

PUBLIC SAFETY

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**SUBCHAPTER I – FIRE
DEPARTMENT OPERATIONS**

4.01 AUTHORITY TO PROVIDE FIRE PROTECTION. Pursuant to Wis. Stat. §61.65 (2)(a), the Village has established the Village Fire Department to provide fire prevention and protection services for the Village residents, visitors and investors.

4.02 DEFINITIONS. The following is a list of definitions for the intent of consistency and clarification of this code.

- (1) **Fire Chief** – The Suamico Fire Department Chief
- (2) **Department** – The Suamico Fire Department
- (3) **He/his** – Uniform language to be inclusive of she/her
- (4) **Stop Work** – To cease and desist work activity, to stop an action.
- (5) **Commission** – Fire Commission of the Village
- (6) **Village Board** – Board
- (7) **Village** – Village of Suamico
- (8) **Officer** – An officer of the Suamico Fire Department
- (9) **Building Inspection Department** – The Village Zoning and Planning Department and Building Inspectors

4.03 COMPOSITION OF THE DEPARTMENT.

(1) **Organizational Structure.** The Department shall be made up of a combination of volunteers and fire administrative staff as appropriated by the Board and appointed according to the bylaws of the Fire Commission.

(2) **Fire Chief.**

(a) *Job Description.* The job description of the Fire Chief shall be adopted by the Board. The Board reserves the right to amend the job description as needed.

(b) *Appointment.* The Commission shall appoint the Chief according to the Wis. Stat. §62.13 and the Commission’s bylaws.

(c) *General Powers and Duties.* The Chief shall enforce the Wisconsin Statutes, the Wisconsin Administrative Code and this Code in matters relating to fire prevention, code enforcement, public education and fire suppression within the Village. It shall be the duty of the Chief to direct the operation of the Department.

(d) *Presiding Officer.* 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 the chapter and the bylaws.

(e) *Command of Fire Fighting Operations.* The Chief shall be present at all fires, if possible, and have complete command and entire responsibility of all fire fighting operations, plan the control of the same, direct the action of the Department when it arrives at a fire, observe that the Department 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.

(f) *Reports to the Board.* The Chief shall submit a written report to the Board no later than September 1 of each year, at such time as he deems desirable, relating to the conditions of various pieces of apparatus and appurtenances, budget recommendations for the coming year, the number of hydrants and the condition of the same, the number of fires occurring since the previous report and the date of the same and loss occasioned thereby, 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 for such improvements as

he deems proper and necessary for the operation of the Department.

(g) *Enforcement of Fire Prevention Ordinances.* He shall enforce all fire prevention ordinances of the Village and the state laws and regulations pertaining to fire prevention and shall keep citizens informed on fire prevention methods and on the activities of the Department.

(h) *Fire Incident Report.* He shall keep a computerized record of every incident to which the Department was called and shall enter in such book the location of the fire, the time the alarm was received, the cause of the fire, where the fire started, the cause of delay, if any, in responding, the amount of insurance carried on buildings and contents, estimated fire loss, the time the fire was extinguished, the names of the men responding and general remarks.

(i) *Apparatus Inventory.* 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 numbered.

(j) *Duties as Commanding Officer.* He shall perform such other duties as are usually incumbent on the commanding officer of the Fire Department.

(k) *Fiscal Responsibility.* Every year the Chief shall file with the Administrator a detailed estimate of the appropriations needed for the conduct of the Department operations during the ensuing fiscal year.

4.04 AUTHORITY AT EMERGENCY INCIDENTS.

(1) **Limited Access and Removal of Property.** The Chief or his designee may prescribe certain limits in the vicinity of any emergency incident within which no persons, except firefighters and those admitted by order of any officer of the department, shall be permitted to be present. The Chief shall have the power to cause the removal of any property whenever it shall

become necessary for the preservation of such property from fire or to prevent the spreading of fire or to protect the adjoining property, and/or during the progress of any fire he shall have the power to order the removal or destruction of any property necessary to prevent the further spread of fire and the authority to preserve evidence of suspected arson. He shall also have the power to cause the removal of all wires or other facilities and to turn off of all electricity or other services, where they impede the work of the department during the progress of a fire or other hazardous situation.

(2) **Resistance to Operations.** It shall be lawful for any firefighter while acting under the direction of the Chief or any other officer in command to enter upon the premises adjacent to or in the vicinity of any building or other property on fire or in a hazardous environment for the purpose of extinguishing fire or mitigating hazards. Any person that hinders, resists or obstructs any firefighter in the discharge of his duty as is hereinbefore provided, the person so offending shall be guilty under Wis. Stat. §941.12 and subject to a forfeiture under the penalty portion of this ordinance, of resisting firefighters in the discharge of their duty.

(3) **Damage to Department Property.** No person shall willfully injure in any manner any hose, hydrant or fire apparatus belonging to the Village. No vehicle shall be driven over any unprotected hose of the department when laid down on any street, private driveway or any other place, to be used at any fire or alarm of fire, without the consent of the Department officials in command of the emergency.

(4) The Chief or his designee in command at any emergency incident shall have full and complete police authority at fires as authorized under Wisconsin Statute.

4.05 INVESTIGATIONS. The Department shall investigate the cause, origin, and circumstances of every fire occurring in the Village by which property has been destroyed or damaged and, so far as possible, shall determine whether the fire is the result of deliberate intent, carelessness or design. Investigations shall begin immediately upon occurrence of a fire. The Chief or his designee shall immediately take charge of the physical evidence, shall further cooperate with local, county, state or federal authorities in the collection of evidence and in the prosecution of the case. Every fire shall be reported in writing to the Department within ten (10) days after the occurrence of the same by the Department Officer in command of the fire. The report shall be in the form prescribed by the Chief and shall contain a statement of all facts relating to the cause, origin, and circumstances of such fire, the extent of the damage thereof, and the insurance upon such property, and such other information as may be required, including the injury, death, or rescue of persons.

