPROPRIATIONS.** The Village Board shall appropriate funds to provide for operation and for such apparatus and equipment for the use of the Fire Department as it may deem expedient and necessary to maintain efficiency and properly protect life and property from fire. Said appropriations shall not be expended without prior approval by the Village Administrator or Public Welfare and Safety Committee.

**5.05 COMPENSATION.** The officers and members of the Fire Department shall receive such compensation from the Village as may from time to time be fixed by the Village Board by resolution.

**5.06 ORGANIZATION AND MEMBERSHIP.** (1) COMPOSITION. The Fire Department shall consist of the following officers: one chief, three (3) assistant or deputy chiefs, four (4) captains, four (4) lieutenants, a secretary-treasurer, and as many drivers, firefighters and emergency medical technicians who live or normally work within the Village and vicinity as may be appointed by the Chief and approved by the Chief and approved by the Board of Fire Commissioners; provided, at no time shall the Department consist of less than twenty-two (22) nor more than Sixty (60) active members.

(2) FILLING VACANCY IN OFFICE OF CHIEF. Upon creation of a vacancy of the office of Chief, the ranking officer shall perform the duties of the Chief until such vacancy has been filled by the Fire Commission.

(3) APPLICATION FOR MEMBERSHIP. Any person desiring to be a member of the Fire Department may file with the Chief an application in such form as the Fire Commission may require. Each applicant, who must be at least 18 years of age, shall also file a certificate of physical fitness from such physician as the Chief may designate. The name of any applicant approved by the Chief shall be presented to the Fire Commission for confirmation.

(4) RETIREMENT. Upon retirement, active members shall become honorary members.

(5) RESIGNATIONS. All resignations from the Department shall take the same course as applications for and appointments to membership.

(6) APPEALS FROM EXPULSION OR DEMOTION. Any member or officer of the Department who has been expelled or demoted for any offense or neglect of duty or insubordination may appear before the

Fire Commission and state why such penalty should not be confirmed. The Fire Commission may order the Chief to reinstate the member or officer, pursuant to SS 62.13(5).

**5.07 POWERS AND DUTIES OF CHIEF.** (1) The Chief shall have general supervision of the Department, subject to this chapter and the by-laws of the Department and shall be responsible for the general efficiency of the Department.

(2) The Chief shall preside at all meetings of the Department, call special meetings, preserve order, decide all points of order that may arise, and enforce a rigid observance of this chapter and the bylaws.

(3) The Chief shall be present at all fires, have complete command of and entire responsibility for all fire fighting operations, plan the control of the same, direct the action of the companies when they arrive at a fire, observe that every company does its duty, grant leaves of absence at a fire when he may deem it proper and see that the fire apparatus is kept in proper condition at all times.

(4) The Chief may suspend any officer or member of the Department for neglect or refusal to perform his departmental duties, such suspension to be subject to an appeal to the Fire Commission.

(5) Not later than October 1 of each year, the Chief shall file with the Village Administrator a detailed estimate of the appropriations needed for the conduct of the Department for the ensuing fiscal year, including a fixed asset inventory and five-year capital equipment plan.

(6) The Chief shall submit a written report to the Village Board not later than February 1 of each year, and at such other times as he deems desirable, relating to the conditions of the various pieces of apparatus and appurtenances, the number of fires occurring for the previous year, the date of same and loss occasioned thereby, the number of members of each company, the total number of active members in the Department and resignations and expulsions from the Department. He shall also report upon the drill and training program of the Department, together with other pertinent information, including recommendations of such improvements as he deems proper and necessary for the operation of the Department.

(7) He shall enforce all fire prevention ordinances of the Village 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.

(8) He shall keep a fire record book of every fire to which any company was called and shall enter in such book the locality of fire, time alarm was received, cause of fire, where fire started, cause of delay (if any) in responding, equipment used, estimated time fire was extinguished, and number of men responding.

(9) He shall keep an inventory of all apparatus and equipment and an inventory of all hose showing dates and results of tests on each length, which shall be individually identified.

(10) He shall perform such other duties as are incumbent on the commanding officer of the Fire Department.

**5.08 CARE AND PROTECTION OF APPARATUS.** (1) 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.

(2) No apparatus shall be used for any purpose except for fire fighting, or in training therefor, except after the Chief has given his approval on such use. With the approval of the Chief such apparatus may be

used for emergency purposes other than fire fighting within the fire protection area. A written report of all such uses shall be made quarterly to the Village Board.

(3) No person shall willfully injure in any manner any hose, hydrant, or fire apparatus belonging to the Village, 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.

**5.09 POLICE POWER OF DEPARTMENT.** (1) The Chief and assistants or officers in command at any fire are hereby vested with full and complete police authority at fires.

(2) The Fire Chief may prescribe certain limits in the vicinity of any fire within which no persons, except firefighters and police officers and those admitted by order of any officer of the Department, shall be permitted to come. The Chief may 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 property necessary to prevent the further spread of the fire. He may 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.

(3) Firefighters may enter Adjacent Property. Any firefighter while acting under the direction of the Fire Chief or other officer in command may enter upon the premises adjacent to or in the vicinity of any building or other property then on fire for the purposes of extinguishing such fire, and if any person shall hinder, resist or obstruct any firefighter in the discharge of his duty as is hereinbefore provided, the person so offending shall be deemed guilty of resisting firefighters in the discharge of their duty.

(4) Duties of Bystanders to Assist. Every person who shall be present at a fire shall be subject to the orders of the Fire Chief or officer in command and may be required to render assistance in fighting the fire or in removing or guarding property.

**5.10 FIRE INSPECTOR: DUTIES.** (1) The Chief of the Fire Department shall hold the office of Fire Inspector, with power to appoint one or more deputy fire inspectors, who shall perform the same duties and have the same powers as the Fire Inspector.

(2) The fire inspectors shall inspect twice a year all buildings, premises and thoroughfares within fire limits of the Village and other areas assigned to the Fire Department, and shall inspect semi-annually all buildings, premises and public thoroughfares within the Village limits and other assigned fire protection area for the purpose of noting and causing to be corrected any condition liable to cause fire. The Inspector shall also investigate and issue permits in accordance with the regulations of the State Department of Commerce for the storage and handling of explosives and inflammable liquids within the fire protection area. He shall perform such other duties as required by the State Commerce.

