

TITLE 5

Public Safety

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Title 5 – Chapter 1

Law Enforcement

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Sec. 5-1-1 Organization of Police Department.

The Westby Police Department shall consist of a Chief of Police and such other officers, assistants, and patrol officers as from time to time may be appointed by the Common Council, or designated committee thereof, pursuant to the provisions of this Code of Ordinances.

Sec. 5-1-2 Records and Reports.

- (a) **Monthly Reports.** The Chief of Police shall submit a monthly general report to the Common Council of all activities of the Department during the preceding month.
- (b) **Police Records.** There shall be kept by the Department a suitable record in which shall be entered the name of every person arrested in the City, the name of the person making the arrest, the date and cause of the arrest, the Court from which the warrant was issued, the disposition made of the case, the amount of fine and costs paid and to whom paid, bond posted, and all complaints in full.

Sec. 5-1-3 General Powers of Police Officers.

Every member of the Police Department shall:

- (a) Familiarize himself with the ordinances of the City and the Statutes and attend to the enforcement of such ordinances by all lawful means.
- (b) Help prevent crimes, misdemeanors and violations of City ordinances and protect the health, safety, public peace and order of the City and its inhabitants.
- (c) Report all street and sidewalk obstructions, unlighted street lamps, unlawful street signs or signals, and defective or dangerous streets and sidewalks to the appropriate person or organization responsible for their repair or service.
- (d) Maintain order at the scene of a fire or any other fire response within the City.
- (e) See that the necessary permits and licenses issued by the State or City are in the possession of or properly displayed by any person engaged in an activity or business within the City for which such permit or license is required and that the terms of such permits or licenses are complied with.
- (f) Perform such other lawful duties as ordered by the Chief of Police or his/her authorized representative.

Sec. 5-1-4 Responsibilities of Chief of Police.

- (a) **Duties.** In addition to the duties imposed upon him/her elsewhere in this Code of Ordinances, the Chief of Police shall:
- (1) Have command of the Police Department on administrative matters, subject to the general direction of the Mayor, pursuant to the Wisconsin Statutes.
 - (2) Cause to be maintained accurate records of complaints, crimes, traffic accidents, ordinance violations, arrests, summons, incidents, and calls for police service and shall provide a system of periodic summary and analysis to ensure the most efficient and effective deployment and use of the Department's resources. He/she shall submit or cause to be submitted to the various agencies such reports and summaries as are required by State Statutes or ordinances and shall participate in voluntary programs designed to improve law enforcement and public safety.
 - (3) Submit such reports and/or information and comply with such policies as may be prescribed by the Council.
 - (4) Have exclusive control of the assignment, hours of duty, and transfer of all members of the Department.
 - (5) Plan, organize, staff, direct, and control all of the human and material resources of the Department for the most effective and efficient discharge of its duty to protect persons and property, preserve the peace, protect the rights of citizens and enforce the Wisconsin Statutes and the ordinances of the City as are within its jurisdiction. The Chief of Police shall supervise the preparation and presentation of annual reports and budgets for the Police Department. The Chief of Police shall be required to certify to the correctness of all bills incurred by the Department.
 - (6) Strive to maintain suitable, productive relationships with other City departments and with other governmental agencies and private organizations concerned with law enforcement, crime prevention, administration of justice and public safety. The Chief of Police shall cooperate and exchange information with other City departments in matters relating to their various functions.
 - (7) Plan and execute programs designed to prevent and repress crime, apprehend and prosecute offenders, recover property, and regulate non-criminal conduct, giving highest priority in the allocation of resources to crime and other offenses most hazardous to life and property.
- (b) **Custody of Department Equipment.** The Chief of Police shall be the custodian of all City property, equipment and supplies under the control of, or used by, the Police Department and shall be responsible for the care, maintenance, safeguarding and accurate records of such property, equipment, and supplies.
- (c) **Custody of Department Property.** The Chief of Police shall be the custodian of all property and be responsible for the safekeeping, lawful disposition and accurate record of the same. The Chief of Police shall see that all property is returned to its lawful owner or otherwise disposed of according to the applicable statutes.

Cross-Reference: Section 2-3-7, Chief of Police Position

Sec. 5-1-5 Maintenance of Personnel Records and Performance Evaluations.

The Chief of Police shall cause to be maintained adequate personnel records of employment, assignment, promotions, attendance, performance and training for all members of the Department. The Chief of Police shall also comply with all provisions of the Law Enforcement Standards Board in regard to background investigations. The Chief of Police shall keep himself adequately informed of the

activities of the Department and be assured that the duties of his/her subordinates are properly discharged. The Chief of Police shall formulate procedures for recognizing outstanding performance by Department members for investigating complaints of misconduct by any Department member and for taking appropriate disciplinary action subject to the provisions of the applicable statutes and Rules of the Department.

Sec. 5-1-6 Civilians to Assist.

All persons in the City, when called upon by any police officer or peace officer, shall promptly aid and assist him/her in the execution of his/her duties and whoever shall neglect or refuse to give such aid or assistance shall be subject to the general penalty as provided in Title 1 of this Code of Ordinances.

Sec. 5-1-7 Hearing Authorities for Suspension or Removal of Law Enforcement Officers.

- (a) Pursuant to Sec. 62.13(6m), Wis. Stats., the City may not suspend, reduce, suspend and reduce or remove any police chief or other law enforcement officer who is not probationary unless the City follows the procedure under Sec. 62.13(5), Wis. Stats. To act under this Subsection in place of the Board of Police and Fire Commissioners under Sec. 62.13(1) through (6), Wis. Stats., the City may do either of the following:
 - (1) Establish a police commissioner committee of not less than three (3) members, none of whom may be an elected or appointed official of the City or be employed by the City. The City shall pay each member for the member's cost of serving on the committee.
 - (2) Send a written request for a hearing examiner to the division of hearings and appeals under Sec. 15.103(1), Wis. Stats. The City shall reimburse the state for the state's costs under this paragraph.
- (b) The provisions of this Section, required by Sec. 61.65(1)(am), Wis. Stats., first applies to law enforcement officers, when such officers are subject to a collective bargaining agreement which is in conflict with the statutory requirements, but which is still in effect on April 9, 1986, only after the expiration date of such agreement.