Open record requests to the Department shall be filed with the Clerk and, with the exception of open record requests for fire reports, shall be completed by the Clerk according to the provisions of Wis. Stat. Ch. 19. The Chief shall be responsible for open records requests for fire reports with a copy to the Clerk.

4.06 FIRE JURISDICTION. The fire limits of the Village shall be the incorporated limits of the Village as amended.

(1) Reimbursement Schedule for Fire Calls on State Highways.

(a) The Village will charge responsible individuals or companies for responding to a fire call on any interstate, federal, or state trunk highway or highway maintained by the Wisconsin Department of Transportation.

The fire call charges are set forth in the Village Fire Department Reimbursement Form which is attached hereto and made part of this code.

1. A fire call is defined to include but not limited to the Village Fire Department responding with Department equipment to any and all vehicle accidents, extinguishing or attempting to extinguish a fire, hazardous material incidents, and natural disasters.

4.07 VACATION OF BUILDINGS. The Chief is hereby empowered to close any building or structure, and order it vacated wherein violations of any regulations of this chapter or any state or federal regulations are found and which said violations constitute a continuing hazard to the public and are not abated within a reasonable time.

SUBCHAPTER II – FIRE PREVENTION

4.08 FIRE PREVENTION CODE.

(1) Purpose. This ordinance provides the Village with the rules and regulations consistent with NFPA, NFC, and IFC nationally-recognized good practices and/or codes to improve public safety by promoting the control of fire hazards; regulating the installation, use and maintenance of equipment; regulating the use of structures, premises, and open areas; providing the abatement of fire hazards; establishing the responsibilities and procedures for code enforcement; and setting forth the standards for compliance and achievement of these objectives. For the purposes of this section, shall not apply to one (1) and two (2) family dwellings unless specifically stated in the code.

(2) Primary Code Adoption. This section shall be known as the Village Fire Prevention Code. This section adopts, but is not limited to, the State of Wisconsin Statutes, Department of Commerce

Administrative Codes (i.e.: Comm. 2, 5, 7, 9, 10, 14, 20-25, 28, 30, 40, 50-64 [prior to 6/1/02], 61-65, 70, 75-79, 95), the Wisconsin Enrolled Building Code, the National Fire Protection Association (NFPA) incorporated standards and codes as published, revised and/or amended in the National Fire Codes (NFC), the International Fire Code®-2000 (IFC) and Commerce Chapter 14, shall be adopted. The same, including any future modifications or amendments, are hereby adopted and incorporated as fully as if set out at length herein. Not less than one (1) copy of the adopted issue of the International Fire Code and the adopted standards and codes of the National Fire Codes shall be filed in the office of the Department and the provisions thereof shall be controlling within the limits of the Village.

Any facility whose design and construction occurred before the effective date of this code is governed by the codes in effect at the time of design and/or construction. The provisions in Commerce Chapter 14 and National Fire Protection Association standards will apply to the use, operation and maintenance of all public buildings and places of employment that exist on or after the effective date of this ordinance.

(3) This act shall be deemed in exercise of the police powers of the Village for the preservation and protection of the public health, peace, safety, and welfare, and all the provisions of the Village Fire Prevention Code shall be liberally construed for that purpose.

4.09 LOCAL ADOPTION OF STATE AND NATIONAL CODES. The following are hereby adopted in their entirety.

(1) The Wis. Stats. §101.14 is hereby adopted.

(2) The most current code, revision, and/or amendment of National Fire

Protection Agency 101 Life Safety Code is hereby adopted.

(3) The most current code, revision, and/or amendment National Fire Protection Agency Standards/codes are hereby adopted.

4.10 CONTROLLED RECEPTACLES.

Burning of wood and/or paper products in controlled receptacles will be allowed without a permit, provided such wood and/or paper products are placed within a barrel, trash can, or other enclosed burner, and that such barrel, trash can, or burner is covered and prevents burning material or embers from escaping. Standards for such burners may be specified by the Board and inspected by the Chief and/or Police Department or the Chief's designee. No fire shall be started in any wood and/or yard waste paper product burner unless the same is at least twenty-five feet (25') from the nearest building or pile of combustible material and such fire shall remain under reasonable supervision and control until they are extinguished.

4.11 ASHES. No person shall place or store ashes in any wooden box or barrel, paper carton or other combustible container, upon any wooden floor or surface or against any wooden wall, partition, fence, post or in contact with any other woodwork or combustible material.

4.12 SMOKING. Any person who, by smoking, attempting to light or lighting cigarettes, cigars, pipes or tobacco in any manner in which lighters or matches are employed who shall in a careless, reckless or negligent manner set fire to any item of clothing, household furnishings, building, or any other property whatsoever so as to endanger life or property in any way shall be deemed guilty of violating this section and shall be subject to the penalties of this chapter.

4.13 NEGLIGENT HANDLING OF BURNING MATERIAL (Ref. Wis. Stats. §941.10). Whoever handles burning material in a highly negligent manner shall be subject to forfeiture as set forth at Section 4.99.

4.14 INTERFERING WITH FIREFIGHTING (Ref. Wis. Stats. §941.12).

(1) Whoever interferes with, tampers with or removes, without authorization, any fire extinguisher, fire hose or any other fire fighting equipment; or

(2) Whoever interferes with accessibility to a fire hydrant by piling or dumping material near it without first obtaining permission from the appropriate municipal authority shall be subject to forfeiture as set forth at Section 4.23.

4.15 FALSE ALARMS (Ref. Wis. Stats. §941.13). Whoever intentionally gives a false alarm to any public officer or employee, whether by means of a fire alarm system or otherwise, shall be subject to forfeiture as set forth at Section 4.99.

4.16 LOCK BOXES. The Chief shall have the authority to require a key box (Knox box) to be installed in an accessible location where access to, or within a structure or area is difficult because of security or where immediate access is necessary for life saving or a fire alarmed building/structure or where deemed necessary by the Chief for fire fighting purposes. The key box shall be a type approved by the Chief and shall contain keys necessary to gain total access to all areas of the building, as required by the Chief. The operator of the premises shall immediately notify the Department and provide the new key(s), any time a lock is changed or re-keyed and a key(s) to that lock is contained in the key box.