(3) Whenever in the Village any inspection by the Fire Chief or his deputies reveals a fire hazard, the Chief or his deputies shall serve a notice in writing upon the owner of the property giving said owner a reasonable time in which to remove the hazard. If the property owner believes that time allowed is unreasonable, he may appeal to the Village Board. If the fire hazard is not removed within the time allowed, it shall be deemed a nuisance. The Fire Chief or his deputy may have the same removed by the Village, and the cost of such removal shall be recovered in an action by the Village against the owner of the property.

(4) The Chief shall keep a written record card of each property inspected which shall conform to the requirements of the State Department of Commerce and shall make the quarterly report of inspections required by the State Department of Commerce.

(5) No person shall deny the Chief or his deputies free access to any property within the Village at any reasonable time for the purpose of making fire inspections. No person shall hinder or obstruct the Fire Inspector in the performance of his duty or refuse to observe any lawful direction given by him.

#### **5.11 FEE FOR SERVICES.**

(1) The Village Board hereby establishes a fee for the provision of the following listed services by the Village Fire Department and by agents and contractors of the Village. This fee shall be assessed to the responsible individual, corporation, utility, company, governmental body, and/or property owner for whom the service was rendered, as determined by the Fire Chief. The fee shall be established from time to time by resolution of the Village Board in an amount designed to cover the actual cost of the services performed, which shall include the actual amounts billed to the Village by contractors and agents called to the incident.

- a. Ambulance and Rescue Services. This shall include but not be limited to technical rescue services, such as trench rescue, confined space rescue, emergency building shoring, and high angle rescue, along with ordinary ambulance and rescue services.
- b. Motor Vehicle Fire Calls on Highways or in Village. This shall include but not be limited to fire, spills, extraction or unusual or extensive emergency incident operations.
- c. Hazardous Material Incidents.
- d. Fire Protection Systems Permit Fees.
- e. Fire Inspection Services for unsprinklered public, commercial and industrial buildings, unsprinklered and partial sprinklered multi-family residential buildings, and unsprinklered multi-family residential buildings with no common areas.
- e. Uncorrected Violations. This shall include but not be limited to reinspection of property.

(2) Fire Inspection Services and Uncorrected Violation Fees shall constitute a special charge against the property under SS 66.0627, Wis. Stats., and shall be invoiced to property owners in July of each year or as determined by the Village Clerk. Any fees remaining unpaid as of November 1st of each year shall be placed on the annual tax roll for collection as a special charge together with an administrative charge of \$15.00 per parcel. All proceedings related to the collection of real estate taxes shall apply.

(3) The Village Clerk-Treasurer and Building Inspector are authorized and directed to collect such fees based on information provided by the Fire Department.

## FIRE PREVENTION

**5.15 GENERAL PROVISION.** (1) **PURPOSE.** It is the purpose of the Fire Prevention Code to prescribe regulations consistent with nationally recognized good practice for safeguarding, to a reasonable degree, life and property from the hazards of fire and explosion arising from storage, handling and use of hazardous substances, material and devices and from conditions hazardous to life or property in the use or occupancy of buildings or premises within the Village. Compliance with the subchapter "Fire Prevention" of this Code, standards of the American Insurance Association or the National Fire Protection Association or other approved nationally recognized safety standard shall be deemed to be prima facie evidence of compliance with this intent.

(2) **STATE CODES ADOPTED.** In addition to the regulations, standards and procedures herein set forth, there shall be compliance with provisions of the Wisconsin Administrative Code and regulations of the State Department of Commerce all of which are hereby made a part of this section by reference; provided if there is conflict or ambiguity concerning any of the foregoing, the stricter provision shall apply.

(3) **APPLICATION OF CODE.** (a) The provisions of the Fire Prevention Code shall apply equally to new and existing conditions except existing conditions not in strict compliance with the terms of the Fire Prevention Code shall be permitted to continue where the exceptions do not constitute a clear hazard to life or property.

(b) Nothing contained in the Fire Prevention Code shall be construed as applying to the transportation of any thing shipped under the jurisdiction of and in compliance with the regulations prescribed by the United States Department of Transportation (DOT), nor as applying to the military forces of the United States.

(c) The Fire Prevention Code shall not apply to:

- I. One- and two-family dwellings used solely for housing of 2 families or less; and
2. Storage, handling and use of flammable or combustible liquids for which a permit shall have been issued pursuant to Section 5.17(4) thereof.

(4) **ESTABLISHMENT OF BUREAU OF FIRE PREVENTION.** (a) The Fire Prevention Code shall be enforced by the Bureau of Fire Prevention in the Fire Department.

(b) The Fire Chief may hold the office of Chief of the Bureau of Fire Prevention or may appoint a Chief of the Bureau of Fire Prevention and one or more deputies from time to time as necessary. Appointees shall be members of the Fire Department.

(c) An annual report of the Bureau of Fire Prevention shall be made and incorporated with the annual report of the Fire Department.

(5) **DEFINITIONS.** Unless otherwise expressly stated, the following terms shall, for the purpose of the Fire Prevention Code, have the meaning indicated. Any terms used herein that are not expressly defined herein, shall have the meaning as defined in the COMM Code; any terms used herein that are not expressly defined in the COMM Code, shall have the meaning as defined in the Webster's dictionary.

- (a) "Approved", as applied to automatic fire sprinkler systems, means approved by the authority charged with the enforcement of this section and, means approved by a recognized testing laboratory.
- (b) "Assembly Halls" means all buildings, or parts of buildings, other than theaters, which will accommodate more than 50 persons for entertainment, recreation, worship, or dining purposes.
- (c) "Attic" means the space not used for human occupancy located between the ceiling of the uppermost story and the roof.
- (d) "Automatic Fire Alarm System" or "Automatic Sprinkler System" means a system which automatically detects a fire condition and actuates a fire alarm signal device.
- (e) "Automatic Fire Sprinkler System" or "Automatic Sprinkler System" means an integrated system of underground and overhead piping designed in accordance with fire engineering standards. The system includes a suitable water supply such as a gravity tank, fire pump, reservoir or pressure tank and/or connection by underground piping to a municipal water main. The portion of the sprinkler system above ground is a network of specially sized or hydraulically designed piping installed in a building, structure or area, generally overhead, and to which sprinklers are connected in a systematic pattern. The system includes a controlling valve and a device for actuating an alarm when the system is in operation. The system is usually activated by heat from a fire and discharges water over the fire area.
- (f) "Balcony" means an elevated platform attached to a building and enclosed on one or more sides by railings, or, an open intermediate level or stepped floor.
- (g) "Basement" means that level below the first or ground floor level with its entire floor below exit discharge grade.
- (h) "Bed and Breakfasts" means any place of lodging that: 1) provides 8 or fewer rooms for rent to no more than a total of 20 persons; and 2) which provides no meals other than breakfast and only to the renters; and 3) is the owner's personal residence; and 4) is occupied by the owner at the time of rental.
- (i) "Bureau of Fire Prevention" means the bureau within the Fire Department that enforces the Fire Prevention Code as defined in Section 5.15(4).
- (j) "Chief of the Bureau of Fire Prevention" means the Fire Chief or his/her designee.
- (k) "Dwelling Unit" means one or more rooms arranged for use of one or more individuals living together as a single housekeeping unit with cooking, living, sanitary and sleeping facilities.
- (l) "Factories, Office, and Mercantile Buildings" means office buildings, mercantile establishments, warehouses, exhibition buildings, and places where not more than 50 persons assemble for recreation, entertainment, worship, or dining purposes.
- (m) "Fire Chief" or "Chief" is the head of the Fire Department with duties and responsibilities as defined in Section 5.07.
- (n) "Fire Commission" or "Board of Fire Commissioners" oversees the management of the Fire Department as referred to in Section 5.02.