Title 5 – Chapter 2

Fire Prevention

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Sec. 5-2-1 Westby-Christiana Fire Protection District; Fire Department.

- (a) **Fire Protection Agreement.** The City of Westby and Town of Christiana, both being situated in Vernon County, Wisconsin, associate themselves together for the purpose of providing fire protection through an intergovernmental agreement pursuant to Sec. 66.0301, Wis. Stats., entitled "Fire Protection Agreement Creating the Westby-Christiana Fire Protection District", effective March 1, 2001, and subsequent amendments thereto, and incorporated herein by reference (hereinafter the "Agreement"). In the event of conflict between this Section and the Agreement, the provisions of the Agreement shall prevail.
- (b) **Name and Location.**
- (1) **Name of Fire District and Fire District Commission.** The name of the fire district commission (herein referred to as the "Fire District Commission" or "Commission"), created by the Agreement and amendments thereto, shall be the Westby-Christiana Fire Protection District (herein referred to as the "District"). References in this Chapter or the Agreement to actions by the District shall be understood to mean actions by the Commission doing business as and in the name of the District.
 - (2) **District Headquarters.**
 - a. The District shall have its headquarters in its fire station facility.
 - (3) **Percentages of Ownership.** The respective percentage of ownership shall be based upon the equalized value of each municipality each year.
- (c) **Boundaries.** The territory to be provided with fire protection and approved emergency services under the Agreement and the Section shall consist of:
- (1) **City of Westby.** All of the area within the corporate limits of the City of Westby, Vernon County, Wisconsin.
 - (2) **Town of Christiana.** The whole of the Town of Christiana, Vernon County, Wisconsin.
 - (3) **Additional Territory.** Such additional territory may be added to the District upon the following conditions:
 - a. That the proposed territory must be contiguous to the then existing boundaries of said District; and

- b. That the addition of the proposed territory and the terms and conditions pertaining to such addition must be approved by the Fire District Commission and ratified by the Common Council of the City of Westby and the Town Board of the Town of Christiana (the municipal "governing bodies").
- (d) **Fire District Commission.**
- (1) **Composition.**
 - a. Pursuant to Sec. 66.0301, Wis. Stats., there is created a Fire District Commission which shall consist of five (5) members plus the Fire Chief of the Fire Department serving this Fire District.
 - b. One (1) such member shall be a member of the Westby Common Council appointed by the Mayor, subject to Common Council confirmation.
 - c. One (1) such member shall be a supervisor of the Town of Christiana who shall be appointed by the Town Chairperson, subject to Town Board confirmation.
 - d. Two (2) such members shall be adult residents of the City of Westby and one (1) such member shall be an adult resident of the Town of Christiana. The Westby Mayor and Christiana Chairperson shall appoint the respective citizen members from their municipalities and such appointment(s) shall be confirmed by the respective municipal board.
 - e. Active firefighters shall be ineligible to serve on the Fire District Commission.
 - f. If the municipalities "equalized value percentages" should change so that they are within ten percent (10%) of each other, the fifth Commission member shall be appointed yearly on a rotating basis between municipalities. "Equalized value percentage" shall mean the percentage that results from dividing each municipality's equalized value by the sum of the equalized values of both municipalities.
 - (2) **Terms.** The two (2) municipal Commissioners shall serve for terms of two (2) years. The three (3) citizen members of the Commission shall serve for terms of three (3) years. The initial terms of such members shall be staggered to correspond with the staggered terms of the members under the previous Fire Protection Agreement.
 - (3) **Voting.** The Fire Chief shall serve in an ex officio capacity on the Commission and shall not be empowered to vote on any matter before the Commission. Voting members of the Commission shall have an equal vote on all issues considered by the Commission.
 - (4) **Officers; Meetings.** The officers of the Fire District Commission shall be the Chairperson and the Secretary-Treasurer who shall be elected by a majority of the five (5) voting members of the Commission for terms of one (1) year. The Commission may make rules for its self-government. It shall meet periodically as may be required to conduct its business; meetings shall be called by the Chairperson, on at the request of any three (3) of its members, or by the Secretary-Treasurer. All meetings shall comply with the Wisconsin Open Meetings Law. A majority of the voting members of the Commission shall constitute a quorum. The Fire District Commission shall hire any such additional clerical staff as it deems necessary to meet the needs of the Fire District.
- (e) **Duties and Powers of the Fire District Commission.**
- (1) **General Responsibilities.** The District shall have all of the powers of the municipalities necessary or useful to providing fire protection and emergency services, and is authorized to do all acts necessary to exercise such powers to fulfill the purposes of this Agreement, including borrowing money by issuing revenue bonds authorized by Sec. 66.0621, Wis. Stats. The full repayment of said revenue bonds is hereby guaranteed jointly and severally by the municipalities, each of which agrees to levy a tax sufficient for this purpose, if necessary.

(2) ***Employment of Staff; Community Fire Department; Fire Chief Appointment.***

- a. The District shall employ the persons necessary to provide fire protection and emergency services, which group of employees shall be referred to as the Westby Christiana Community Fire Department.
- b. The District shall appoint one of those persons in the Community Fire Department to be Fire Chief after receiving the recommendation of the members of the Fire Department.

(f) **Fiscal and Budget Affairs.**

(1) ***District Fund(s).***

- a. The District shall establish, in the State Investment Fund and/or in one (1) or more financial institutions insured by the FDIC, or comparable, a fund or funds to be designated as belonging to the District. All receipts and disbursements are to be made to and from these Funds, and will include, amongst other things, fire protection service call receipts, fire insurance premium rebates paid on account of fire inspections, contributions from the participating City and Town as provided by the annual District budget, and any payments made by the City or the Town representing its share of debt service due on any revenue bonds or other debt instruments issued by the District.
- b. All orders for payment from the Funds (checks) are to be signed by the Secretary-Treasurer of the Commission and countersigned by the Chairperson thereof. Within ten (10) days after he/she shall have been notified of his/her election, the Secretary-Treasurer shall execute and file with either municipality's clerk, an official bond in the amount of Fifteen Thousand Dollars (\$15,000.00) furnished by a surety company.