As of the effective date of this ordinance:

(1) All new multi-family dwellings with common areas shall be required to have a lock box, approved by the Chief and/or his Designee, installed before issuing a Certificate of Occupancy.

(2) All new commercial or industrial structures will be required to have a lock box approved by the jurisdiction installed before issuing a Certificate of Occupancy.

4.17 PORTABLE FIRE EXTINGUISHERS.

(1) All public buildings within the Village and/or wherever flammable and combustible materials including dusts, solids, liquids and gases are sold, manufactured, handled or processed, shall have a fire extinguisher in accordance to the applicable code with a minimum rating of 2A 10 BC. One (1) fire extinguisher shall be required for each three thousand (3,000) square feet or fraction thereof and at least one (1) per each floor.

(2) No person shall sell or trade any form, type or kind of fire extinguisher which is not approved or which is not in proper working order, or the contents of which do not meet the requirements of Village and state fire and building codes.

(3) Notwithstanding the foregoing, portable fire extinguishers shall not apply to the sale or trade of fire extinguishers to any person or firm engaged in the business of selling or handling of such extinguishers or the sale or exchange of obsolete or damaged equipment for junk.

4.18 REGULATION OF FIREWORKS.

(1) General Requirements.

(a) Definitions and Applicable Law.

The definitions and regulations set forth at Wis. Stats. §167.10 (2006) are incorporated herein.

(b) No person, firm, partnership, or corporation shall offer for sale, expose for sale, sell or retail, keep with the intent to sell at retail or use or explode any fireworks (as defined in Wis. Stats. §167.10(1)) with the following exceptions:

1. Fuel or a lubricant.
2. A firearm cartridge or shotgun shell.
3. A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft, or motor vehicle.
4. A match, cigarette lighter, stove, furnace, candle, lantern, or space heater.
5. A cap containing not more than one-quarter (1/4) grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
6. A toy snake which contains no mercury.
7. A model rocket engine.
8. Tobacco and a tobacco product.
9. A sparkler on a wire or wood stock not exceeding thirty-six inches (36") in length that is designed to produce audible or visible effects or to produce audible and visible effects.
10. A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture.
11. A fuseless device that is designed to produce audible or visible effects or audible and visible effects, and that contains less than one-quarter (1/4) grain of explosive mixture.
12. A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.
13. A cylindrical fountain that consists of one (1) or more tubes and that is classified by the Federal Department of

Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

14. A cone fountain that is classified by the Federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

Notwithstanding the foregoing, the Village may grant special use permits ("use permits") for supervised displays of fireworks by fair associations, amusement parks, and other organizations or groups of individuals through the application process as set forth at Section 4.18 (2) below.

(c) Nothing in this section shall be construed to prohibit the use of fireworks by railroads or their transportation agencies for signal purposes or illumination, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations, or the use of fireworks for agricultural purposes under conditions approved by the Fire Department.

(d) The Fire Chief and/or Designee in conjunction with the Police Department Officers shall seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks or combustibles offered or exposed for sale, stored, or held in violation of this section.

(2) Application for Use Permits.

(a) The President or Designee shall consider all applications for use permits as described hereunder and shall approve or deny each application for use permit.

(b) Application for a use permit shall be made in writing ten (10) days in advance of the date of display on forms provided by the Clerk. A permit fee, as set from time to time by resolution of the Board shall be charged for each application.

(c) Such application shall require the following:

1. The name and address of the organization sponsoring the display together with the names of the group actually in

charge of firing the display. For purposes of this section, a group is considered three (3) or more persons all over the age of eighteen (18), all of whom own one (1) or more residences within the Village. Permits for an individual or a group of two (2) persons shall not be granted. Organizations are defined as entities which are incorporated or registered as an LLP or LLC within the United States of America.

2. Evidence of financial responsibility (if required).
3. The date fireworks may be purchased after.
4. The date and time of day at which the display is to be held.
5. The exact location planned for the display.
6. The number and kinds of fireworks to be discharged.
7. The manner and place of storage of such fireworks prior to the display.

(d) Upon receipt of the application, the Fire Chief may inspect the site of the proposed display for the purpose of determining whether the provisions of these regulations are complied with in the case of the particular display.

(e) All fireworks that fire a projectile shall be set up so that the projectile will go into the air as nearly as possible in a vertical direction, provided that where the fireworks are to be fired beside a lake or other large body of water, they may be directed in such a manner that the falling residue from the deflagration will fall into the body of water.

(f) No fireworks display shall be held during any windstorm in which the wind reaches a velocity of more than twenty (20) miles per hour.

(g) All fireworks articles and items at places of display shall be stored in a manner and in a place secure from fire, accidental discharge, and theft and in a manner approved by the Fire Department.

(h) The Fire Chief or his designee and/or Police Department Officers shall have the right to revoke permits and/or stop activity for any violation of these regulations or where the holder's conduct or condition of sobriety is such as to imperil the public safety.

(i) Fire protection and extinguishing equipment shall be provided as required by the Fire Chief of the Fire Department.

(j) A nonrefundable permit application fee as set from time to time by resolution of the Board for each site shall accompany each application.

(k) Discharging or firing of the fireworks in the supervised display shall not be hazardous to property or endanger any person or persons. After the permit shall have been granted by the Village, sales, possession, use and distribution of fireworks for the display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

(l) Class B Use Permits.

Notwithstanding any other article herein to the contrary, when issuing a use permit for Class B fireworks as hereinafter defined, the following additional requirements must be met. For purposes of this paragraph, Class B use permits are necessary for the use of fireworks defined as "Class B" one and three tenths (1.3) grams within the Code of Federal Regulations and/or for use of fireworks in professional displays as defined by the Code of Federal Regulations or otherwise.

