

5.01 TITLE

This ordinance is entitled the "Town Fire Department Ordinance."

5.02 AUTHORITY

The Town Board has the specific statutory authority, powers, and duties, pursuant to Sec. 60.55, and Sec. 60.555, (1991-1992) Wis. Stats., to provide for fire protection for the Town and to adopt regulations to prevent, detect and suppress fire and related fire hazards.

5.03 ADOPTION OF ORDINANCE

The Town Board has, by the adoption of this ordinance, confirmed the specific statutory authority, powers, and duties noted in Chapter 60, (1991-1992) Wis. Stats., and has established, pursuant to the chapter noted above and this ordinance, other statutory authority, powers, and duties of the Town Board related to providing fire protection and adopting regulations to prevent, detect, and suppress fire and related fire hazards.

5.04 FIRE DEPARTMENT RECOGNIZED

Pursuant to the authority granted to the Town Board by Sec. 60.55, (1991-1992) Wis. Stats., the Randall Volunteer Fire Department is officially established and recognized as the Fire Department of the Town and the duty of the fire fighting and prevention of fires in the Town is delegated to the Department. Its organization and internal regulations shall be governed by the provisions of this chapter and by the bylaws adopted by the Department as are approved by the Town Board, except as is otherwise provided by law.

5.05 BYLAWS

The Town Fire Department shall adopt bylaws for the control, management, government, and regulation of 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 and operative until presented to and approved by the Town Board. Amendments shall be adopted in the same manner.

5.06 EQUIPMENT AND APPARATUS

All Fire Department equipment and apparatus operated by the Fire Department shall be owned by the Town. Any replacement or additions to the equipment or apparatus shall likewise be owned by the Town.

5.07 FEES

(1) There shall be no fee charged for the use of Fire Department equipment and apparatus, which is owned by the Town. This no fee provision shall not include any agreements with other governmental agencies or private parties, which are lawfully executed.

(2) The fees incurred by the Town for equipment or apparatus, which is not owned, by the Town but necessary in the combating and extinguishing of a fire shall be charged to the property owner at the actual costs incurred.

(3) False Alarms

(Created 10/1995)

(a) Two (2) false alarms shall be without charge in any calendar year. A service charge of fifty dollars (\$50.00) per false alarm shall be billed to the alarm holder yielding a third and/or fourth false alarm. A service charge of seventy-five dollars (\$75.00) per false alarm shall be billed to the alarm holder yielding a fifth and/or sixth false alarm. A service charge of one hundred dollars (\$100.00) per false alarm shall be billed to the alarm holder yielding a seventh and/or eight false alarms. The alarm holder shall be billed two hundred dollars (\$200.00) for each false alarm thereafter in any calendar year. The Town Board reserves the right to disconnect unreliable systems.

1. "False alarm" is defined as a false activation of a fire alarm caused by a malfunction of the equipment.

2. Should a false alarm be transmitted by a piece of electronic equipment under service by an alarm company, there shall be no charge for a false alarm provided the alarm holder gives the Town Board or Fire Department proof that the defect is being corrected.

3. In the event false alarms or trouble alarms exceed six (6) during any calendar year, the Town Board may direct the company maintaining the County monitoring equipment to disconnect the premises from which such false or trouble alarms originate. Reconnection of such premises to the monitoring equipment shall not be made until all false alarm fees and a reconnection charge of three hundred dollars (\$300.00) has been paid to the Town.

(b) Failure or refusal of any alarm holder to pay any service charge for false or trouble alarms will result in discontinuance of the alarm service, at the election of the Town Board.

(c) A thirty (30) day grace period for new alarm systems or for major modification or additions to existing alarm systems shall be granted upon request and approval by the Town Board or Fire Department.

(4) Testing Equipment

(a) Alarm systems transmitting emergency signals directly to the communications center of the County shall be tested, or demonstrated, only with prior approval from the Sheriff.

(5) Disconnection from County Facilities

(a) Failure of an alarm holder to pay any service charges required to be paid by this Chapter shall be cause for the Town Board to disconnect an alarm system.

(b) If any alarm system records twelve (12) false alarms within any twelve (12) month period, such shall be cause for the Town Board to disconnect an alarm system upon giving sixty (60) days written notice to the alarm holder.

(c) Any disconnection hereunder shall not be at the cost of the Town.

(6) Reconnection to Town or County Facilities

(a) If an alarm system has been disconnected because of nonpayment of any charges, the alarm system may be reconnected to the Town or County facility only after payment of all outstanding charges.