(2) ***Budget.***

- a. The Fire Chief shall, prior to September 15th of each year, prepare and submit to the Commission a proposed budget for the ensuing calendar year which shall reflect the estimated balance of funds on hand at the end of the current year and the proposed receipts and disbursements for the following year by budgeted categories.
- b. The Commission shall meet and review the proposed budget with the Fire Chief on or before October 1st, and after making such modifications thereto as the Commission deems appropriate, shall present the budget as recommended by the Commission to the municipal governing bodies on or before the second Monday in October. The municipal governing bodies, on or before November 1st, shall meet jointly and arrive at and approve by a majority of the board members of each governing body a final budget for the ensuing calendar year.
- c. The budget shall include, at a minimum, a sum sufficient to:
 - 1. Operate and maintain the District and its provision of fire protection and approved emergency services; and
 - 2. To fully and timely pay all debt service coming due in the budget year on any revenue bonds or other debt instruments issued by the District.
- d. Upon such approval, each municipal governing body shall levy a tax sufficient to meet that municipality's proportionate share of the budgeted costs and expenses for the ensuing year.

- (3) ***Appropriation Changes.*** No changes in the amounts of the various appropriations or the purposes for such appropriations as stated in the budget as finally approved shall be made unless approved by the affirmative vote of four (4) of the five (5) Commission members, if the amount involved is less than Ten Thousand Dollars (\$10,000.00), or by a two-thirds

(2/3) vote of each of the municipal governing bodies if the budgetary change involves an amount in excess of Ten Thousand Dollars (\$10,000.00)

(4) **City and Town Financial Support.**

- a. The City of Westby and Town of Christiana shall contribute to the District a sum sufficient to support the proposed budget each year. Their respective shares of that sum shall be their respective equalized value percentages.
- b. Immediately after the approval of the budget for the ensuing calendar year by the municipalities, the proportionate share of the budgeted costs and expenses to be paid by each municipality shall be computed and billed by the Secretary-Treasurer of the Commission. Each municipality shall pay its proportionate share, as billed, to the Secretary-Treasurer of the Commission on or before April 1st of the budget year.

(g) **Title and Ownership of Assets.**

- (1) **Title.** Title to and ownership of all motor vehicles and equipment used to provide the services contemplated by this Section and the Agreement shall be in the name "Westby Christiana Fire Protection District."
- (2) **Fire Station.** The City currently owns the fire station used by the District, and leases it to the District. The District plans to purchase land and construct a new fire station. The City agrees to convey title to the existing fire station in fee simple to the District, effective on the execution of the 2005 amendment to the original Agreement, with a right to reversion in the event the fire station is no longer used to provide fire and emergency services, or in the event of the withdrawal by one of the municipalities in accordance with the Agreement.

Sec. 5-2-2 Powers and Duties of Fire Chief.

- (a) **General Supervision.** The Fire Chief shall have the general supervision of the Westby-Christiana Community Fire Department ("Fire Department" or "Department"), which supervision shall be subject to and not conflict with this Chapter and the bylaws of the Department and/or Westby-Christiana Fire Protection District. He/she shall be responsible for the personnel and general efficiency of the Department.
- (b) **Presiding Officer.** The Chief shall preside at all meetings, call special meetings, preserve order, decide all points of order that may arise and enforce a rigid observance of this Chapter and bylaws.
- (c) **Command of Fire Fighting Operations.** The Chief shall be present at all fires, 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 the fire, observe that the Department does its duty, grant leaves of absence at a fire when he/she may deem it proper, and see that the fire apparatus is kept in proper condition at all times.
- (d) **Disciplinary Actions.** The Chief may demote or expel any officer or member of the Department for neglect or refusal to perform his/her departmental duties, or for non-residence, subject to an appeal from such demotion or expulsion to the Common Council.
- (e) **Department Budget.** Not later than September 15 of each year, the Chief shall file with the Westby-Christiana Fire Protection District a detailed estimate of the appropriations needed for the conduct of the Department during the ensuing fiscal year.
- (f) **Enforcement of Fire Prevention Ordinances.** The Fire Chief shall enforce all fire prevention ordinances of the City and State laws and regulations pertaining to fire prevention and shall keep citizens informed on fire prevention methods and on the activities of the Department.

Sec. 5-2-3 Impeding Fire Equipment Prohibited.

No person shall impede the progress of a fire engine, fire truck or other fire apparatus of the Westby-Christiana Community Fire Department along the streets or alleys of such City at the time of a fire or when the Fire Department of the City is using such streets or alleys in response to a fire alarm or for practice.

Sec. 5-2-4 Police Power of the Department; Investigation of Fires.

(a) Police Authority at Fires.

- (1) The Fire Chief and assistants or officers in command at any fire are hereby vested 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 law enforcement 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 shall be the Fire Inspector of the City of Westby and shall have the power to appoint one or more deputy Fire Inspectors and shall perform all duties required of the Fire Inspectors by the laws of the State and rules of the Wisconsin Department of Safety & Professional Services, particularly Sec. 101.14, Wis. Stats.
- (2) While acting as Fire Inspector pursuant to Sec. 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 any building or upon any premises in the City of Westby 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 find that any provisions of this Code relating to fire hazards and prevention of fires are being violated, or that a fire hazard exists which should be eliminated, it shall be his/her duty to give such directions for the abatement of such conditions as he/she shall deem necessary.
- (3) The Chief of the Fire Department is required, by himself/herself or by officers or members of the Fire Department designated by him/her as fire inspectors, to inspect all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of any law or ordinance relating to the fire hazard or to the prevention of fires. Such inspections shall be made in accordance with requirements of Section SPS 314.01 of the Wisconsin Administrative Code in all of the territory served by the Fire Department and oftener as the Chief of the Fire Department orders. Within the territory of each fire department in each municipality other than first class cities, inspections shall be at least once per calendar year, provided the interval between those inspections does not exceed fifteen (15) months. Repairs or alterations necessary to remove the hazardous condition shall be made within a reasonable time at the expense of the owner. The

Inspector shall also investigate the storage and handling of explosives and inflammable liquids within the City.