- (o) "Fire Department" or "Department" is as defined in Section 5.01.
- (p) "Fire District" means the Village of Sussex Fire District.
- (q) "Fire-Resistive" means Type 1-A or Type 2-B as defined in COMM 51.03.
- (r) "Fire Wall" means a wall which has a fire resistance rating of not less than 4 hours which subdivides a building or separate buildings to restrict the spread of fire including a 3 foot parapet wall.
- (s) "Gross area" or "square footage of building". Refers to the total square footage of the sums of all basements, floor levels, balconies and mezzanines.
  - 1) The area for basements and floor levels shall be measured from the outside perimeter of the outside walls.
  - 2) The area for mezzanines and balconies shall be determined from the product of the length times the width.
  - 3) For the purpose of determining square footage, fire division walls will not be accepted as outside walls or area dividers.
- (t) "Ground Floor". A ground floor is that level of a building on a sloping or multilevel site which has its floor line at or not more than three (3) feet above exit discharge grade for at least one-half of the required exit discharges.
- (u) "High Hazard Occupancy" means occupancy or use of a building, structure or any portion thereof that involves highly combustible, highly flammable, hazardous chemical or explosive material or which has inherent characteristics that constitute a special fire hazard.
- (v) "Hotels and Motels" means a series of attached, semiattached, or detached sleeping units for the accommodation of transient guests.
- (w) "Mezzanine" means an intermediate floor level, either open or enclosed.
- (x) "Multi-Family Dwelling" means occupancy or use of a building or portion thereof containing 3 or more dwelling units.
- (y) "NFPA" means the National Fire Protection Association.
- (z) "Non-Fire-Resistive" means all types not included in Fire-Resistive.
- (aa) "Owner" means the registered property owner and includes his authorized agent or attorney, a purchaser, devisee, fiduciary or a person having a vested or contingent interest in the property in question.
- (bb) "Remodeling" means to change any building or structure which affects the structural strength, fire hazard, internal circulation, or exits of an existing building or structure, however, does not increase the area or square footage. This definition does not apply to maintenance, reroofing, or alterations to the heating and ventilating or electrical systems.

- (cc) "Storage Occupancy" means occupancy or use of a building, structure, or portion thereof for storage of goods, wares, merchandise, raw materials, agricultural or manufactured products, including parking garages or the commercial sheltering of livestock and other animals except when classified as a high hazard occupancy.
- (dd) "Story" or "Level" means the space in a building between the surfaces of any floor and the floor next above or below, or roof next above, or any space not defined as basement, ground floor, mezzanine, balcony, penthouse, and attic.
- (ee) "Structurally Altered" means additions which increase the area or square footage of existing buildings.
- (ff) "Theaters" means all buildings, or parts of buildings, containing an assembly hall, having a stage which may be equipped with curtains or permanent or moveable scenery, or which is otherwise adaptable to the showing of plays, operas, motion pictures, or similar forms of entertainment.

(6) ORDERS TO ELIMINATE DANGEROUS OR HAZARDOUS CONDITIONS. Whenever any officer or inspector of the Fire Department or Bureau of Fire Prevention shall find in any building or upon any premises dangerous or hazardous conditions or materials as follows, he shall order such dangerous condition or material to be removed or remedied. The following shall be deemed hazardous conditions but the enumeration hereof shall not exclude other conditions from being deemed hazardous:

- (a) Dangerous or unlawful amounts of combustible, explosive or otherwise hazardous materials;
- (b) Hazardous conditions arising from defective or improperly installed equipment for handling or using combustible or explosive or otherwise hazardous materials;
- (c) Dangerous accumulations of rubbish, waste paper, boxes, shavings or other highly combustible materials;
- (d) Accumulations of dust or waste material in air conditioning or ventilating systems or of grease in kitchen or other exhaust ducts or inadequate clearances to unprotected materials from hoods, grease extractors and ducts;
- (e) Obstructions to or on fire escapes, designated openings in exterior walls for Fire Department use, stairs, passageways, doors or windows, liable to interfere with the operations of the Fire Department or egress of occupants in case of fire;
- (f) Any building or other structure covered by the Fire Prevention Code which for want of repairs, lack of adequate 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 hazardous condition.

(7) SERVICE OF ORDERS. (a) The service of orders for correction of violations of the Fire Prevention Code shall be made in writing upon the owner, occupant or other person responsible for the conditions, either by delivering the same to and leaving it with any person in charge of the premises, or if no such person is found on the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of such premises. Thereafter, a copy of such order shall be mailed to the owner and occupant addresses to their last known post office address. No person shall remove such affixed notice without written consent of the Fire Chief.

(b) Compliance. Any such order shall forthwith be complied with by the owner and occupant of such building, structure or premises. The owner or occupant may within 24 hours appeal to the Fire Chief for a review of such order. The Fire Chief shall thereafter as soon as possible file his decision. Unless such order is revoked or modified by the Fire Chief, it shall remain in full force and be complied with within the time fixed in such order.

(c) Exceptions. This section shall apply to all buildings except:

1. Private residences and accessory buildings in connection therewith.
2. Temporary buildings or sheds used for construction purposes only. COMM 14.003(6)(A), (B), (C) and (D).