Additional Regulations. Applications for Class B permits shall require the following additional information:

1. A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways, and other lines of communications, the lines behind which the audience will be restrained, and the location of all nearby

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trees, telegraph or telephone lines or other overhead obstruction.

2. A representative demonstration of the pyrotechnic shall be provided if requested by the Fire Department.

3. All displays shall comply with the National Fire Protection Agency Standard(s).

4. The Fire Chief shall confer with the Direct Enforcement Officer (DEO) about the application and whether issuance of a permit would be consistent with public safety. Being satisfied that the display is properly lawful, the Fire Chief and DEO shall together endorse the application stating that they approve the display as being in conformance with all parts of the law and with these regulations. Failure to approve the application by either the DEO or the Fire Chief shall be sufficient cause to deny the application.

5. The person, firm, or corporation making the application shall file a signature bond which shall be personally guaranteed by the permittee, its agents or principals, which said signature bond shall hold the Village harmless from any and all damages to property or personal injuries arising out of any act or omission on the part of the permittee or any agent or employee thereof. In lieu of said signature bond, a permittee may file a certificate of liability insurance in the amount of not less than \$300,000 per accident and \$500,000 per occurrence to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of the permittee or any agent or employee thereof.

6. Following endorsement by the Fire Chief and the DEO the application shall be sent to the President who shall then, upon receipt of the financial responsibility as required in section 4.18 (2) (d) above, issue a nontransferable permit authorizing the display. In no case shall such a display be within five hundred (500) feet of a school,

theater, church, hospital, or similar institution.

7. For all displays of fireworks all spectators shall be restrained behind lines or barriers as designated by local authorities but in no case less than two hundred feet (200') from the point at which the fireworks are to be discharged. Only authorized persons and those in actual charge of the display shall be allowed inside these lines or barriers during the unloading, preparation, or firing of fireworks.

8. No permit shall be issued under the provisions of this act to a nonresident person, firm, or corporation for conduct of a pyrotechnic display in this Village until the person, firm, or corporation shall have appointed in writing a member of the bar of this state and residing therein to be the attorney for permittee upon whom all process in any action or proceeding against him may be served.

(3) Application for Seller(s) Permits.

(a) Seller's permits shall be required for any person(s) selling or retailing any/all fireworks not exempt by Section 4.18 (1) (b). No seller's permit shall be issued to minors.

(b) Applicants for a Fireworks Sale License shall make an application for each site in writing on forms provided by the Clerk. A Licensee may possess and sell the enumerated fireworks at more than one (1) site within the Village. A nonrefundable license application fee as set from time to time by resolution of the Board for each site shall accompany each application.

(c) The application for license shall include, without limitation, the following information:

1. Name, address, and telephone number of the applicant.

2. Address(es) at which the applicant intends to sell the enumerated fireworks.

3. Name(s), address(es), and consent(s) of the owner(s) of the real estate upon which the enumerated fireworks will be sold.

4. Itemization of which enumerated fireworks the applicant intends to sell.

5. A statement that applicant shall not employ minors to sell or handle fireworks except under the immediate onsite supervision of an adult age eighteen (18) or older.

(d) The President or Designee shall consider the application for licenses hereunder and shall approve or deny each application. If denied, the applicant shall have the right to appeal the denial to the Board. The Clerk shall issue the license upon the approval of the President or Designee or the Board. Once approved, the Fire Department shall receive a listing of all licenses and may inspect for occupancy and Village ordinance compliance.

(e) Licenses issued hereunder shall be for a term of one (1) year, from May 1 through the following April 30. Application for annual licenses shall be filed not later than April 1 each year.

(f) The Village may condition the issuance of licenses hereunder as it sees fit to protect the public interest and safety.

(g) The Village shall have the right to suspend or revoke any licenses in accordance with Paragraph 6 of this section.

(h) Licenses issued hereunder may not be transferred or assigned without the consent of the Village; and, no licensee may use a site other than the site licensed pursuant to the application of the licensee.

(i) The Fire Chief, DEO, or their Designee may temporarily suspend and confiscate licenses if violations occur and order the site closed pending corrective action or appeal to the Board.

(4) Obnoxious Odor Devices and Products.

(a) No person may sell, possess, or use any device, product, or item that has its

primary purpose the production of an obnoxious odor or smell.

(b) Without limitation, it shall be grounds for suspension or revocation of a person's seller or use permits if the licensee or permittee sells or possesses for sale any obnoxious odor devices, products, or items.

(5) Penalties. Any person who violates any provision of this Section 4.18, shall be penalized, upon conviction thereof, as set forth in Section 4.99.

(6) Revocation and Suspension of Seller's Permits; Non-Renewal.

(a) *Procedure.* Whenever the holder of any seller's permit issued by the Village violates any portion of the Village Code of Ordinances, proceedings for the revocation of such permit may be instituted in the manner and under the procedure established by this policy.

(b) *Seller's Permit Revocation, Suspension, or Non-Renewal.*

1. Notice and Hearing. Whenever a person holding a permit to sell has failed to maintain the premises according to standards prescribed for sanitation, or when the permittee has not observed and obeyed any lawful order of the Board, Fire Department or Police Department of the Village, has violated Village Ordinances, or for any other good reason, the Board shall issue a summons to be signed by the Clerk commanding the permittee complained of to appear before the Board on a day and time and at a place named in the summons to show cause why the permit should not be revoked, suspended, or not renewed.

In addition, any resident may file a sworn, written complaint with the Clerk. Such summons shall be served not less than three (3) and not more than thirty (30) days before the time at which the permittee is commanded to appear and may be served personally upon the permittee or the agent of the permittee or upon the person in charge of the permitted premises.

The complaint shall be served with the summons and shall set forth the offenses allegedly committed, the date and place of said offense and the facts constituting the alleged offense. If such permittee does not appear as required by the summons, the complaint shall be taken as true, and if the Board deems its allegations sufficient, the Board shall recommend revocation, non-renewal, or suspension of the permit as provided herein.