- (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 Wisconsin Department of Safety & Professional Services. A copy of such reports shall be filed with the Fire Chief.

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

Sec. 5-2-5 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 City, 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 block from the place of fire without the consent and authority of the Fire Chief or any law enforcement officer.

Sec. 5-2-6 Firefighters 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 officer 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/her duty as is hereinbefore provided, the person so offending shall be deemed guilty of resisting firefighter 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.

Sec. 5-2-7 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 officer in command and may be required to render assistance in fighting the fire or in removing or guarding property. Such officer shall have the power to cause the arrest of any person or persons refusing to obey said orders.

Sec. 5-2-8 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. 5-2-9 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. 5-2-10 Open Burning.

(a) **Open Burning Prohibited.** No person, firm or corporation shall build any outdoor fire within the corporate limits of the City of Westby 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.

(b) **Exceptions.**

- (1) Outdoor cooking over a fire contained in a device or structure designed for such use is permissible;
- (2) Controlled burning of grass or similar vegetation for environmental management purposes, with the prior written approval of the Fire Chief, or his/her designee, may be permitted; this exception is not to be used for the burning of grass, leaves or other lawn debris;
- (3) Ceremonial campfire or bonfires, with prior written approval of the Fire Chief, may be permitted.
- (4) Recreational burning pits lined with incombustible material provided they are located at least twenty-five (25) feet from any structure.
- (5) Open burning when a permit is issued.
- (6) Practice fires conducted by the Fire Department.
- (7) Fire pits not more than thirty-two (32) inches in diameter, encircled with non-flammable material, and located a minimum of thirty (30) feet from any structure or fifteen (15) feet from a lot line. Fire pits shall be extinguished by midnight or when left unattended.
- (8) 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, may be granted single occasion approval as in Subsections (b)(2) and (3) above.

(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 Fire Chief. Application for a burning permit shall be made in writing upon a form furnished by the Fire Chief. The Fire Chief 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;
 - j. The manner in which ashes created by the burning under the permit are to be disposed of.
- (2) **Issuance of Permit.** If the Fire Chief or other person authorized or designated by the Fire Chief to issue such permits, finds that the proposed burning complies with all City ordinances and the regulations contained in Ch. COMM 14, Wis. Adm. Code, he/she 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 Fire Chief. 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 twenty-five (25) feet 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
 - (6) No materials may be burned upon any street, curb, gutter, or sidewalk.
 - (7) Permits shall not be issued for burning barrels or for burning of leaves.
- (e) **Agricultural Properties.** Agriculturally-zoned properties are exempt from the permit requirements of this Section, provided owner-produced refuse only is burned and the provisions of Subsection (d) are complied with.

Sec. 5-2-11 Banning and/or Regulating the Use of Fire, Burning Materials and Fireworks During the Existence of Extreme Fire Danger.

- (a) **Declarations of Emergency.** When there occurs a lack of precipitation, there may exist an extreme danger of fire within the City of Westby. This extreme danger of fire affects the health, safety, and general welfare of the residents of the City of Westby and constitutes a state of emergency. It is hereby found that the regulation of fires, burning materials, and fireworks is necessary and expedient for the health, safety, welfare and good order of the City during said emergency.
- (b) **Regulation of Fires, Burning Materials and Fireworks.** When a burning state of emergency is declared, it may be ordered that a person may not:
 - (1) Set, build, or maintain any open fire, except:

- a. Charcoal grills using charcoal briquets, gas grills, or camp stoves on private property; or
 - b. Charcoal grills using charcoal briquets, gas grills, or camp stoves in City parks placed at least twenty (20) feet away from any combustible vegetation.
- (2) Throw, discard or drop matches, cigarettes, cigars, ashes, charcoal briquets or other burning materials while outdoors except into a noncombustible container that does not contain combustible materials.
 - (3) Light or ignite a flare, except upon a roadway in an emergency.
 - (4) Light, ignite, or use anything manufactured, processed, or packaged solely for the purpose of exploding, emitting sparks or combustion for amusement purposes, including fireworks, firecrackers, bottle rockets, caps, toy snakes, sparklers, smoke bombs, or cylindrical or cone fountains that emit sparks and smoke, except in displays authorized by the City where adequate fire prevention measures have been taken.
- (c) **Period of Emergency.**
- (1) The periods of emergency for which this Section shall be in effect shall be during such periods that Vernon County, Wisconsin, is under Wisconsin Department of Natural Resources emergency fire regulations banning outdoor smoking and campfires, or when necessary as determined by the Mayor, upon the recommendation of the Fire Chief.
 - (2) Burning emergencies shall become effective upon the time and date of the Mayor declaring a state of emergency and shall remain in effect until the period of emergency ceases to exist or until the ratification, alteration, modification, or repeal of the burning state of emergency by the Common Council.

Sec. 5-2-12 Patio Fireplaces.

Patio fireplaces are permitted in the City of Westby as long as they are commercially purchased units that enclose the entire fire area within the patio fireplace. Homemade units must meet the approval of the Fire Chief. The chimney area and viewable area of the patio fireplace must be screened with a spark reduction device at all times the patio fireplace is in operation. The patio fireplace shall only burn a readily combustible fuel source that consists of wood, charcoal, or manufactured fireplace logs. The burning of trash, leaves, woods with a chemical treatment (railroad tie, fence post, power pole, etc.), or other materials that tend to create a noxious or annoying smoke discharge are not allowed. This Section does not allow for below ground campfires or other device fires not clearly authorized in this Section or Section 5-2-10(b). Upon the complaint of two (2) or more persons to the Police or Fire Department that the patio fireplace is causing annoyance, the person responsible for the patio fireplace shall immediately discontinue the use of the device.

Sec. 5-2-13 Outdoor Solid Fuel Heating Devices.

