

**TITLE 5 Public Safety – Village of Gays Mills**

**TITLE 5 Public Safety**

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## CHAPTER 2

### Fire Protection

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#### SEC. 5-2-1 FIRE DEPARTMENT ORGANIZATION; GOALS OF THE DEPARTMENT.

- (a) **Fire Department Recognized.** The Gays Mills Volunteer Fire Department is officially recognized as the Fire Department serving the Village of Gays Mills, and the duties of the firefighting and fire prevention in the Village are delegated to such Department. The Gays Mills Volunteer Fire Department shall be responsible for the program of fire defense for the citizens and property within the Village of Gays Mills.
- (b) **Appropriations.** The Village Board shall appropriate funds for Fire Department operations and for such apparatus and equipment for the use of the Fire Department as the Board may deem expedient and necessary to maintain efficiency and properly protect life and property from fire.
- (c) **Goals of the Fire Defense Program.**
  - (1) The primary objective of the fire defense program is to serve all citizens, without prejudice or favoritism, by safeguarding, collectively and individually, their lives against the effects of fires and explosions.
  - (2) The second objective of the fire defense program is to safeguard the general economy and welfare of the community by preventing major conflagrations and the destruction by fire of industries and business.
  - (3) The third objective of the fire defense program is to protect the property of all citizens against the effects of fire and explosions. All property deserves equal protection regardless of location or monetary value.
- (d) **Bylaws Governance.** The Gays Mills Volunteer Fire Department shall be organized and governed pursuant to its bylaws.
- (e) **Bylaws.** The Fire Department shall adopt bylaws for its control, management and government and for regulating the business and proceedings of the Department, which bylaws, after adoption by a two-thirds (2/3) vote of the members of the Department, shall not become effective until approved by the Village Board. Amendments shall be adopted in the same manner.
- (f) **Fire Department Organization.** The Gays Mills Volunteer Fire Department shall consist of the following officers: one (1) Chief, one (1) Assistant Chief, a Secretary, and a Treasurer. The Chief shall hold his/her office for a term of one (1) year and the other officers shall hold office for such terms as may be determined by the bylaws adopted by the Department upon election by the members of the Department and upon approval by the Village Board together with as many drivers and firefighters as

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may be appointed by the Chief provided that at no time shall the Department consist of less than thirty (30) active members at least fifteen (15) of whom shall be able to do both fire engine and hook and ladder truck work.

- (g) **Applications.** Any person desiring to be a member of the Fire Department may file an application with the Secretary. Each applicant 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 as provided by the bylaws shall be presented to the Village Board for confirmation.
- (h) **Election of Officers; Vacancy.** The election of Chief, Assistant Chief, Secretary and Treasurer, and such social officers as the bylaws may require shall be held at the annual meeting of the Department in such manner as is provided in the bylaws. In case of any vacancy in any of such offices, the Chief shall appoint a member of the Department in good standing to fill the office until the next annual election.

State Law Reference: Sec. 213.08, *Wis. Stats.*

### SEC. 5-2-2 IMPEDING FIRE EQUIPMENT PROHIBITED.

No person shall impede the progress of a fire engine, fire truck or other fire apparatus of the Gays Mills Volunteer Fire Department along the streets or alleys of such Village at the time of a fire or when the Fire Department of the Village is using such streets or alleys in response to a fire alarm or for practice.

### SEC. 5-2-3 POLICE POWERS OF THE DEPARTMENT; INVESTIGATION OF FIRES.

#### (a) **Police Authority at Fires.**

- (1) The Chief or other person in the Fire Department in command at any fire, pursuant to Section 213.095, *Wis. Stats.*, is invested with full and complete police authority at fires. Any officer of the Department may cause the arrest of any person failing to give the right-of-way to the Fire Department in responding to a fire.
- (2) The Fire Chief may prescribe certain limits in the vicinity of any fire within which no persons, excepting firefighters and police officers and those admitted by order of any officer of the Department, shall be permitted to come.
- (3) 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 during the progress of any fire he/she shall have the power to cause the removal of all wires or other facilities and the turning off of all electricity or other services where the same impedes the work of the Department during the progress of a fire.