2. Procedure on Hearing; Effect of Revocation.

a. The President shall conduct the hearing, administer oaths to all witnesses and may issue subpoenas. So far as practicable, the rules of evidence provided in Wis. Stats. §227.08 shall be followed. The complainant shall have the burden of proving the charges to a preponderance of the evidence. The permittee and the complainant may be represented by counsel, may call and examine witnesses and cross-examine witnesses of the other party. All proceedings and testimony shall be recorded on tape. If either party requests a stenographic recording and transcription, the Village shall make the necessary arrangements, but the expenses shall be borne by the requesting party. The Clerk shall serve as secretary to the Board and shall make and receive all exhibits admitted into the record. The Board, upon the testimony and evidence presented at the hearing, shall determine by simple majority vote of those present whether the charges are true or not.

If the vote is to suspend the seller’s permit, it shall be for a period of not less than ten (10) days or more than ninety (90) days. Following the procedure above, the recommendation may be to revoke the seller’s permit.

If the Board determines that the charges are not substantiated, the complaint shall be dismissed without cost to either party. The

Board’s action shall be recorded by the Clerk.

b. If the complaint is found to be true, the permittee shall pay the Village the actual cost of the proceedings. If the complaint is found by the Board to be malicious and without probable cause, the complainant shall pay the costs of the proceedings in the same amount.

c. When a permit is revoked, it shall be so entered of record by the Clerk and no other seller’s permit shall be granted to such permittee for such premises for a period of twelve (12) months from the date of the revocation, nor shall any part of the money paid as application fee for any permit so revoked be refunded.

(c) *Demerit Point System/Revocation and Suspension of Seller’s Permit.* In addition to the procedures set forth at Section 4.18 (6) (b) above, the Village may suspend or revoke a seller’s permit without a hearing upon the following demerit system:

1. Point Schedule. Upon conviction by any Municipal Court, or other court of competent jurisdiction, a seller’s permit shall be awarded demerit points as follows:

| TYPE OF VIOLATION | DEMERIT POINTS |
|---------------------------------|----------------|
| Failure to be permitted: | 100 |
| False statement on application: | 100 |
| Zoning Code violations: | 50 |
| All other violations: | 50 |

2. Concurrent Violations. If two (2) or more violations are committed concurrently, the highest point violation shall be assessed.

3. Upon conviction, demerit points shall be awarded retroactive to the date of the violation. If one hundred fifty (150) demerit

points are accumulated in a twelve (12) month period, the Board shall suspend the permit for a period of ten (10) days.

4. Upon conviction, demerit points shall be awarded retroactive to the date of violation. If two hundred (200) demerit points are accumulated in a twenty-four (24) month period, the Board shall suspend the permit for a period of thirty (30) days.

5. Upon conviction, demerit points shall be awarded retroactive to the date of violation. If two hundred fifty (250) demerit points are accumulated in a thirty-six (36) month period, the Board shall suspend the permit for a period of ninety (90) days.

6. Demerit points are accumulated for each permit which results from conviction for a municipal code violation or a state law violation under the terms and conditions of this chapter. The actual demerit points are assessed upon entry of judgment and either expiration of the appeal period thereafter or the expiration of any appeal, and where the results of the appeal sustain the Village's conviction of the holder of the permit.

7. Each seller's permit shall stand revoked without further proceedings upon any conviction in Municipal Court or any other court of competent jurisdiction (and no reversal thereof upon appeal) of either the permitted holder or any employee, or agent or representative thereof, resulting in an accumulation of three hundred (300) demerit points within a forty-eight (48) month period. Any violation and subsequent conviction by the holder of the permit for violations of the Brown County Code of Ordinances shall be considered a violation and conviction under this policy and shall result in the accumulation of demerit points.

8. Other Provisions. Any permit issued pursuant to this section shall be subject to such further regulations and restrictions as may be imposed by the Board by amendment to this section or by the enactment of new ordinances. If any

permittees fail or neglect to meet the requirements imposed by such new restrictions and regulations, his/her permit may be revoked in accordance with this section. In case of revocation of any permit or any violation of any provision in this policy or by the court or for any reasonable cause except the imposition of new restrictions, no refund shall be made of any part of the permit fee.

9. Effect of Revocation of Permit. Whenever any seller's permit has been revoked pursuant to this Section 4.18, at least four (4) months from the time of such revocation shall elapse before another permit shall be issued for the same premises and twelve (12) months shall elapse before another permit shall be issued to the person whose permit was revoked.

10. Repossession of Permit. Whenever any seller's permit under this Section 4.18 shall be revoked or suspended by the Board or President or action of any court or Par. (d), it shall be the duty of the Clerk to notify the permit holder of such suspension or revocation and to take physical possession of the permit wherever it may be found and file it in the Clerk's office.

(7) Violations by Agents and Employees. A violation of this policy by an authorized agent or employee of a permittee shall constitute a violation by the permittee.

(8) Applicability. This policy is applicable to fireworks seller's and user's permits issued by the Village. This policy is not intended to replace established procedures for licenses issued by the Village as adopted in the Code of Ordinances. This policy is in addition to any other penalties or forfeitures that may be assessed by the Municipal Court for the Village or any other Court having jurisdiction for convictions related and, further, is in addition to any other penalties or forfeitures that may be assessed in accordance with Section 4.99 of the Village Code.

4.19 OPEN BURNING [adopted effective 1/1/05].

(1) General. A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with this section.

(a) Any other open burning event not covered herein requires a permit from the Fire Chief or his Designee.

(2) Definitions: The following definitions shall apply to this section:

(a) *Open fire.* The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include road flares, smudge pots and similar devices associated with safety or occupational uses typically considered open flames or recreational fires.

(b) *Accelerant.* A flammable or combustible liquid that will increase the rate of burning of a material. Under no circumstances may any flammable or combustible liquid be used to start or promote an open fire to burn.

(c) *Approved Container.* An approved container shall be:

1. A container that has all openings on the sides and top covered with wire screening, the wire of which shall not be smaller than #8 wire or the meshes of which shall not be more than one inch (1") across.