- (a) **Definitions.** The following definitions shall be applicable herein:
- (1) ***Solid Fuel-Fired Heating Device.*** An outdoor device or structure designed for solid fuel combustion for the purpose of deriving usable heat, including but not limited to solid fuel-fired cooking stoves, combination fuel furnaces or boilers which burn solid fuel.

- (2) **Stacks or Chimneys.** Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid-fuel fired heating device or structure, especially that part of the structure extending above a roof.
 - (3) **Person.** An individual, partnership, corporation, company or other association.
 - (4) **Public Nuisance.** Any act or failure to perform a legal duty required by this Section is declared a public nuisance.
- (b) **Prohibition.** All solid fuel-fired heating devices as defined above shall be considered a public nuisance within the City of Westby and are hereby banned.

Title 5 – Chapter 3

Fire Prevention Code; Hazardous Materials

- 5-3-1 Adoption of Fire Prevention Codes
- 5-3-2 Disclosure of Hazardous Material and Infectious Agents; Reimbursement for Cleanup of Spills
- 5-3-3 Fees for Extraordinary Services; Hazardous Material Incident Response Reimbursement
- 5-3-4 Smoke Detectors

Sec. 5-3-1 Adoption of Fire Prevention Codes.

- (a) **State Administrative Codes Adopted.** The following rules and regulations as promulgated within the Wisconsin Administrative Code, together with any future additions, deletions, or supplements thereto, are herewith incorporated as part of this Chapter and shall be enforced with the same force and effect as though set forth in full herein. Provided, however, that where such rules and regulations are less stringent than other provisions found in this Chapter, the provisions of this Chapter shall apply:
- (1) Wis. Adm. Code Ch. COMM 4; Signs for Smoking Areas.
 - (2) Wis. Adm. Code Ch. COMM 7; Explosive Materials.
 - (3) Wis. Adm. Code Ch. COMM 9; Manufacture of Fireworks.
 - (4) Wis. Adm. Code Ch. COMM 10; Flammable and Combustible Liquids.
 - (5) Wis. Adm. Code Ch. COMM 14; Fire Protection.
 - (6) Wis. Adm. Code Ch. COMM 15; Cleaning and Dyeing.
 - (7) Wis. Adm. Code Ch. COMM 16; Electrical.
 - (8) Wis. Adm. Code Ch. COMM 20-25; Uniform Dwelling Code.
 - (9) Wis. Adm. Code Ch. COMM 28; Smoke Detectors.
 - (10) Wis. Adm. Code Ch. COMM 30; Fire Department Safety and Health.
 - (11) Wis. Adm. Code Ch. COMM 43; Anhydrous Ammonia Code.
 - (12) Wis. Adm. Code Chs. COMM 50-64; Building and Heating, Ventilating and Air Conditioning.
 - (13) Wis. Adm. Code Ch. COMM 66; Uniform Multifamily Dwelling.
 - (14) Wis. Adm. Code Ch. COMM 70; Historic Building.
 - (15) Wis. Adm. Code Ch. COMM 75-79; Existing Buildings.
 - (16) Wisconsin Electrical Code.
- (b) **Adoption of NFPA Codes.** The following rules and regulations issued by the National Fire Protection Association (NFPA), together with any future additions, deletions or supplements thereto, are herewith adopted and incorporated by reference as part of this Chapter and shall be enforced with the same force and effect as though set forth in full herein. Provided, however, that where such rules and regulations are less stringent than other provisions found in this Code, the provisions of this Chapter shall apply:
- (1) Fire Prevention Code, NFPA 1, except for 3-2 3.1 and 7-1.2.
 - (2) Safety to Life from Fire in Buildings and Structures, NFPA 101.
 - (3) Water-based Fire Protection Systems, NFPA 54.
 - (4) Spray Applications Using Flammable or Combustible Materials, NFPA 33.
 - (5) National Fuel Gas Code, NFPA 54.
 - (6) Storage and Handling of Liquid Petroleum Gases Code, NFPA 58.

- (7) Aircraft Fuel Servicing, NFPA 407.
- (c) **Statutory Fireworks Regulations.** Section 167.10, Wis. Stats., pertaining to Regulation of Fireworks, together with any future additions, deletions, or supplements thereto, are herewith incorporated as part of this Chapter and shall be enforced with the same force and effect as though set forth in full herein. Provided, however, that where such rules and regulations are less stringent than other provisions found in this Chapter, the provisions of this Chapter shall apply. Notwithstanding any provisions of this Chapter to the contrary, no person may sell, possess or use fireworks, as that term is defined by Sec. 167.10(1), Wis. Stats., as may be amended from time to time, within the City of Westby; except that the use of fireworks may be allowed by appropriate Permit issued by the Mayor (see Section 7-5-1).

Sec. 5-3-2 Disclosure of Hazardous Materials and Infectious Agents; Reimbursement for Cleanup of Spills.

- (a) **Application.**
 - (1) All persons, firms or organizations using, researching or producing hazardous materials and/or infectious agents shall notify the Fire Department as prescribed by this Section.
 - (2) The provisions of this Section shall apply to all persons, firms or organizations using, researching, producing or storing hazardous materials and/or infectious agents on and after the effective date of this Section.
- (b) **Definitions.**
 - (1) "Infectious agent" is a bacterial, mycoplasmal, fungal, parasitic or viral agent known to cause illness in humans which is used, researched, produced or stored within or on premises.
 - (2) "Hazardous materials" are those materials that can cause death or disabling injury from brief exposure; those materials that could cause a lost-time injury from exposure; and those materials that could cause temporary disability or injury without permanent effects which are used, researched, produced or stored within or on premises except those household consumer products used at the point of consumption and not used for commercial or experimental purposes. This definition of hazardous materials shall include radioactive materials.
- (c) **Information Required.**
 - (1) Any person, firm or organization using, researching, producing and/or storing any hazardous materials shall provide in writing to the Fire Department the following information:
 - a. Address, location of where hazardous materials are used, researched, stored or produced;
 - b. The trade name of the hazardous material;
 - c. The chemical name and any commonly used synonym for the hazardous material and the chemical name and any commonly used synonym for its major components;
 - d. The exact locations on the premises where materials are used, researched, stored and/or produced;
 - e. Amounts of hazardous materials on premises per exact location;
 - f. The boiling point, vapor pressure, vapor density, solubility in water, specific gravity, percentage volatile by volume, evaporation rate for liquids and appearance and odor of the hazardous material;