Provided, if any building or structure, whether above exempted or not, is especially liable to fire, and is so situated as to endanger other buildings or property, contains any combustible or explosive material dangerous to the safety of any building or premises or the occupants thereof, or endangering or hindering firefighters in case of fire, such building or structure shall be subject to these orders so far as may be necessary to protect adjoining or other buildings and their occupants and firefighters.

(8) PERMITS. (a) A permit shall be obtained from the Bureau of Fire Prevention to maintain, store or handle materials; to conduct processes, which produce conditions hazardous to life and property; or to install equipment used in connection with such activities. Such permit does not take the place of any license otherwise required by law. It shall not be transferable. Any change in use or occupancy of premises shall require a new permit.

(b) Before a permit may be issued, the Chief of the Bureau of Fire Prevention or his assistants shall inspect and approve the receptacles, vehicles, buildings or storage places to be used. Where laws and regulations enforceable by departments other than the Bureau of Fire Prevention are applicable, joint approval shall be obtained from all departments concerned.

(c) All applications for a permit required by the Fire Prevention Code shall be made to the Bureau of Fire Prevention in such form and detail as it shall prescribe. Applications for permits shall be accompanied by such plans as required by the Bureau of Fire Prevention.

(d) Permits shall be kept on the premises designated therein and shall be subject to inspection by any officer of the Fire Department. A copy of any permit shall be submitted to the building inspector whom shall place it in the property file.

(e) Only one permit shall be required by establishments dealing in or using two or more flammable, combustible or explosive materials to be kept in the establishment at any one time, be entered upon the records of the Department; and a signed copy shall be furnished to the applicant. In addition, a copy of such application and decision shall be filed with the Clerk.

(9) REVOCATION OF PERMIT. The Chief of the Fire Department or Bureau of Fire Prevention may revoke a permit or approval issued if any violation of the Fire Prevention Code is found upon inspection or if there has been any false statement or misrepresentation of a material fact in the application or plans on which the permit or approval was based.

(10) VARIATIONS TO FIRE PREVENTION CODE REQUIREMENTS. The Fire Chief shall have the power to, on a case-by-case basis, grant individual variances from the provisions of the Fire Prevention Code upon application in writing by the owner, lessee or his authorized agent, as will not be contrary to public interest, when, owing to special conditions, a literal enforcement of the Fire Prevention

Code will result in practical difficulties or unnecessary hardship, provided the spirit and purposes of the Fire Prevention Code shall be observed, public safety, welfare, and justice secured. The particulars of such modification when granted or allowed and the decision thereon of the Fire Chief shall be entered upon the records of the Department; and a signed copy shall be furnished the applicant. In addition, a copy of such application and decision shall be filed with the Village Clerk.

(11) APPEALS. If the Fire Chief or Bureau of Fire Prevention disapproves an application or refuses to grant a permit applied for, the applicant may appeal within thirty (30) days from the date of the decision to the Board of Fire Appeals, which shall have the authority to approve the application or grant the permit under the same circumstances as the Fire Chief or Bureau of Fire Prevention, as the case may be.

(12) LIABILITY FOR DAMAGES. This Fire Prevention Code shall not be construed to hold the Village responsible for any damage to persons or property by reason of the inspection or re-inspection authorized herein, failure to inspect or re-inspect or by reason of the approval or disapproval of any equipment authorized herein.

(13) ACCESS ROADWAYS FOR FIRE APARATUS. Access roadways for fire apparatus shall be required in the Village of Sussex, in accordance with the following construction and inspection standards. Wisconsin Administrative Code COMM Section 66.335, including any amendments to said section that may be made from time to time, shall apply with regard to multi-family dwellings in the Village of Sussex. The requirements of Wisconsin Administrative Code COMM Section 62.0500, including any amendments to said section that may be made from time to time, shall apply to all other buildings and structures in the Village of Sussex, including both new construction and existing buildings and structures. The required access roadways for fire apparatus shall be kept free at all times of all obstructions, including parked vehicles and snow.

**5.16 AUTOMATIC SPRINKLER SYSTEMS.** (1) PURPOSE. The purpose of this section is to provide the means for automatic extinguishment of fire in buildings or parts of buildings which because of their size, construction, occupancy or lack of suitable protective equipment constitute a special fire hazard to life or property, or an excessive burden upon the fire extinguishing capabilities of the Fire Department.

(2) WHERE INSTALLED. After November 25, 1975, every building constructed, every building structurally altered, every building remodeled, or every building whose use has changed, according to Subsection (8) below, shall have an approved automatic sprinkler system installed and maintained when occupied in whole or in part as follows:

(a) This classification includes but is not limited to all factories and workshops, including all places where manual labor is employed, office buildings, telegraph and telephone offices, mercantile establishments where commodities are bought or sold, clothes cleaning establishments, warehouses, railroad stations, exhibition buildings, public mausoleums, crematoriums, and places where not more than 100 persons assemble for recreation, entertainment, or dining purposes.

1. Throughout Fire-Resistive buildings exceeding 7,500 square feet gross area or exceeds one level.
2. Throughout Non-Fire-Resistive buildings exceeding 5,000 square feet gross area or exceeds one level.

(b) This classification includes but is not limited to all theaters and theater lobbies.

1. Throughout Fire-Resistive buildings exceeding 5,000 square feet gross area or exceeds one level.

2. Throughout all non-fire-resistive buildings.

(c) This classification includes but is not limited to all Assembly halls other than theaters primarily for the purpose of entertainment, recreation, worship or dining with an occupancy load in excess of 100 persons.

1. Throughout Fire-Resistive buildings exceeding 2,000 square feet gross area or exceeds one level.
2. Throughout all Non-Fire-Resistive buildings.

(d) This classification includes but is not limited to all public and private schools, universities, colleges, academies, seminaries, libraries, museums and art galleries; including all buildings or parts of buildings used primarily for instructional purposes.

1. Throughout all Fire-Resistive and Non-Fire-Resistive buildings.

(e) This classification includes but is not limited to all residential buildings, health care facilities, hospitals, nursing homes, elderly or retirement complexes, multi-family apartments and condominiums, community based residential facilities, hotels, motels, bed and breakfasts, day care centers, correctional and detention centers.

1. Throughout all Fire-Resistive and Non-Fire-Resistive buildings.

(f) This classification includes but is not limited to all buildings used as high hazardous occupancies, storage occupancies and repair and public garage occupancies.

1. Throughout all Fire-Resistive and Non-Fire-Resistive buildings.
2. Throughout all Fire-Resistive and Non-Fire-Resistive garages used to store transportation vehicles above or below other occupancies.