2. Approved portable fire places such as a chiminea are considered an approved container.

(d) *Bonfire.* A bonfire is an outdoor fire utilized for ceremonial purposes. With permission of the Chief and/or his designee, a bonfire may be greater than three (3) feet in diameter and greater than two (2) feet in height.

(e) *Chamber.* For the purpose of this definition, a chamber shall be regarded as

enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gases are open.

(f) *Fuel.* Fuel for any fires identified under this code section shall only consist of dry natural wood materials, leaves or charcoal. Materials for fires shall NOT include rubbish, garbage, trash, grass, any material made of or coated with rubber, plastic, leather, paint or petroleum-based materials and shall not contain any flammable or combustible liquids.

(g) *Recreational Fire/Barbecue Pit.* A below ground pit with a minimum depth of ten inches (10") not to exceed three feet (3') in diameter. The fire pit shall be surrounded on the outside, above ground, by a non-combustible material such as concrete block or rock.

(h) *Size.* Unless specified in the definitions above, the maximum size of any open fire, bonfire, recreational fire or fire/barbecue pit may not exceed three feet (3') in diameter and the fuel height may not exceed two feet (2') in height. Special permission (burning permits) may be granted by the Chief or his designee for larger piles.

(3) Burning permits shall be obtained from the Fire Department. The permit shall be good for ten (10) days unless otherwise amended by this code.

(a) Fees for burning permits shall be as set from time to time by resolution of the Board.

(4) Safety Considerations: The following shall be adhered to for open burning:

(a) *Atmospheric Conditions.* Fires will be limited to the following atmospheric conditions: No fire shall be started unless there are favorable conditions for burning with regard to wind direction and speed. No fire shall be started at a time when the wind

speed exceeds eight miles per hour (8 mph) as measured at the Green Bay NOAA National Weather Service station or local circumstances make fires potentially hazardous. Open burning shall be prohibited when such atmospheric conditions exist that would cause the smoke from open burning to stagnate such as an inversion or extremely high humidity.

(b) *Burning times.* Open fires other than bonfires or recreational fire/barbecue pits may only be conducted during daylight hours and must be extinguished at dusk.

(c) *Prohibited open burning.* Open burning that will be offensive or objectionable to occupants of the surrounding properties (creating a Public Nuisance as defined in Chapter 11 of the Village Code) due to smoke or odor emissions when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited. A fire department officer is authorized to order the extinguishment by either the party in control of the fire or the Fire Department when open burning creates or adds to a hazardous or objectionable situation.

(5) Location. The location of open fires shall be as follows:

(a) *Bonfires.* The location for open burning of a bonfire shall not be closer than one hundred feet (100') to a structure or combustible materials. Conditions which could cause a fire to spread within one hundred feet (100') of a structure shall be eliminated prior to ignition.

(b) *Recreational fires.* The location of recreational fires shall not be conducted within fifty feet (50') of a structure or combustible materials. Conditions which could cause a fire to spread within fifty feet (50') of a structure shall be eliminated prior to ignition.

(c) *Open fires/Controlled receptacles.* The location of open fires shall not be less than thirty feet (30') from any structure, and

provisions shall be made to prevent the fire from spreading to within thirty feet (30') of any structure.

(6) Attendance.

(a) All open fires shall be constantly attended until the fire is completely extinguished. A minimum of one (1) portable fire extinguisher complying with a minimum 4-A rating or other approved onsite fire extinguishing equipment, such as shovel, dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.

(b) *Responsible Person.* At least one (1) responsible person of age sixteen (16) years or older must be in attendance of all fires.

(7) Portable Open-Flame Cooking Devices. Portable open-flame cooking devices, regardless of cooking fuel, shall not be operated within ten feet (10') of combustible construction.

(a) *Exceptions:* Where buildings and decks are protected by an automatic sprinkler system.

(b) *Prohibited locations.* Portable open-flame cooking devices are prohibited on the balcony of any multi-family residential dwelling.

(8) Exempt Fires. The following described fires shall be exempt from the open fire requirements described in this section.

(a) Approved training for fire protection purposes. The Village Fire Department shall be the authority to determine approval of all such fires.

(9) Emergency Powers of the Chief. When the Chief determines there are environmental conditions likely to produce a serious threat of fire to life and property, it shall be the duty of the Chief of the Fire Department to impose a burning ban and burning restrictions and require that no person may:

(a) Set, build, or maintain any open fire, bonfire, recreational fire, or fire/barbecue pit or any other type of fire.

(b) Throw, discard, or drop matches, ashes or other burning material while outdoors in the immediate vicinity of combustible natural vegetation.

(c) Light or use any fireworks, as defined per Wisconsin Statutes, or caps, toy snakes, sparklers, some bombs, or cylindrical or cone fountains that emit sparks and smoke except in displays or use as authorized by the Fire Department where adequate fire prevention measures have been taken.

(d) Such a ban described above shall be lifted when the environmental conditions change so that serious threat is no longer present.

(10) Careless Smoking.

(a) It is unlawful for any person, by reason of careless, willful or wanton conduct in smoking or in the use of lighters or matches in smoking to set fire to any bedding, carpet, curtains, draperies, furniture, household equipment, combustible materials, or other goods or chattels or to any building.

(b) A plainly printed notice of the provisions of this section shall be posted in a conspicuous place in every sleeping room of every place renting rooms for the accommodation of the public. Such printed notices shall also be posted in any place of public assembly where smoking is permitted.

(11) Posting of No Smoking Signs.

The Chief shall post or cause to be posted no smoking signs in retail establishments where flammable or combustible materials are handled or sold and the act of smoking or striking a match or lighter device presents a fire hazard. Such signs shall be plainly visible on a contrasting background and shall be posted conspicuously in all areas where such hazards exist. Such sign shall

bear the words "No Smoking" across the top in large letters.