- g. The flashpoint and flammable limits of the hazardous substance;
 - h. Any permissible exposure level, threshold limit value or other established limit value for exposure to a hazardous material;
 - i. The stability of the hazardous substance;
 - j. Recommended fire extinguishing media, special firefighting procedures and fire and explosion hazard information for the hazardous material;
 - k. Any effect of over-exposure to the hazardous material, emergency and first aid procedures and telephone numbers to call in an emergency;
 - l. Any condition or material which is incompatible with the hazardous material and must be avoided.
 - m. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the hazardous materials;
 - n. Procedures for handling or coming into contact with the hazardous materials.
- (2) Any person, firm or organization using, researching, producing and/or storing infectious agent and/or carrier of an infectious agent shall provide in writing to the Fire Department the following:
- a. The name and any commonly used synonym of the infectious agent;
 - b. Address/location where infectious agents are used, researched, stored and/or produced;
 - c. The exact locations where infectious agents are used, researched, stored and/or produced;
 - d. Amount of infectious agent on premises per exact locations;
 - e. Any methods of route of transmission of the infectious agents;
 - f. Any symptoms of effect of infection, emergency and first aid procedure and a telephone number to be called in an emergency;
 - g. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming in contact with the infectious agent;
 - h. Procedure for handling, clean-up and disposal of infectious agents leaked or spilled.
- (d) **Reimbursement for Cleanup of Spills.** Any person who possesses or controls a hazardous material or infectious agent which was discharged or caused the discharge of a hazardous material or infectious agent shall reimburse the City for actual and necessary expenses incurred by the City or its agent to contain, remove or dispose of the hazardous substance or infectious agent or take any other appropriate action which is deemed appropriate under the circumstance.

Sec. 5-3-3 Fees for Extraordinary Services; Hazardous Material Incident Response Reimbursement.

- (a) **Purpose; Authority.**
- (1) The City of Westby provides fire, police and other response services for the protection of the public health, safety and welfare, the costs of which are funded from the general tax revenue of the City. Such services may involve property which is not owned by a property taxpayer of the City such as utility transmission and telephone lines, gas lines, cable television equipment, or hazardous materials, or may involve property owned by a taxpayer of the City, but which requires extraordinary response services, such as an open burning site or a hazardous substances or hazardous waste handling or storage site. Such response services benefit the owner or person in charge of such property and the public health, safety and welfare; and

- (2) The City, pursuant to its police powers may collect the costs of such response services from the owner or person in charge of the property if it is deemed proper and in the best interest of the public health, safety and welfare.
- (b) **Prohibited Discharges.** No person, firm or corporation shall discharge or cause to be discharged, leaked, leached or spilled upon any public or private street, alley, public or private property, or unto the ground, surface waters, subsurface waters, or aquifers, or within the City of Westby, except those areas specifically licensed for waste disposal or landfill activities and to receive such materials, any explosive, flammable or combustible solid, liquid, or gas, any radioactive material at or above Nuclear Regulatory Restriction levels, etiologic agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment.
- (c) **Definitions.**
- (1) **Hazardous Substances or Hazardous Waste.** As defined in Sec. 289.01(11) and (12), Wis. Stats.
 - (2) **Property.** The personal property or real estate directly involved in the response services, including but not limited to, utility transmission or telephone line, gas line, cable television equipment, open burning site or hazardous substance or hazardous waste handling or storage site.
 - (3) **City Response Services.** City of Westby police, fire, utilities, public works, or other similar response services.
 - (4) **Emergency Services Response.** Includes, but is not limited to: Fire Service, Emergency Medical Service, Law Enforcement. A person, firm, or corporation who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall be responsible for reimbursement to the responding agencies for actual and necessary expenses incurred in carrying out their duties under this Chapter. Actual and necessary expenses may include but not be limited to: replacement of equipment damaged by the hazardous material, cleaning, decontamination and maintenance of the equipment specific to the incident, specific laboratory expenses incurred in the recognition and identification of hazardous substances in the evaluation of response, decontamination, costs incurred in the procurement and use of specialized equipment specific to the incident, clean up and medical surveillance, and incurred costs in future medical surveillance of response personnel as required by the responding agencies medical advisor.
- (d) **Site Access.** Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to emergency government officers and staff and to City Police Department and Fire Department personnel for the purpose of evaluating the threat to the public and monitoring containment, cleanup and restoration activities.
- (e) **Public Protection.** Should any prohibited discharge occur that threatens the life, safety or health of the public at, near, or around the site of a prohibited discharge, and that the situation is so critical that immediate steps must be taken to protect life and limb, the Mayor or his/her assistant, or the senior City police or fire official on the scene of the emergency may order an evacuation of the scene or take other appropriate steps for a period of time until the Common Council can take appropriate action.
- (f) **Enforcement.** The Fire Chief and his/her deputies, as well as the City law enforcement officers, shall have authority to issue citations or complaints under this Section.
- (g) **Civil Liability.** Any person, firm or corporation in violation of this Section shall be liable to the City for any expenses incurred by the City or loss or damage sustained by the City of Westby by reason of such violation.

(h) **Responsibility for Costs.**

- (1) In the event the Common Council determines the costs incurred for City response services are extraordinary in amount or the services for which the costs are incurred are extraordinary in type, the Common Council shall review and determine whether to seek reimbursement for the extraordinary costs from the owner of the property. The Council shall consider the amount of the costs involved, the nature of the response services, the impact of the response on other City services, and such other factors it deems appropriate in making its determination.
- (2) The Common Council may direct the City Clerk-Treasurer to issue an invoice for the costs of labor and materials, or a portion thereof, to the owner or person in charge of the property. The invoice shall include an itemization of the costs and a requirement for payment within thirty (30) days.