(b) If an alarm system has been disconnected because of excessive false alarms, the alarm holder affected must submit to the Town Board and Fire Department and the Sheriff a written statement showing all reasons, if any, for the false alarms and setting forth what measures have been taken to prevent or to minimize future similar problems. The Town Board and Fire Department and the Sheriff shall review such statements and if the Sheriff recommends reconnection of the alarm system in question, the alarm holder shall be allowed to reconnect.

5.08 COMPENSATION

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

5.09 APPROPRIATIONS *(Revised April 11, 2002 Ordinance No. 5.09)*

(1) By October 1st of each year, the Fire Chief shall present to the Town Board for its approval a budget of the anticipated revenue and expenses for the next calendar year. The Town Board shall have the power to appropriate the funds to provide for the equipping and operation of the Fire Department. All funds proposed in connection with the budget of the Fire Department shall be administered by and be under the control of the Town Board. All expenditures from the budget of the Fire Department shall be approved by the Town Board before any expenditure is made, except emergency items to be determined by the Chief. The Town Board shall establish an emergency fund, which shall be used exclusively for the purchase, repair, and replacement of the necessary items to keep and maintain the Fire Department operational and functioning and capable of performing its duties. This emergency fund shall not exceed the sum of one thousand (\$1,000) dollars at any given time. The Fire Chief is authorized to make disbursements from the funds as provided in this section.

(2) The Fire Chief shall provide a written report of any expenditures from the emergency account and a copy of the bill or waiver describing the expenditure to the Town Treasurer within seven (7) days of the expenditure. The Town Treasurer shall present the written report and copy of the bill or voucher for approval at the next Town Board meeting.

(3) Nothing in this instant Ordinance shall affect the provisions and validity of Town of Randall Ordinance 3.22, nor shall the provisions of Town of Randall Ordinance 3.22 affect the provisions and validity of this instant Ordinance.

5.10 SERVICE AREA

The service area of the Fire Department shall be limited to the Town, except for services rendered under a mutual aid agreement with a fire department or departments servicing the area. All mutual aid agreements with other fire departments shall be approved by the Fire Chief and the Town Board.

5.11 ORGANIZATION AND MEMBERSHIP

(1) Officers

The Fire Department shall consist of the following officers: one (1) Chief, two (2) Battalion Chiefs, two (2) Captains, four (4) Lieutenants, one (1) Chief Engineer, one (1) Training Officer, one (1) Commissioner, one (1) Secretary, one (1) Treasurer and as many drivers and fire fighters as may be necessary.

(2) Appointments and Election of Officers, Term of Office and Vacancies

(a) The Chief, commissioner, secretary, treasurer, and battalion chiefs shall be elected by the active membership of the Fire Department as provided in Article II of the bylaws. However, each person so elected shall be subject to confirmation by the Town Board.

(b) The training officer, chief engineer, captains, and lieutenants shall be appointed by the Officer Board as provided in Article III, Section XI, of the bylaws.

(c) The term of office for each of the offices provided in this subsection shall be for one (1) year, commencing on January 1st and ending on December 31st of each year.

(d) A vacancy in any of the offices set forth in par. (a) of this subsection shall be filled by appointment of the Town Board. Any person so appointed shall serve out the remainder of the unexpired term of offices.

(e) A vacancy in any of the offices set forth in par. (b) of this subsection shall be filled by appointment of the Officer Board. Any such person so appointed shall serve out the remainder of the unexpired term of office.

(f) In the event of illness or temporary incapacity of the Chief to perform his duties, such duties shall be performed during that period of illness or temporary incapacity of the Chief by the ranking officer of the Fire Department.

(3) Organization into Battalions

The Chief may organize the Fire Department into two (2) or more battalions. The Chief may at any time make transfers which he deems necessary between the battalions. Each battalion of the Fire Department shall be in the charge of a battalion chief or in his absence, a lieutenant, who shall be responsible to the Chief.

(4) Membership

Any person desiring to be a member of the Town Volunteer Fire Department may file an application for membership on forms provided by the secretary of the Fire Department. Membership in the Fire Department shall be subject to this chapter and the bylaws of the Fire Department. The name of any applicant shall be approved by the Fire Department as provided in Article I, Section 3, of the bylaws, and shall be presented to the Town Board for confirmation. A list of all members of the Fire Department shall at all times be filed with the Town Clerk.

(5) Resignations

All resignations from the Fire Department shall take the same course as applications for an appointment to membership.