4.20 FIRE INSPECTION REQUIRED BEFORE OCCUPANCY.

(1) No person shall occupy or change the occupancy of a building or structure covered under Wis. Adm. Code, Commerce Chapters 50 through 64 (pre 2000); Comm. 61 through 65, Commercial Building Code; Comm. 70, Historic Buildings; and Comm. 75 through 79, existing buildings; used by or for public assembly, industrial, institutional, multifamily (public spaces), office, or mercantile purposes until such building or structure has been inspected and approved by the Fire Inspection Department, the Building Inspection Department and a Certificate of Occupancy is issued by the Village.

(a) The owner shall post the capacity in all buildings and on every level as approved by the Fire Inspection Department and Building Inspection Department. Signs (notices) shall be prominently displayed stating the maximum number of persons on each floor for whom stairways and other exits have been provided. Such notices shall be placed in full view on each floor.

(b) The capacity limit sign shall have the following wording: "Limit (number inserted) Persons". The maximum number of persons shall be determined by the capacity as permitted in the building code in effect at the time of construction of the building and/or the Fire Inspection and Building Inspection Departments jointly. The lettering shall be white on a dark background. The letters shall not be less than one and one half inches (1½") in height and the number shall not be less than three inches (3") in height.

4.21 INSTALLATION PERMITS.

(1) The following installation permits shall be required in the Village jurisdiction for industrial and commercial buildings:

(a) *Automatic fire extinguishing systems.* A permit is required for any installation of or modification to an automatic fire extinguishing system.

(b) *Fire alarm and detection system and related equipment.* A permit is required for installation of or modification to fire alarm and detection systems and related equipment.

(c) *Fire pumps and related equipment.* A permit is required for installation of or modification to fire pumps and related fuel tanks, jockey pumps, controllers, and generators.

(d) *Private fire hydrants.* A permit is required for the installation or modification of private fire hydrants.

(e) *Standpipe systems.* A permit is required for the installation, modification, or removal from service of a standpipe system.

(f) *Spraying or dipping.* A permit is required to install or modify any spray room/area, dip tank, or booth.

(g) Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

(2) Department approval shall be obtained. After an application is completed with three (3) sets of plans for each type of system, upon examination, the plans shall be dated and stamped "Conditionally Approved" or "Not Approved," whichever applies. If upon examination the department determines that the application for permit substantially conforms, a permit(s) shall be issued by the Fire Department. The Fire Department will stamp all plans conditionally approved and return two (2) sets of plans with the permit to the project proponent. A conditional approval issued by the department shall not be construed as an assumption of any responsibility for the design or construction. A letter shall be sent

to the submitter with a statement relating to the examination of the plans and citing the conditions of approval or denial. One (1) set of stamped plans should be present on the project site throughout the installation process.

(3) Revocation of approval. The department may revoke any approval issued under the provisions of this chapter for any false statements or misrepresentation of facts upon which the approval was based. A stop work order may be issued until a permit is approved and/or said issues are rectified.

(4) All permitted installation projects are subject to inspection by the department before, during, and at the time of final inspection for issuance of the Certificate of Occupancy. Conditions of issuing Certificate of Occupancy are compliance with all applicable codes and provisions of the permit including certification documentation and inspections.

4.22 REFERENCE STANDARDS.

(1) Wherever in this subchapter or during code enforcement practices reference is made to nationally recognized good or safe practice, the intent is that the practice to be followed shall be reasonable and safe as determined by the Fire Chief.

(2) The Fire Chief may refer, among other standard publications, to the National Fire Code as published by the National Fire Protection Association for determining what is reasonable and safe.

(3) Any publications used to determine nationally recognized good practice by the department shall be broadly construed to determine intent, but no provisions contrary to the Wis. Adm. Code or any other ordinance of the Village shall be used as a reference.

4.23 EFFECTIVE DATE. The effective date of this fire code will be January 23, 2006.

4.24 FLAMMABLE AND COMBUSTIBLE LIQUIDS STORAGE.

(1) Authority. The most current version of the Wis. Adm. Code, Chapter 10 (Comm. 10) and the applicable National Fire Protection Standards is hereby adopted, incorporated herein at length by reference and made part of the Village Fire Prevention Code.

The Department shall, as part of the authorized inspection authority related to storage tank inspections pursuant to the Professional Services Contract between the Department of Commerce and the Village, adopt Comm. 10 as it specifically relates to the storage tank program only. A Village permit must first be obtained by any parties installing any flammable and combustible liquid storage tanks in the Village.

(2) Inspection Requirements - Scope of Service. The department, as part of the Local Program Operator responsibilities, shall perform or contract to perform the following inspection duties related to the storage of flammable and combustible liquids in the Village:

(a) Complete plan examinations for all tank installations of less than five thousand gallons (5,000 gal.). Approve/disapprove plans which are submitted based upon criteria established in Commerce Chapter 10 or successor state law.

(b) Recommend permit fees, for approval by the Board, for all work related to the installation and alterations of tanks less than five thousand gallons (5,000 gal.) and permit fees for all tank removals.

(c) Perform installation inspections for tank systems reviewed at either the state or local level.

(d) Authorize stop work orders when violations of Commerce Chapter 10 have occurred.

(e) Perform the annual inspection of federally-regulated tank systems for

compliance with leak detection, operation and maintenance and the closure requirements established in Commerce Chapter 10.

(f) Perform inspections at the closure of tank systems.

(g) Perform any and all duties or authority as set forth in Comm. 10, the Village Code, or the contractual inspection agreement with the Wisconsin Department of Commerce as necessary and determined by the department.

(3) Inspection Requirements Notice. Notice inspection requirements shall be as follows:

(a) The department and its contracted agent shall be notified ten (10) days in advance of any underground storage tank removal.

(b) Twenty-four (24) hour minimum advance notice shall be required for any cancelled installation, upgrade, or removal inspection appointment.

(4) Fees. Shall be as set from time to time by resolution of the Board.

SUBCHAPTER III – LAW ENFORCEMENT

4.51 POLICE DEPARTMENT.

(1) In accordance with Wis. Stats. §61.65(2), the Village hereby elects to contract for police protection services with Brown County. The Board reserves the right to amend this section of the ordinance at such time that it deems appropriate for the good of the Village.