#### (b) **Fire Inspection Duties.**

- (1) The Fire Chief, or the Chief's designee, shall be the Fire Inspector of the Village of Gays Mills and shall have the power to appoint one (1) or more deputy Fire Inspectors and shall perform all duties required of the Fire Inspectors by the laws and administrative rules of the State, particularly Section 101.14, *Wis. Stats.*
- (2) While acting as Fire Inspector pursuant to Section 101.14(2), *Wis. Stats.*, the Fire Chief, or any officer of the Fire Department designated by the Fire Chief, shall have the right and authority to enter every public building and place of employment in the Village of Gays Mills at all reasonable hours for the purpose of making inspections or investigations which, under the provisions of this Code of Ordinances, he/she may deem necessary. Should the Fire Inspector

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- find that any provisions of this Code or any other applicable law relating to fire hazards and prevention of fires are being violated, or that a fire hazard exists, it shall be his/her duty to give such directions for the elimination of such conditions and, if such directions be not complied with, to report such noncompliance to the Village Board for further action.
- (3) Such inspections shall be made at least once in each nonoverlapping six (6) month period per calendar year in all of the territory served by the Fire Department unless otherwise provided by rule by the Wisconsin Department of Commerce, and not less than once in three (3) months in such territory as the Village Board has designated or thereafter designates as within the Village or as a congested district subject to conflagration, and oftener as the Chief of the Fire Department orders. Each six (6) month period shall begin on January 1 and July 1, and each three (3) month period on January 1, April 1, July 1 and October 1 of each year.
  - (4) Written reports of inspections shall be made and kept on file in the office of the Chief of the Fire Department in the manner and form required by the Department of Commerce. A copy of such reports shall be filed with the Fire Chief.

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

### **SEC. 5-2-4 DAMAGING FIRE HOSE PROHIBITED; PARKING BY HYDRANTS; BLOCKING FIRE LANES.**

- (a) **Driving Over Fire Hose.** No person shall willfully injure in any manner any hose, hydrant or fire apparatus belonging to the Gays Mills Volunteer Fire Department, and no vehicle shall be driven over any unprotected hose of the Fire Department when laid down on any street, private driveway or other place, to be used at any fire or alarm of fire, without the consent of the Fire Department official in command.
- (b) **Parking Vehicles Near Hydrants.** It shall be unlawful for any person to park any vehicle or leave any object within ten (10) feet of any fire hydrant at any time.
- (c) **No Parking Near Fire.** It shall be unlawful for any person, in case of fire, to drive or park any vehicle within one (1) block from the place of fire without the consent and authority of the Fire Chief or any police officer.

### **SEC. 5-2-5 FIREMEN MAY ENTER ADJACENT PROPERTY.**

- (a) **Entering Adjacent Property.** It shall be lawful for any firefighter while acting under the direction of the Fire Chief or any other member of the Fire Department in command to enter upon the premises adjacent to or in the vicinity of a building or other property then on fire for the purpose of extinguishing such fire and in case any person shall hinder, resist or obstruct any firefighter in the discharge of his duty as is hereinbefore provided, the person so offending shall be deemed guilty of resisting firemen in the discharge of their duty.
- (b) **Destruction of Property to Prevent the Spread of Fire.** During the progress of any fire, the Fire Chief or his/her assistant shall have the power to order the removal or destruction of any property necessary to prevent the further spread of fire; provided that it is inevitable that, unless such property is removed, other property is in danger of being destroyed by fire.

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### **SEC. 5-2-6 DUTY OF BYSTANDERS TO ASSIST.**

Every person who shall be present at a fire shall be subject to the orders of the Fire Chief or member of the Fire Department in command and may be required to render assistance in fighting the fire or in removing or guarding property. The Fire Chief or such member shall have the power to cause the arrest of any person or persons refusing to obey said orders.

### **SEC. 5-2-7 VEHICLES TO YIELD RIGHT-OF-WAY.**

Whenever there shall be a fire or fire alarm or the Fire Department shall be out for practice, every person driving or riding in a motorized or other vehicle shall move and remain to the side of the street until the fire engine and fire truck and other fire apparatus shall have passed.

### **SEC. 5-2-8 INTERFERENCE WITH USE OF HYDRANTS PROHIBITED.**

No person shall occupy any portion of such streets or alleys with a motorized or other vehicle between such fire engine or fire truck or other fire apparatus or any hydrant to which a fire hose may be, or may be about to be, attached.