(g) This classification includes all basements.

1. Throughout all Fire-Resistive and Non-Fire-Resistive basements and cellars when used for manufacture, storage or sale of goods, materials or merchandise.

(3) EXCEPTIONS. The following classes of buildings shall be exempt from Section 5.16 of this ordinance.

(a) Any portion of a building housing a process or material which would interact with water to create a greater fire hazard than without water, provided an alternate fire suppression system is used.

(b) The Fire Department may approve the equivalent of an automatic sprinkler system in a building where an automatic sprinkler system is impossible or impracticable to install. The equivalent shall depend on the type of occupancies, and the type of structure. Smoke detectors and/or other fire protection devices may be required.

(c) Buildings used exclusively as a one- or two-family dwelling unit.

(d) Unattached garages serving multi-family, and one- and two- family buildings.

- (e) Buildings constructed prior to November 25, 1975 that are structurally altered, remodeled, or whose use changes, provided all of the following conditions are satisfied:
  - 1. The building was within the Village Limits of the Village of Sussex as of July 12, 1994;
  - 2a. At least twenty five percent (25%) of the gross area of the existing building, excluding basements, has not been remodeled; or
  - 2b. The building is damaged by fire, explosion, or flood.
  - 3. The gross area of the building, not including the area of the basement and the area occupied by the owner's private residence, does not exceed 5,000 square feet;
  - 4. The building does not exceed two levels;
  - 5. The building is not used as an Arena, Field House, Gymnasium, or Lodge Hall;
  - 6. An NFPA 72 compliant fire alarm system is installed throughout the building and monitored by a central station fire alarm system company.

(4) FIRE DEPARTMENT HOSE CONNECTIONS.

- (a) Every automatic sprinkler system installed in new or existing buildings shall be equipped with at least one Fire Department hose connection at a location approved by the Fire Chief.
- (b) Stand pipes will be installed in all buildings with three or more levels and in any building where required by the Sussex Fire Department, and must have a main discharge of 2.5 inches NST, and must be installed to include a 2.5 inch NST to 1.5 inch NST reducer and cap.

(5) HOW INSTALLED.

- (a) An approved automatic fire sprinkler system shall be installed in accordance with the current edition of NFPA 13, "Standards for the Installation of Sprinkler Systems" and other applicable standards of the NFPA.
- (b) No automatic sprinkler system shall be installed or altered in a building until plans have been submitted to and approved by the Chief of the Bureau of Fire Prevention and the Water Commission. Three copies of the plans and specifications shall be submitted for review. Approved plans shall be stamped "Conditional Approval Bureau of Fire Prevention and Water Commission", the date of such approval and one copy returned to the owner, the others kept on file by the Water Commission and Building Inspector. "Conditional Approval" of automatic sprinkler system plans does not affirm the accuracy of any calculations performed by the contractor. Full responsibility for the accuracy of these calculations is the responsibility of the contractor.
- (c) Underground water mains, hydrants and valves shall conform to current specifications of the Village.
- (d) The Water Commission or the Fire Department shall require such tests as may be required by the National Fire Protection Association's standards.

- (e) Automatic fire sprinkler systems shall include an alarm system that is monitored or supervised so that the fire department is immediately notified of system activation or water flow.
- (f) All residential buildings shall have either quick response or residential quick response heads within all living units.

(6) INTERIM INSTALLATIONS.

- (a) Until a municipal water supply is available to serve a building in which installation of an automatic sprinkler system is required, connection of the system to a water supply shall not be required; however, all design characteristics of systems installed under this section shall include provisions for eventual connection to a municipal water supply.

In areas where there is no municipal water:

1. The sprinkler system is required to be connected to domestic water at the time of installation.
2. When municipal water becomes available, the owner will have six months to hook up the automatic sprinkler system to the municipal mains.

In addition, such interim installations shall also include:

1. One or more Fire Department connections with two 2-1/2" female couplings with National standard threads attached to a header of adequate size in accordance with fire protection engineering standards, but not less than 4" to supply the system, and
  2. An automatic fire detection and alarm system of a type approved by the State Department of Commerce.
- (b) All automatic fire sprinkler systems installed under the requirements of this section shall be connected to the municipal water system and be operational prior to obtaining occupancy in new construction, and shall be connected to the municipal water system and operational within six months after water mains to serve the building are available for use in buildings structurally altered, remodeled or whose use has changed under the requirements of Subsection (8).

(7) FIRE HYDRANT REQUIREMENTS FOR PRIVATE PROPERTY AND EXISTING BUILDINGS. After November 25, 1975, every building constructed, every building structurally altered, every building remodeled, or every building whose use has changed, so that the structure requires an automatic sprinkler system under the provisions of this ordinance shall provide, at the owner's expense, one or more approved fire hydrants and water mains as set forth below:

- (a) Fire hydrants provided under this subsection shall be free standing and located no more than 50 feet nor less than 25 feet, from the main entrance.

- (b) Additional fire hydrants shall be provided around the perimeter of the building so that no fire hydrant is more than 250 feet from another approved fire hydrant measured by normal access routes.
- (c) Fire Department connections shall be within 250 feet of an approved municipal fire hydrant.
- (d) If the building is located more than 250 feet from a water main, the owner shall install a private main which shall connect to the nearest municipal water main prior to occupancy.

(8) APPLICATION TO EXISTING BUILDINGS.

- (a) "Structurally altered." If a building is structurally altered, the entire building shall be made to comply with Section 5.16 of this ordinance.
- (b) "Change of Use." If the use of a building changes to a use listed in Section 5.16(2) of this Code, the entire building shall be made to comply with Section 5.16 of this ordinance prior to occupancy.
- (c) "Remodeling." If more than fifty percent (50%) of the gross area of an existing building is remodeled, the entire building shall be made to comply with Section 5.16 of this ordinance.

(9) FIRE DIVISION WALL OR OCCUPANCY SEPARATION WALL IDENTIFICATION. Fire division wall or occupancy separation wall means a wall extending from the lowest floor level to or through the roof and extending the full width or length of the building.

**5.17 REGULATIONS FOR STORAGE, HANDLING AND USE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS.** (1) APPLICATION. The provisions of this section shall apply to all persons and governmental agencies, except Federal, storing, handling or using flammable or combustible liquids, and to the owner or lessee of any building, premises or equipment in or on which flammable or combustible liquids are stored, handled or used.