5.12 DISCIPLINARY ACTIONS AND DISCHARGE PROCEDURES

(1) If any member of the Fire Department fails to perform his or her duties as prescribed in this chapter, in the bylaws of the Fire Department or in any other rules and regulations of appropriate governmental authorities or agencies, he or she may be suspended, reduced in rank or discharged for cause by the Town Board, pursuant to the provisions of this section.

(2) Charges may be filed against any member of the Fire Department by the Chief, a member of the Town Board, the Town Board as a body or any other person. Such charges shall be in writing and shall be filed with the Town Chairperson. Pending disposition of the charges, the Town Board or the Chief may, in their discretion, suspend the member of the Fire Department, but the suspended member of the Fire Department shall not be deprived of compensation or other benefits while suspended pending disposition of such charges.

(3) Within five (5) days following the filing of charges as stated in subsection (2), a copy shall be served upon the person charged, together with a written notice of the time, day and place of the evidentiary hearing as described in subsection (4).

(4) An evidentiary hearing shall be held before an independent hearing examiner selected by the Town Board not less than ten (10) days nor more than thirty (30) days following service of charges and notice of hearing on the member. Costs of the hearing examiner shall be paid by the Town. The hearing on the charges shall be closed to the public, unless the member requests that the hearing be open to the public. Such a request shall be in writing and served on the Town Chairperson of the charges and notice of hearing on the member. At the hearing both the accused and the complainant may be represented by an attorney and may

compel the appearance of witnesses by subpoenas which shall be issued by the Town Chairperson on request and be served as are subpoenas under Chapter 885, (1991-1992) Wis. Stats.

(5) The independent hearing examiner shall, after the evidentiary hearing, make findings of fact and a determination based upon the evidence produced at the hearing. All of the testimony shall be recorded verbatim and shall be transcribed at the Town's expense. The independent hearing examiner shall make a recommendation to the Town Board which may include: to take no action against the member of the Fire Department; reinstate the member, if suspended pending disposition of the charges; suspend the member of the Fire Department for a definite length of time; reduce the member in rank or remove and discharge the member from the Fire Department. The findings and recommendations shall be filed with the Town Clerk within three (3) days of the evidentiary hearing.

(6) The Town Board shall determine whether the member shall be: reinstated; reduced in rank; suspended or discharged; or any other appropriate action, except that a concurring vote of at least two-thirds (2/3) of the Town Board shall be required if the action of the Town Board is contrary to the recommendation of the independent hearing examiner.

(7) Without the filing of charges, a member may be suspended without pay for cause up to five (5) days by the Chief as a penalty. The Chief shall file a report of the suspension with the Town Board and the Town Clerk immediately upon issuing the suspension. No hearing shall be held unless the Chief is requested by the member for such a hearing, which request shall be made to the Chief within twenty four (24) hours of the member's receiving notice of suspension.

(8) If a hearing is requested, the Chief shall file charges with the Town Chairperson.

(9) Further rules for the administration of this section may be made by the Town Board.

(10) The provisions of subsections (1) through (9) shall apply to disciplinary actions against the Chief, where applicable. In addition, the Town Board may suspend a Chief pending disposition of charges filed.

5.13 POWERS AND DUTIES OF CHIEF

(1) The Chief shall have general supervision of the Fire Department, subject to this chapter and the bylaws of the Fire Department and shall be responsible for the personnel and general efficiency of the Fire Department.

(2) The Chief shall preside at all meetings of the Fire 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 of the Fire Department.

(3) The Chief shall make every effort to be at all fires in the Town or within the Fire Department service area (if any) or at fires at which the Fire Department has responded for service pursuant to a mutual aid agreement with another fire department or departments.

(4) The Chief shall have complete command of and entire responsibility for all fire fighting operations, shall have the duty to plan and control the same, direct action of the battalions when they arrive at a fire, to observe that every battalion does its duty, to grant leaves of absence at a fire when he or she may deem it proper and to see that the fire apparatus is kept in proper conditions at all times. In the event that the Chief is absent, the highest ranking officer of the Fire Department in attendance at the fire shall take charge and shall have the same powers and duties of the Chief.

(5) Not later than quarterly, the Chief shall submit a written report to the Town Board relating to the condition of the various pieces of apparatus and appurtenances, the number of fire calls made prior to such a report since the first of the calendar year, the date of the fires and the loss occasioned, the number of members of each battalion, the total number of active members in the Fire Department and resignations and expulsions from the Fire Department. He or she shall also report on the drill and training program of the Fire Department, together with other pertinent information, including recommendations of improvements as he or she deems proper and necessary for the operation of the Fire Department.