Sec. 5-3-4 Smoke Detectors.

- (a) All dwelling rental units, vacant or occupied, shall be provided with working, approved, listed and labeled smoke detectors. Smoke detectors shall be installed in accordance with the appropriate Wisconsin Department of Safety & Professional Services (SPS) code that governs the dwelling building and in accordance with the manufacturer instructions.
- (b) The owner of the building shall be solely responsible for the installation and maintenance of smoke detectors, to include battery replacement as required.
- (c) The tenant shall be responsible for informing the owner in writing of any smoke detector malfunction, including the need for a new battery.
- (d) The owner shall immediately upon receipt of written notice from the tenant repair/replace the smoke detector or replace the battery as needed.
- (e) Neither the owner nor the tenant shall remove or disconnect the battery from a smoke detector at any time except for battery replacement.
- (f) The owner shall install new batteries in all smoke detectors at the beginning of a new lease or new tenancy and shall install new batteries annually.
- (g) The owner shall furnish to the tenant at the beginning of a new lease or new tenancy, written notice of the responsibilities of the tenant and the obligations of the owner regarding smoke detectors, their batteries and their maintenance.

Title 5 – Chapter 4

Regulation of Alarm Systems

5-4-1	Title
5-4-2	Declaration of Purpose
5-4-3	Definitions
5-4-4	Administrative Rules
5-4-5	Automatic Dialing Devices
5-4-6	Direct Connections to the Police Department
5-4-7	Testing
5-4-8	Notification
5-4-9	Fee for Answering Alarms
5-4-10	City Liability
5-4-11	Permits for Private Alarm Systems
5-4-12	Revocation of Permits

Sec. 5-4-1 Title.

This Chapter shall be known as the City of Westby Alarm Systems Ordinance.

Sec. 5-4-2 Declaration of Purpose.

The purpose of this Chapter is to provide minimum standards and regulations applicable to burglar, fire and holdup alarm systems, alarm business and alarm users. Both society in general and public safety in particular will be aided by providing a useful and usable system of private security which properly balances quick response by law enforcement with minimization of law enforcement time spent on alarms which are false or otherwise not the intended function of private security systems.

Sec. 5-4-3 Definitions.

Within this Chapter, the following terms, phrases and words and their derivations have the means given herein.

- (a) **Alarm Business.** Any business in which the owners or employees engage in the activity of altering, installing, leasing, maintaining, repairing, replacing, selling, or servicing alarm systems.
- (b) **Alarm System.** An assembly of equipment and devices or single device such as a solid state unit which plugs directly into 110-volt AC line or otherwise receives electrical energy arranged to signal the presence of a hazard requiring urgent attention and to which the Police or Fire Department is expected to respond. In this Chapter, the term "alarm system" shall include the terms "automatic holdup alarm systems," "burglar alarm systems," "holdup alarm systems" and "manual holdup alarm systems" as those terms are hereinafter defined, and fire alarm systems which monitor temperature, humidity or any other condition directly related to the detection of fire. Excluded from this definition and from the coverage of this Chapter are alarm systems used to alert or signal persons within the premises in which the alarm system is located of an attempted, unauthorized intrusion or holdup attempt or fire.

- (c) **Annunciator.** The instrumentation of an alarm console at the receiving terminal of a signal line through which both visual and audible signals show when an alarm device at a particular location has been activated or which, in the event of malfunction, may also indicate line trouble.
- (d) **Answering Service.** A telephone answering service providing among its services the service of receiving on a continuous basis through trained employees emergency signals from alarm systems, and thereafter immediately relaying the message by live voice to the dispatch center of the Police or Fire Department.
- (e) **Automatic Dialing Device.** An alarm system which automatically sends over regular telephone lines by direct connection or otherwise a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.
- (f) **Automatic Holdup Alarm System.** An alarm system in which the signal transmission is initiated by the action of the robber.
- (g) **Manual Holdup Alarm System.** An alarm system in which the signal transmission is initiated by the direct action of the person attached or by an observer thereof.
- (h) **Burglar Alarm System.** An alarm system which signals an entry or attempted entry into the area protected by the system.
- (i) **Direct Connect.** An alarm system which has the capability of transmitting system signals to the Police or Fire Department.
- (j) **False Alarm.** The activation of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner or lessee of an alarm system or of his employees or agents or other undetermined cause. False alarm does not include alarms caused by tornadoes or other violent climatic conditions.
- (k) **Interconnect.** To connect an alarm system to a voice grade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.
- (l) **Central Station.** An office to which remote alarm and supervisory signaling devices are connected, where operators supervise the circuits.
- (m) **Primary Trunk Line.** A telephone line leading directly into the dispatch center of the Police or Fire Department that is for the purpose of handling emergency calls on a person-to-person basis and which is identified as such by a specific number included among the emergency numbers listed in the telephone directory or numbers in sequence therewith.
- (n) **Subscriber.** A person who buys or leases or otherwise obtains an alarm system and thereafter contracts with or hires an alarm business to monitor and/or service the alarm system.

Sec. 5-4-4 Administrative Rules.

The Chief of Police shall promulgate such rules as may be necessary for the implementation of this Chapter. Such rules shall require the approval of the Common Council and shall be open to inspection by the public.

Sec. 5-4-5 Automatic Dialing Devices.

No person shall interconnect any automatic dialing device to a Police or Fire Department primary trunk line. No person shall permit such devices, which were installed prior to the effective date of this Chapter, to remain interconnected from any property owned or controlled by that person. Such devices may be connected to a central station or an answering service. Relaying messages so received to the Police or Fire Department shall only be done person to person on the telephone line.

Sec. 5-4-6 Direct Connections to the Police Department.

Direct connections to the Police or Fire Department are prohibited, but may be authorized pursuant to the direct connection policies of each Department, a copy of which is on file with the Chief of Police and Fire Chief.

Sec. 5-4-7 Testing.