(2) RESTRICTED LOCATIONS. (a) The storage of Class I liquids in aboveground tanks outside buildings is prohibited within the Fire District, except a permit may be issued for temporary installations in those areas designated as industrial districts or on parcels of land in excess of one acre used for single-family residences.

(b) No new bulk plants shall be constructed within the Fire District, except within those areas designated as industrial districts and with approval of the Bureau of Fire Prevention for the proposed location with respect to topography, nearness to places of public assembly and adequacy of water supply for fire control.

(c) No permit shall be issued for construction of a refinery or plant storing or handling crude petroleum within that part of the Village zoned solely for residential occupancies or for mercantile establishments predominantly retail in character; and until approval has been given for the proposed location after consideration of topography, nearness to places of public assembly and adequacy of water supply for fire control.

(3) RETROACTIVITY. Existing plants, stores, equipment, buildings, structures and installations for the storage, handling or use of flammable or combustible liquids which are not in strict

compliance with the terms of this section may be continued in use provided they do not constitute a distinct hazard to life and property. When the Chief of the Bureau of Fire Prevention deems that the continued use will constitute a clear hazard to life or adjoining property, he shall notify the owner or operator and specify the reason in writing pursuant to the procedures set forth in Sections 5.16(6) and (7) of the Fire Prevention Code.

(4) PERMITS FOR THE STORAGE, HANDLING AND USE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS. A permit issued pursuant to this section shall be obtained from the Bureau of Fire Prevention for any of the following:

(a) Storage, handling or use of Class I liquids in excess of 10 gallons in a dwelling or other place of human habitation; in excess of 10 gallons in any other building or other occupancy; or in excess of 20 gallons outside any building; except no approval shall be required for the following:

1. Storage or use of flammable or combustible liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant, mobile heating plant or domestic heating appliance.

2. Storage or use of paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes for not more than 30 days.

(b) Storage, handling or use of Class II or Class III flammable liquids in excess of 25 gallons in a building; or in excess of 60 gallons outside a building.

(c) Manufacturing, processing, blending or refining of flammable or combustible liquids.

(d) Storage of flammable or combustible liquids in stationary tanks, whether aboveground or below.

(e) Abandonment or removal of underground tanks which have contained flammable or combustible liquids.

(5) INSPECTION AND APPROVAL. (a) Application for approval to construct or erect facilities for the storage, handling or use of flammable liquids or combustible liquids as herein required shall be made in writing to the Bureau of Fire Prevention, which shall then make an inspection of the premises and equipment proposed to be used. If they are found to be in compliance with this section, a statement to that effect shall be made on the application and the application signed by the person making the inspection. The Bureau of Fire Prevention shall thereupon grant a permit as applied for.

(b) Before operating any equipment, storing any flammable or combustible liquid or covering the underground portions of any such equipment for which a permit is required, notification shall be given to the Bureau of Fire Prevention. Such Bureau shall, within 2 working days, cause such premises or equipment to be inspected.

(c) The Bureau of Fire Prevention may, at any reasonable time, inspect premises, buildings, installations or equipment for storage, handling or use of flammable or combustible liquids. If a violation of this section is found, written notice shall be filed with the owner, occupant or operator citing the violation and ordering its correction. If such order is not complied with, the Bureau of Fire Prevention may suspend the permit granted for such facility.

(d) Containers, tanks, equipment and apparatus meeting the standards of nationally recognized inspection or test laboratories shall be considered as meeting the requirements of this section.

**5.18 MISCELLANEOUS PROVISIONS.** (1) **DECORATIVE MATERIAL.** Decorative materials such as flammable window draperies, curtains, streamers, surface coverings applied over the building interior finish for decorative, acoustical or other effect, and cloth, cotton batting, straw vines, leaves, trees and plastics used for decorative effect, except floor coverings and ordinary window shades, shall not be permitted in the following occupancies:

- (a) Assembly.
- (b) Educational.
- (c) Institutional.

In such buildings, fabric decorations where used shall be flameproofed and so maintained by the owner or occupant of the building.

(2) **WASTE MATERIALS.** No owner, agent or occupant of any building situated within the Village shall allow to accumulate any waste materials such as paper, hay, straw, rags or other waste material of combustible nature in any building or on any premises more than 24 hours unless stored as provided in par. (b).

(b) Combustible cuttings, disposal of waste, cloth, paper or other waste shall be cleaned up and removed from the building at the close of each day's work and shall be stored in a separate fireproof storage building in a metal container with cover, in a metal lined box with cover or in a fireproof vault or room.

(3) **GAS SHUT-OFF; GAS APPLIANCES.** Every gas supply main shall have a service cock outside the building, so placed and maintained that it can be shut off without entering the building.

The use of flexible armored gas tubing shall be limited to portable devices and no more than 4 feet of such tubing shall be used as a connection to any portable device. There shall be only one shut-off valve located on the gas pipe to which such tubing is attached.

(4) **NO SMOKING.** (a) No person shall light a match or other flame-producing device, smoke or carry a lighted cigar, cigarette or pipe in any retail mercantile establishment, except in areas approved for such purposes by the Fire Chief. The person in charge of such establishment shall enforce the regulations of this section.

(b) Smoking is prohibited in all rooms or parts of buildings which contain flammable liquids in open containers, in which the vapors from flammable liquids are present or in which flammable liquids are used in any manufacturing process.

(c) In all areas where smoking is prohibited, suitable "NO SMOKING" signs shall be displayed.

(d) Any person who by smoking or attempting to light or to smoke cigarettes, cigars, pipes or tobacco in which lighter or matches are employed, who shall in a careless, reckless or negligent manner,

whether willfully or wantonly or not, set fire to any bedding, furniture, curtains, draperies, house or any household furnishings or any part of any building shall be guilty of violating this chapter.

(5) COMMERCIAL AND INSTITUTIONAL KITCHENS. All commercial and institutional kitchens shall have a UL Approved hood and duct extinguishment system as approved by the State Insurance Services Office. The system shall also be provided with an automatic fuel cut-off.

(6) USE OF OXY-ACETYLENE TORCHES. Any person desiring to use oxy-acetylene torches for cutting any metal on any premises and in or on any building shall first make application for permission to do so to the Fire Chief. The application for such permission shall set forth the location of the premises where the work is to be done and a description of the work to be done. Before such oxy-acetylene torches are used, proper protection of surroundings shall be made by the use of asbestos blankets or other fire-resistive material. Ashes or sand shall be used for the absorption of oil. A fire extinguisher, pails of water or small hose attached to a water supply shall be conveniently located close to the cutting operations. Such other precautions shall be taken as may be ordered by the Fire Chief.