(6) He or she shall enforce all fire prevention ordinances of the Town and State laws and regulations pertaining to fire prevention and shall keep citizens informed on fire prevention methods and the activities of the Fire Department.

(7) He or she shall keep a fire record book of every fire call to which the Fire Department has responded and shall enter on such book the location of the fire, time the alarm was received, cause of the fire, where the fire started; causes of delay (if any) in responding, equipment used, estimated time before the fire was extinguished and the number of fire fighters responding.

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

(9) He or she shall perform such other duties as are incumbent upon him or her as the commanding officer of the Fire Department and as may be directed from time to time by the Town Board.

(10) The Chief shall report all fires in which arson is suspected to the Sheriff's Department and the State Fire Marshall as required by the laws of the State, particularly Sec. 165.55, (1991-1992) Wis. Stats.

5.14 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 within the town limits or in training therefore, except pursuant to an agreement approved by the Town Board after the Chief has given his recommendations on such use. With the approval of the Chief, the apparatus may be use for emergency purposes other than fire fighting within the Town. A written report of all uses shall be made quarterly to the Town Board, as provided in Sec. 5.13(5) of this chapter.

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

5.15 POLICE POWER OF DEPARTMENT

(1) The Chief and assistants or officers in command at any fire shall have full and complete police authority at fires, including the enumerated powers in this chapter and all other authority permitted under the laws of Wisconsin.

(2) The Chief or the officer in charge at any fire may prescribe certain limits in the vicinity of any fire within which no person, except a fire fighter and police officer and those admitted by order of any officer of the Fire Department, shall be permitted to come. The Chief or office in charge at any fire occurring in the Town may cause the removal of any property whenever it shall become necessary for the preservation of the property from fire or to prevent the spreading of fire or to protect the adjacent property. During the progress of any fire, he or she may order the removal or destruction of any property necessary to prevent the further spread of the fire. He or she shall cause the removal of all wires or other services where the

same impedes the work of the Fire Department during the progress of the fire.

(3) Any fire fighter, while acting under the direction of the Chief or other officer in command, shall enter upon the premises adjacent to or in the vicinity of any building or other property then on fire for the purpose of extinguishing such fire. No person shall hinder, resist or obstruct any fire fighter in the discharge of his or her duty as provided in this chapter.

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

(5) The powers and duties vested in the Chief or officer in charge of a fire as provided in this chapter shall be limited to the fires that occur in the Town and shall not include fires outside the Town to which the Fire Department has responded by virtue of a mutual aid agreement with another fire department or departments.

5.16 FIRE INSPECTOR DUTIES

(1) The Chief shall hold the office of Fire Inspector, with the power to appoint from the members of the Fire Department, subject to Town Board approval, one or more deputy fire inspectors, who shall perform the same duties and have the same powers as the Fire Inspector by the laws of the State and rules of the state Department of Industry, Labor and Human Relations, particularly Sec. 101.14, (1991-1992) Wis. Stats.

(2) The Fire Inspector shall inspect every six (6) months, as provided in Sec. 101.14(2)(c), (1991-1992) Wis. Stats., all buildings, premises and public thoroughfares, except the interior of private dwellings, within the Town and other service area, if any, of the Fire Department, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire or any violations of any law or ordinance related to the fire hazard or to the prevention of fires. The Fire Inspector shall also investigate and issue permits in accordance with the regulations of the State Department of Industry, Labor and Human Relations for the storage and handling of explosives and flammable liquids within the fire protection area. He or she shall perform such other duties as required by the State Department of Industry, Labor and Human Relations, as provided in Sec. 101.14, (1991-1992) Wis. State.

(3) Whenever any inspection by the Fire Inspector or his or her deputies reveals a fire hazard, the Fire Inspector or his or her deputy shall serve notice in writing upon the owner of the

property giving the owner a reasonable time in which to correct the hazard. If the property owner believes that the time allowed is unreasonable, he or she may appeal to the Town Board.

(4) The Fire Inspector shall keep a written record card of each property inspected, which shall conform to the requirements of the State Department of Industry, Labor and Human Relations, and shall make a quarterly report of inspections required by the State Department of Industry, Labor and Human Relations.

(5) No person shall deny the Fire Inspector or his or her deputies free access to any property within the Town or any service area of the Fire Department of the Town at any reasonable time for the purpose of making their inspections. No person shall hinder or obstruct the Fire Inspector in the performance of his or her duties or refuse to observe any lawful direction given by him or her.

5.19 PENALTY

Except as otherwise provide herein, any person found in violation of any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in Section 25.04 of this Code of Ordinances.