### **SEC. 5-2-9 OPEN BURNING.**

- (a) **Open Burning Prohibited.** No person, firm or corporation shall build any outdoor fire within the corporate limits of the Village of Gays Mills excepting as set forth below in this Section. This prohibition on burning includes burning of construction waste and debris at construction sites and the use of burning barrels. Outdoor burning is prohibited notwithstanding the exceptions in this Section when local circumstances make fires potentially hazardous, which local circumstances include, but are not limited to, thermal inversions, wind, ozone alerts, and very dry conditions.
- (b) **Exceptions.**
- (1) Outdoor cooking over a fire contained in a device or structure designed for such use is permissible;
  - (2) Recreational burning pits not exceeding four (4) feet in diameter and not located less than twenty-five (25) feet from any structure (the burning of clean wood only is permitted and the use of burning pits to burn refuse is prohibited);
  - (3) Controlled burning of grass or similar vegetation for land clearing, with the prior written approval of the Director of Public Works, or his designee, may be permitted;
  - (4) Ceremonial fires or bonfires, with prior written approval of the Director of Public Works, or his/her designee, may be permitted.
  - (5) Other occasions of desirable outdoor burning not specified by this Subsection, but not as an alternative to refuse removal or disposal of which other methods are available, with the prior written approval of the Director of Public Works, or his designee, may be permitted.
  - (6) Open burning when a permit is issued.
  - (7) Burning relating to Fire Department training or similar purposes.

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### (c) **Application for Permit.**

- (1) Procedure for Issuance of Burning Permit. Before the setting or starting of any open burning permitted under this Section, a permit authorizing the burn shall be first obtained by the owner, operator, or agent from the Director of Public Works or from such other person as may be authorized or designated by the Director of Public Works to issue such permits. Application for a burning permit shall be made in writing upon a form furnished by the Director of Public Works or Chief of Police. The Director of Public Works may also establish from time to time special rules or restrictions relating to open burning by permit. Such rules may govern conditions including, but not necessarily limited to, the following:
  - a. Hours when burning is allowed;
  - b. Day(s) when burning is allowed;
  - c. Material which may or may not be burned;
  - d. Whether open burning is allowed or whether burning is only allowed with an approved incinerator or burning device;
  - e. The length of time the permit is valid;
  - f. What constitutes an approved burning device or incinerator;
  - g. The size of the material pile burned by open burning;
  - h. The distance or distances to be maintained between the material being burned and other flammable material;
  - i. Supervision required for burning, including minimum age of supervisors and type of fire extinguishing equipment which must be present at the burn site; and
  - j. The manner in which ashes created by the burning under the permit are to be disposed of.
- (2) Issuance Of Permit. If the Director of Public Works, or other person authorized by him to issue such permits, finds that the proposed burning complies with all Village ordinances and the regulations contained in Chapter ILHR 14, Wis. Adm. Code, the Director of Public Works shall approve the application, and a burning permit shall be subsequently issued to the applicant. A copy of any burning permit, and the application therefore, shall be kept on file with the Chief of Police. No burning permit issued shall be valid for more than thirty (30) days from the date when issued.

### (d) **Open Burning Regulations.** The following regulations shall be applicable when an open burning permit has been issued:

- (1) All open burning conducted pursuant to a permit shall be performed in a safe, pollution-free manner, when wind and weather conditions are such as to minimize adverse affects, and in conformance with local and state fire protection regulation. Open burning permits shall not be used to covertly burn plastic, construction debris or other prohibited materials.
- (2) The size of the pile of material to be burned shall not exceed four (4) feet in any direction measured horizontally, or three (3) feet measured vertically.
- (3) The pile of material being burned shall be at least fifty (50) feet away from any structure, wood or lumber pile, wooden fence, trees, or bushes. Provisions shall be made to prevent the fire from spreading to within fifty (50) feet of such items or the fire shall otherwise be contained in an approved incinerator or burner device which is located at least fifteen (15) feet away from any structure, wood or lumber pile, wooden fence, trees, or bush(es).
- (4) Any ashes created by burning such material as is lawful under this Section are to be disposed of in a manner authorized by law.
- (5) Open burning shall be constantly attended and supervised by a competent person of at least sixteen (16) years of age until such fire is extinguished. This person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire while burning and/or extinguishing such fire.

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- (6) No materials may be burned upon any street, curb, gutter, or sidewalk.
- (7) Permits shall not be issued for burning barrels.