This section shall not apply to business establishments when such oxy-acetylene torch is used in connection with regular business operations. Such establishments shall use the same precautions to prevent fires as required of persons who shall obtain a permit.

(7) BURNING REGULATED.

(a) Except as hereinafter provided, no person shall burn, or cause to be burned:

1. Garbage.
2. Any material liberating a toxic substance or combustion, or producing a noxious odor, or creating a health hazard or nuisance.
3. Any material within 25 feet of a building or 10 feet of a lot line.
4. Flammable liquids or other materials which create a fire hazard.
5. Grass, fields, brush, woods, or similar open area.
6. Combustibles in any amount outside of a container.

(b) The Fire Chief may issue written permits on forms provided by him, for fires otherwise prohibited by this section, and may impose such additional conditions and requirements as he deems necessary for the public safety and welfare. He may refuse such permit completely if he concludes the proposed burning would be hazardous, unsafe, or otherwise harmful.

(c) Permits shall not be required for burning combustibles, except those enumerated in Section 5.18(7)(a) of the Fire Prevention Code, in a fire resistant container not larger than 55 gallons, having a wire mesh cover with openings of 1/2 inch or less, which container is more than 25 feet from a building or ten (10) feet of a lot line, flammable liquids or other materials which create a fire hazard, or in a location approved in writing by the Fire Chief, provided the fire is watched at all times and controlled, and adequate fire protection facilities such as garden hose or fire extinguisher, are available and ready for instant use.

(d) No burning shall be allowed between sunset and sunrise, and all fires must be completely extinguished by sunset. No burning shall be allowed when the wind velocity exceeds 9 miles per hour as indicated by the U. S. Weather Bureau of Milwaukee or the Wisconsin Telephone Company Weather Information Service.

(e) Exemptions. The following are exempt from the provisions of this section:

1. Cooking fires in barbecue pits, grills, and outdoor fireplaces.
2. The operation of home incinerators inside a dwelling.

(f) Small businesses, commercial enterprises, and industries may not use burn barrels or engage in other kinds of open burning and may not be granted burning permits by municipalities. However, the prohibition on burn barrels does not apply to small businesses in which the owners reside at the same location and cannot separate their business waste from their household waste.

(g) Definitions:

1. Recreational Fires – Any fire such as a campfire or cooking fire located at a single or two family private residences for the purpose of recreation and personal enjoyment.
2. Portable Fire Pits – Commercially designed and intended to contain and control outdoor wood fires.

(h) Requirements for Recreational Fires.

1. No recreational fire shall be closer than 10 feet from any building, structure, shed, garage, trees, shrubs, bushes, fence, or any other combustible materials.
2. All recreational fires shall be in a below ground fire pit with a maximum depth of 10 inches and a diameter of two (2) feet and the fire may not extend more than 2 feet above the pit. The fire pit shall be surrounded on the outside, above ground, by a non-combustible material such as concrete block or rocks.
3. Portable fire pits may be used within the requirements of (1) above and must be located on a permanent fixed site with a non-combustible surface (i.e. dirt without vegetation, stone, gravel, concrete, brick, etc.) with area twice the diameter of the portable fire pit device.
4. No recreational fire shall be started or allowed to continue burning when the wind direction or wind speed will cause smoke, embers, or other burning materials to be carried by the wind toward any building or other combustible materials. Smoke from any recreational fires shall not create a nuisance for the neighboring property owners. The fire shall be extinguished immediately upon the complaint of the neighboring property owner of any smoke nuisance.
5. Materials for recreational fires shall not include rubbish, garbage, recycled items, trash, dead vegetation and leaves, materials made of or coated with rubber, plastic, leather, or petroleum based materials, and shall not contain any flammable or combustible liquids.
6. Adequate fire suppression equipment shall be immediately available to extinguish or control the recreational fire. Adequate suppression equipment such as shovels, fire extinguishers, water hoses, or other like equipment sufficient to extinguish the fire if necessary, shall be within ten (10) feet of the recreational fire.
7. All recreational fires shall be attended at all times by at least one responsible

person of age 19 or older from the ignition of the fire until the fire is completely extinguished.

8. The property owner and/or person who has started any recreational fire shall hold the Village harmless from any and all such liability for any damage caused by a recreational fire.
9. Any party who has started or maintains a recreational fire as defined herein shall pay and all costs incurred by the fire department for any service related call as a result of a recreational fire **not** in compliance with the requirements above.

(8) **EXCEEDING POSTED CAPACITY.** The capacity of buildings that are opened to the public shall be duly posted as required by this chapter and by the state laws, codes and regulations incorporated herein and by other applicable laws. No owner or operator of a premises shall allow the posted capacity to be exceeded. Exceeding the posted capacity shall be subject to the penalties described in Section 5.22 of this chapter.

**5.19 HAZARDOUS MATERIALS REGULATIONS (1) PURPOSE.**

(a) To ensure the safety of the general populace by providing for appropriate, prompt, safe, and effective means of regulating substances and actions which contaminate, or may potentially contaminate or render unclean or impure the air, land, or waters of the Village of Sussex, or make the same injurious to public health, harmful for commercial or recreational use, or injurious to fish, bird, animal or plant life.

(b) To provide a means for the prevention and/or remedy of contamination by substances and actions which may contaminate or render unclean or impure the air, land, or waters of the Village of Sussex, or may make the same injurious to public health, harmful for commercial or recreational use, or injurious to fish, bird, animal or plant life.

(c) To provide a means by which the Village of Sussex may seek compensation for services rendered at the expense of the Village of Sussex by it, or on its behalf, from any person whose actions or neglect has caused the release of substances or wastes which are sought to be controlled by Sec. 5.19(1)(a).

**(2) DEFINITIONS.**

(a) "Hazardous Substance" means any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the Wisconsin Department of Natural Resources, or the United States Department of Transportation, or the United States Environmental Protection Agency.

(b) "Person" means an individual, owner, operator, corporation, partnership, association, municipality, interstate agency, state agency or federal agency.

(c) "Waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Wis. Stat. Ch. 147, or source, special nuclear or by-product material as defined under Wis. Stat. Sec. 140.52.

(d) "Garbage" means discarded materials resulting from the handling, processing, storage, or consumption of food.

(e) "Discharge" means, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping.