- (a) No alarm business or alarm system designed to transmit emergency messages to the Police Department shall be tested or demonstrated without prior notification and approval of the Police Department dispatcher. Alarm businesses or alarm system owners or lessors will be advised on proper test procedure.
- (b) No alarm system relayed through intermediate services to the Police Department will be tested to determine the Police Department's response without first notifying the appropriate authority. However, the Police Department may inspect or test on-site alarm systems authorized under this Chapter.
- (c) Alarm systems shall be in compliance with all pertinent response policies of the Police Department.

Sec. 5-4-8 Notification.

When the service provided by an alarm business to its subscribers is disrupted for any reason by the alarm business or the alarm business becomes aware of such disruption, it shall promptly notify its subscribers by telephone that protection is no longer being provided. If, however, the alarm business has written instructions from its subscriber not to make such notification by telephone during certain hours, the alarm business may comply with such instructions.

Sec. 5-4-9 Fee for Answering Alarms.

- (a) **Generally.** Each false alarm requires response of public safety personnel, involves unnecessary expense to the City, increases the risk of injury to persons or damage to property and dilutes the overall public safety protection to the City. Such false alarms constitute a public nuisance and must be abated.
- (b) **Intentional.** No person shall intentionally cause the activation of a burglar/fire alarm device knowing that no criminal activity, fire or other emergency exists.
- (c) **False Alarms; Administrative Charges.**
 - (1) Any person, business, corporation or other entity having permissible alarm system with alarm device(s) at one or more locations in accordance with this Chapter shall pay to the City a charge for false alarms responded to by the Police or Fire Department according to the schedule for each calendar year for each location connected (separate accounts to be kept for false alarms as to criminal activity and false alarms for fire or other emergencies), per Section 1-3-1.
 - (2) This Subsection is intended to impose a strict liability on the person, business, corporation or other entity responsible for alarm connection to either the police alarm panel or to alarm receiving firm to which the Police or Fire Department have responded and shall be applied regardless of the cause of the false alarm excepting those alarms excluded from the definition of "False Alarm." Failure to pay such administrative charge(s) in and of itself shall constitute a violation of this Section, and such charge(s) shall be collectible as

a forfeiture upon prosecution and conviction thereof, together with an additional forfeiture(s) which may be imposed under the next Subsection (d) hereof for violation of this Section for allowing or maintaining condition(s) or act(s) violative of the intent of this Section of eliminating and minimizing the occurrence of false alarms, together with costs of prosecution.

- (d) **Waiver of Fee.** If a possessor of the alarm shows to the satisfaction of the Chief of Police or the Fire Chief, as applicable, that such false alarm was not the result of negligence or improper maintenance, or other good and sufficient cause beyond the reasonable control of the possessor of the alarm, such fee may be waived and the response shall not count as a false alarm in computing the fee established under Subsection (c).
- (e) **Other Violations.** Any person, corporation or other entity violating this Chapter in any manner, other than for collection of unpaid administrative charges treated in the preceding Subsection (a) of this Section, shall be subject to forfeiture as provided in Sec. 1-1-7 of this Code. When any premises located in the City is owned, leased or occupied by two (2) or more persons as joint tenants, tenants in common, joint lessees, or in any other manner, each person shall see that the provisions of this Chapter are complied with, and each person may be subjected to a penalty on violation of this Section.
- (f) **Default of Payment for Forfeiture and/or Costs.** On default of payment of forfeiture and/or costs under the immediately preceding Subsections (c) and/or (d), such person or responsible officer of the violating corporation or other entity shall be confined in the county jail until the same be paid but not to exceed a length of time specified by the court which length of time shall not exceed six (6) months. Upon nonpayment of the fee, the amount due may be placed on the tax roll as a special charge pursuant to Sec. 66.0407, Wis. Stats.

Sec. 5-4-10 City Liability.

The City of Westby shall be under no duty or obligation to a subscriber or to any other person concerning any provision of this Chapter, including, but not limited to, any defects in an alarm system or any delays in transmission or response to any alarm; however, this in no way shall be construed that it is not the proper function of law enforcement to respond to alarms.

Sec. 5-4-11 Permits for Private Alarm Systems.

- (a) **Permit Required.** A permit is required for each private alarm system on premises within the City. There shall be a permit fee as prescribed in Section 1-3-1.
- (b) **Interior Alarms.** A permit under this Chapter is not required for an alarm system which gives a signal, visual or audible or both, solely within the interior of the building in which it is located.
- (c) **Issuing Authority.** The Chief of Police shall issue the permits and collect the fees.
- (d) **Application.** Application for permit required under this Chapter shall be filed with the Chief of Police. The Chief of Police shall prescribe the form of the application and request such information as is necessary to evaluate and act upon the permit application. The Chief of Police shall deny a permit if the alarm system for which it is sought does not comply with this Chapter.
- (e) **Appeal.** Any person required by this Chapter to have a permit who has been denied such a permit by the Chief of Police shall have a right to appeal that decision to the Common Council. The procedure for this appeal shall be as set forth in Section 5-4-12.

Sec. 5-4-12 Revocation of Permits.

- (a) **Hearing.** Before a permit issued pursuant to this Chapter may be revoked, a hearing shall be held before the Chief of Police. Notice setting forth the time, place and nature of the hearing shall be sent by mail or delivered to the permittee at the address shown on the permit application not less than seven (7) days prior to the hearing.
- (b) **Grounds for Revocation.** The Chief of Police may revoke a permit on the following grounds:
 - (1) The application for a permit contains a false statement of a material fact.
 - (2) A licensee has repeatedly failed to comply with the provisions of this Chapter.
 - (3) An alarm system repeatedly actuates false alarms.
- (c) **Appeals.** Any permittee may appeal the decision of the Chief of Police by filing a written notice of appeal with the City Clerk-Treasurer within ten (10) days after the decision. Such appeal shall be heard by the Common Council within thirty (30) days after filing the appeal. The Common Council may affirm, amend or reverse the decision or take other action deemed appropriate. An appeal timely taken suspends the revocation until the Common Council gives its decision. The City Clerk-Treasurer shall give written notice of the time and place of the hearing to the appellant by certified mail or personal delivery not less than seven (7) days before the hearing. In conducting the hearing, the Common Council shall not be limited by the technical rules of evidence.