(a) *Police Chief.* The Police Chief for the Village.

(b) *Contract.* The current agreement entered into by and between the Village and Brown County.

(c) *County.* Means Brown County.

(d) *Department.* Means the Police Department of the Village as designated by the Contract.

(2) Appointment of the Chief of Police. The Chief of Police shall be the individual designated by the contract negotiated between the Village and Brown County or as appointed by the Board, such appointment to be made from personnel assigned to the Village by the Brown County Sheriff, or as otherwise allowed by law.

(3) From time to time the Village shall negotiate a contract with Brown County that addresses staffing levels, finances, appointment of the Chief of Police, and disciplinary actions.

4.52 CHIEF OF POLICE; POWERS AND DUTIES.

(1) The Chief of Police shall possess the powers, enjoy the privileges, and be subject to the liabilities conferred and imposed by law upon marshals and constables. The Chief shall:

(a) obey the lawful written orders of the Board.

(b) cause the public peace to be preserved and see that all laws and ordinances of the Village and state are enforced; and whenever any violation thereof comes to his/her knowledge, he/she shall cause the requisite complaint to be made and see that the evidence is procured for the successful prosecution of the offender.

(c) subject to the contract between Brown County and the Village, exercise supervisory control over all personnel of the department and may adopt, subject to the approval of the Board, rules and regulations for the government, discipline, equipment, and uniforms of police officers.

(d) be solely responsible for the care and condition of the equipment used by his department.

(e) keep an accurate and complete record of all complaints, arrests, traffic violations, convictions, and dispositions of

his department.

(f) make budget recommendations for the coming year to the Administrator by September 1 of each year.

4.53 POLICE OFFICERS.

(1) General Powers and Duties. Each officer of the department shall possess the powers conferred on marshals and constables by law, shall preserve the public peace and shall enforce the laws and ordinances of the state and Village subject to the orders, rules, and regulations of the Chief and the Board.

(2) Power of Arrest. The Police Chief and any police officer shall arrest all persons in the Village found in the act of violating any law or ordinance of the Village or state or aiding or abetting in such violation; they shall arrest without warrant any person whom they have reasonable grounds to believe have violated any law or ordinance and who would not be apprehended unless immediately arrested; shall take any arrested person in charge and confine them in the County Jail; and shall, within a reasonable time according to state law, bring such person before the court having jurisdiction thereof to be dealt with according to law.

4.54 RULES AND REGULATIONS.

Rules and regulations governing the Police Department shall be adopted from time to time by the Suamico Board.

SUBCHAPTER IV – EMERGENCY ALARM ORDINANCE

4.91 PURPOSE. It is hereby declared to be the policy of the Village to encourage the installation of reliable emergency alarm systems to provide additional protection from fire, crime, and other hazards which might be a danger to persons and property, but to discourage the incidence of preventable or avoidable false alarms and to

protect the Village from damage claims which may arise from the Village responding to a false alarm.

4.92 DEFINITIONS.

(1) **Alarm Business.** Any business operated by a person for profit which alters, installs, leases, maintains, monitors, replaces, sells, services, or responds to an alarm system, or which causes any of these activities to take place.

(2) **Alarm System.** One (1) or more devices installed or placed to signal the presence of a hazard requiring urgent attention to which Police or the Fire Department are expected to respond.

(3) **Alarm User.** Any person who owns or rents the premises on which an alarm system is maintained within the Village.

(4) **False Alarm.** The activation of an alarm through negligence of the owner or lessee of an alarm system or of his or her employees or agents, the activation of an alarm system through mechanical failure or malfunction because of improper maintenance by the alarm user, or the activation of an alarm system because of improper installation and/or use of equipment by the alarm business; but does not include alarms caused by tornados, earthquakes, or other violent conditions or acts of God.

(5) **Burglar Alarm System.** An alarm system signaling an entry or attempted entry into the area protected by the system.

(6) **Hold-Up Alarm System.** An alarm system in which the signal transmission is initiated by action of the robber or employee of the protected premises.

(7) **Fire Alarm.** An alarm system signaling the presence of fire or smoke.

(8) **Proprietary System.** An alarm system sounding and/or recording alarm and supervisory signals at the control center located within the protected premises, the control center being under the supervision of

the proprietor of the protected premises, but which is not connected directly or by means of an automatic dialing device to a police or fire communication center, a central station, or answering service.

4.93 FALSE ALARMS, SERVICE FEES.

(1) **Fees.** An alarm user shall pay to the Treasurer within ten (10) days after activation the following service fees for false alarms which occur within a continuous two (2) year period.

(a) False Alarms:

1. First false alarm: Zero dollars (\$0)
2. Second and third false alarms: Not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) plus the costs of prosecution.

3. Each subsequent false alarm: Not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) plus the costs of prosecution.

(b) Hold-Up or Burglary Alarms:

1. First false alarm: Zero dollars (\$0)
2. Second and third false alarms: Not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) plus the costs of prosecution.

3. Each subsequent false alarm: Not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) plus the costs of prosecution.

4.99 PENALTY, SEVERABILITY, AND ENFORCEMENT.

(1) **Penalty.** Any person who violates, or knowingly allows or permits any violation of, any provision of this ordinance, shall be subject to a forfeiture of not less than twenty-five dollars (\$25) and not more than two thousand five hundred dollars (\$2,500) per violation. Failure or refusal to pay forfeiture may result in imprisonment for a period of not more than ninety (90) days for each offense. A separate offense

and violation shall be deemed committed on each day on which a violation occurs or continues.

(2) Severability. If a court of competent jurisdiction deems any provision of this ordinance invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions of the same. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the court's decision, portions remaining in the ordinance shall retain the full force and effect thereof.

(3) Enforcement. Enforcement of this chapter shall be the responsibility of the Board or its designee, and/or Police Department.

Village of Suamico

Chapter 4

*Ordinance 2009-07 Amending Chapter 4.19 Open Burning
Adopted 4-20-09*