(f) "Preventative Measures" means the installation or testing of equipment or devices, a designated way of performing a specified operation or the preparation of an emergency response plan.

(g) "Registered Pesticide" means any substance or mixture of substances; properly registered with the Wisconsin Department of Agriculture or under the federal insecticide, fungicide, and rodenticide act, as amended (7 USC 136 et seq.) and regulations issued under that act; which is labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or as a plant regulator, defoliant or desiccant.

### (3) HAZARDOUS SUBSTANCE SPILLS.

(a) Discharge of Hazardous Substances Prohibited. No person, except those persons specifically exempted under sec. 5.19(3)(j), shall discharge, or cause to be discharged, any hazardous substance into or onto the air, lands, or waters contained within the limits of the Village of Sussex.

(b) Prevention. The Village of Sussex Fire Department may require that preventive measures be taken by any person possessing or having control over a hazardous substance if the fire department finds that existing control measures are inadequate to prevent discharges.

(c) Notice Requirements. Any person who does discharge, or cause to be discharged, any hazardous substance shall notify the Village of Sussex Fire Department of any discharge to the air, lands or waters within the Village of Sussex.

(d) Responsibility. Any person in violation of Sec. 5.18(3)(a) shall immediately take all actions necessary to contain and cleanup the discharge by removing the hazardous substance to a repository approved by the appropriate state or federal department or agency. Persons in violation of Sec. 5.18(3)(a) shall also take the actions necessary to restore the environment to the extent necessary to minimize the harmful effects from the discharge to the air, lands or waters within the Village of Sussex.

(e) Removal or other emergency action. In any case where action required of a person under sec. 5.19(3)(d) is not being adequately taken or the identity of the person responsible for the discharge is unknown, any duly authorized officer, employee or agent of the Village of Sussex or police department may identify, locate, monitor, contain, remove, or dispose of the hazardous substance or take any other emergency action which said officer deems appropriate under the circumstances.

(f) Right to access to property. Any duly authorized officer, employee or agent of the Village of Sussex may, upon notice to the owner or occupant, enter any property, premises, or place at any time for the purposes of performing duties under sec. 5.19(3)(e) if the entry is necessary to prevent increased damage to the air, land or waters within the Village of Sussex. In the event that the owner or occupant of the property, premises, or place refuses to allow access after having been given notice, the warrant provisions contained within Wis. Stat. Ch. 61 shall be followed. However, no notice to the owner or occupant or warrant is required if the delay necessary to provide them will result in imminent risk to public health or safety or to the environment.

(g) Evacuation of Civil Populace. Should any discharge prohibited under this section occur that reasonably poses a threat to the life, safety or health of the public, the senior Village of Sussex fire or police department official on the scene may order an evacuation of the area or take other appropriate protective steps for a period of time until the emergency is deemed to have passed.

(h) Reimbursement of the Village of Sussex. The person who possessed or controlled a hazardous substance which was discharged or who caused the discharge of a hazardous substance shall reimburse the Village of Sussex for all actual and necessary expenses, in addition to reasonable costs and overhead, incurred in carrying out its duties under sec. 5.19(3)(e). Additionally, as provided in Wis. Stats. sec. 66.60(16), the Sussex Village Board shall have the authority to, without notice, allocate said costs and expenses against property which has been the site of a violation of sec. 5.19(3)(a) as a special assessment or special charge. In the event that any special charge remains unpaid for longer than thirty (30) days, a lien against the property shall be created in accordance with the provisions of Wis. Stat. sec. 66.60(16)(b).

(i) Penalties. In addition to those costs enumerated within sec. 5.19(3)(h), a person who possessed or controlled a hazardous substance which was discharged or who caused the discharge of a hazardous substance shall be subject to a forfeiture of not less than \$50.00 nor more than \$3,000.00 and in default of such payment thereof may be imprisoned not more than 90 days. Each and every day of violation shall constitute a separate offense.

(j) Exemptions.

1. Any person holding a valid permit under Wis. Stat. Ch. 147 is exempt from the reporting and penalty requirements of this section with respect to substances discharged within the limits authorized by the permit.
2. Law enforcement officers, members of a fire department, or building or health inspectors using hazardous substances in carrying out their responsibility to protect public health, safety and welfare are exempted from the penalty requirements of this section, but shall report to the Village of Sussex Fire Department any discharges occurring within the performance of their duties.
3. Any person discharging in conformity with a permit or program approved under Wis. Stat. Ch. 147 is exempted from the reporting and penalty requirements of this section.
4. Any person applying a registered pesticide according to the label instruction is exempted with respect to the reporting and penalty requirements of this section.

(k) No common law liability, and no statutory liability, state or federal, for damages resulting from a discharge is affected in any manner by this section. The authority, power and remedies provided in

this section are in addition to any authority, power or remedy provided in any other statutes or provided at common law.

**5.20 (Reserved for Future Use)**

**5.21 KEY BOX.** When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for lifesaving or fire-fighting purposes, the chief of the fire department may require a key box to be installed in an accessible location. The key box shall be a type approved by the Chief of the Fire Department and shall contain keys to gain necessary access as required by the Chief of the Fire Department. The key box shall be purchased and installed, at the owner's or occupant's expense, at such locations as designated by the Fire Chief or his subordinates.

**5.22 PENALTIES.** (1) Any person who shall violate any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in Sec. 25.04 of this code.

(2) Compliance with the provisions of this chapter may also be enforced by injunctive order at the suit of the Village or one or more owners of real estate situated adjacent to an area affected by the regulations of this chapter.

(3) In addition and not to the exclusion or prejudice of any other penalties described herein, the following specific penalties apply for the violation of the following provisions within this chapter:

a. Uncorrected violations, per Section 5.11(f). The following penalties shall be assessed for fire inspection violations not corrected within the time ordered by the Fire Inspection Department:

1. Second reinspection for violations not corrected in time given: \$100.00.
2. Third reinspection for violations not corrected in time given: \$150.00.
3. Fourth reinspection for violations not corrected in time given: \$200.00.
4. If violations are not corrected by the fourth inspection, additional action may be taken which may include a possible loss of occupancy, or a municipal citation issued by the Village after a formal complaint is filed with the Fire Chief.

b. Exceeding posted capacity in violation of Section 5.18(8). \$25.00 per individual over the rated capacity.

c. Failure to comply with Section 5.11(1)(d) through (f). Fines per violation per day will be assessed by the Fire Inspector in a range from a minimum of \$150.00 to a maximum of \$5,000.00 per day.