State Law Reference: Ch. ILHR 14, Wis. Adm. Code.

**SEC. 5-2-10 DEPARTMENT FUNDS -- GENERAL FUND.**

All Fire Department funds, specifically all refunds from the State of Wisconsin, all contract fees for protection of outside properties, all funds raised by taxation for Department purposes, and any other charges made for the use of Department equipment or proceeds from the sale of Department equipment shall be placed in the General Fund for the Village of Gays Mills.

CHAPTER 3

Flammable Materials; Hazardous Substances

- 5-3-1 Flammable and Combustible Materials Storage
- 5-3-2 Discharge of Hazardous Substances

**SEC. 5-3-1 FLAMMABLE AND COMBUSTIBLE MATERIALS STORAGE.**

- (a) **Authority.** Pursuant to Chapter ILHR 10, Section 10.10, Wis. Adm. Code, Flammable and Combustible Liquids Code, the Village of Gays Mills hereby assumes authority for the regulation of installations of all tanks for the storage, handling or use of flammable and combustible liquids which have an individual capacity of less than five thousand (5,000) gallons.
- (b) **Plan Submission.** Plans for such installations shall be submitted to be approved in writing by the Fire Chief of the Gays Mills Fire Department before commencing any construction of new or additional installation or change in operation of a previously approved installation for the storage, handling or use of flammable or combustible liquids.
- (c) **Plan Contents.** Plans as submitted to the Fire Chief must include all information as required by Chapter ILHR 10, Sections 10.10(4) and (6), Wis. Adm. Code. Installations for the storage, handling or use of flammable and combustible liquids must comply with all State and local codes.
- (d) **Inspection.** The Chief shall have full authority and responsibility for the inspection of such installations.
- (e) **Fee.** The fee for the installation permit and inspection shall be One Hundred Dollars (\$100.00) to cover the cost of one (1) inspection. Should more than one (1) inspection be necessary in the judgment of the Chief, an additional charge of Fifty Dollars (\$50.00) per inspection shall be payable. All fees shall be payable to the Village of Gays Mills Clerk-Treasurer.

**SEC. 5-3-2 DISCHARGE OF HAZARDOUS SUBSTANCES.**

- (a) **Definitions.**
  - (1) “Discharge” means, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping.
  - (2) “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.
  - (3) “Reviewing Entity” means the County employee or body designated by the County as a reviewing entity under Section 166.22(5), *Wis. Stats.*, or, if no such designation is made, the County local emergency planning committee.
- (b) **Discharges.** A person who possesses or controls a hazardous substance that is discharged or who causes the discharge of a hazardous substance shall take the actions necessary to protect public health and safety and prevent damage to property.

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- (c) **Emergency Action.** If action required under Subsection (b) is not being adequately taken or the identity of the person responsible for a discharge of a hazardous substance is unknown and the discharge threatens public health or safety or damage to property, the Village, including its police, fire or public works department, may take any emergency action that is consistent with the contingency plan for the undertaking of emergency actions in response to the discharge of hazardous substances established by the Wisconsin Department of Natural Resources under Section 292.11(5), *Wis. Stats.*, and that it considers appropriate under the circumstances.
- (d) **Reimbursement.**
  - (1) The Village shall apply to the State of Wisconsin Emergency Response Board to be reimbursed for a local emergency response for costs incurred by the Village in responding to a hazardous substance discharge under Subsection (c). Reimbursement under this Subsection is limited to the amount appropriated under Section 20.465(3)(rt), *Wis. Stats.* Reimbursement is available under Section 20.465(3)(rt), *Wis. Stats.*, only if the Village has made a good faith effort to identify the person responsible under Subsection (d)(2), *infra*, and that person cannot be identified, or, if that person is identified, the Village has received reimbursement from that person to the extent that the person is financially able or has determined that the person does not have adequate money or other resources to reimburse the Village.
  - (2) A person who possessed or controlled a hazardous substance that was discharged or who caused the discharge of a hazardous substance shall, as provided under Section 166.22(5), *Wis. Stats.*, reimburse the Village directly for actual, reasonable and necessary expenses incurred under Subsection (c).
  - (3) The Village shall submit a claim stating its expenses to the Reviewing Entity for the County in which the discharge occurred.

State Law Reference: Sec. 166.22, *Wis. Stats.*