

TOWN OF HUMBOLDT

CHAPTER 24

**AUTHORIZING FIRE CHIEF TO MAKE AND ENFORCE
LAWFOR ORDERS, ESTABLISH EMERGENCY FEE
SCHEDULE, COLLECT AND DISBURSE EMEGENCY
FEES AND OBTAIN SPECIAL INSPECTION WARRANTS**

TOWN OF HUMBOLDT

**Ordinance Authorizing Fire Chief to Make and Enforce Lawful Orders, Establish
Emergency Fee Schedule, Collect and Disburse Emergency Fees, and Obtain Special
Inspection Warrants**

Humboldt Code of Ordinances Chapter No. 24

Whereas Town of Humboldt Code of Ordinances Chapter 15 reaffirmed the creation of the New Franken Fire Department and adopted the Operating Agreement For the New Franken Fire Department ("Operating Agreement") to provide effective and efficient fire protection services to the Town of Humboldt to promote and protect public health, safety and welfare;

Whereas the Fire Chief of the New Franken Fire Department has been empowered by the Town of Humboldt to perform all duties as determined under the Operating Agreement and the laws of the State of Wisconsin;

Whereas the pursuant Town of Humboldt Code of Ordinances Chapter 14 the Town of Humboldt joined in the creation of the Brown County Joint Municipal Court ("Municipal Court") to promote public health, safety, welfare and convenience by providing local authority and jurisdiction to the Municipal Court to among other things enforce the Town's ordinances;

Whereas Town of Humboldt Code of Ordinances Chapter 10 has authorized the New Franken Fire Department Chief to issue citations summoning ordinance violators into Municipal Court on behalf of the Town; and

Whereas by this Ordinance the Town hereby: adopts State law; provides clear local enforcement authority to the Fire Chief to assure that the Fire Chief's lawful orders are obeyed; and provides further authority to the Fire Chief to among other things establish and collect fees for certain New Franken Fire Department emergency calls.

Now therefore, be it hereby ordained by the Town of Humboldt Town Board that:

SECTION 1 – TITLE AND PURPOSE

- 1.1 The title of this Ordinance is: Ordinance Authorizing Fire Chief to Make and Enforce Lawful Orders, Establish Emergency Fee Schedule, Collect and Disburse Emergency Fees, and Obtain Special Inspection Warrants. The purpose of this Ordinance is for the Town of Humboldt to empower the New Franken Fire Chief to enforce the Chief's lawful orders in the Municipal Court, to facilitate the charging and collection of Emergency Fees and restitution in appropriate cases, and to provide enhanced public safety and protection.

SECTION 2 – AUTHORITY & ADOPTION OF ORDINANCE

2.1 **AUTHORITY.** This Ordinance is adopted pursuant to the authority granted to the Town Board of the Town of Humboldt pursuant to Wisconsin Statutes: §26.13, §26.14, §60.22, §61.34, §60.23(23), §60.55, §60.555, §60.557, §66.0107, §66.0114, §66.0119, §66.0608(2), §101.14, §101.141, §101.145, §101.645, §165.55, §213.08, and §213.095.

2.2 **ADOPTION.** The Town Board of the Town of Humboldt, Brown County, Wisconsin, by this Ordinance, adopted on proper vote with a quorum and by roll call majority vote by the Town Board, hereby adopt certain State Statutes and hereby empower the Fire Chief of the New Franken Fire Department for the purpose of providing enhanced protection and preservation of the health, safety, welfare and convenience of the citizens of the Town of Humboldt.

SECTION 3 – DEFINITIONS

3.1 **“Chief”** means the Fire Chief of the New Franken Fire Department.

3.2 **“Designated Inspector”** means a fire inspector authorized and designated by the Chief as provided in §101.14(2).

3.3 **“Emergency Fee”** means the costs for a fire call as reasonably determined and published by the Chief upon the NFFD Emergency Fee Schedule.

3.3 **“Firefighter”** means and is limited to a firefighter expressly authorized by the Chief or an Officer to perform a particular act.

3.4 **“NFFD”** means the New Franken Fire Department.

3.5 **“Officer”** means the Chief, assistant chief, captain, lieutenant and training officer.

3.6 **“Section”** when appearing as the symbol “§” means a section or subsection of the Wisconsin Statutes; but when appearing as the word “Section” or “Sections” means a section, subsection or sections of this Ordinance.

3.7 **“Separate Offense”** means:

3.7.1 Each day and each successive day upon which a violation of Sections 4.1.1, 4.3.1, 4.3.2, 4.3.3, 4.3.4 or 4.3.5 occurs and continues constitutes a separate offense;

3.7.2 Each time a command or order is ignored, refused or not obeyed in violation of Sections 4.2.1, 4.2.2, 4.2.3, 4.2.4 or 4.5.2 constitutes a separate offense;

3.7.3 Each separate act in violation of Sections 4.1.2, 4.1.3 or 4.5.1 constitutes a separate offense.

SECTION 4 – AUTHORITY TO MAKE AND ENFORCE LAWFUL ORDERS & OBTAIN AND EXECUTE SPECIAL INSPECTION WARRANTS

4.1 **FIRE INVESTIGATIONS.** Pursuant to §165.55 the Fire Chief is required to investigate or cause to be investigated the cause, origin and circumstances of every fire occurring in the Town of Humboldt by which property has been destroyed or damaged when the damage exceeds \$500.00, and on fires of unknown origin the Fire Chief must especially investigate whether the fire was the result of negligence, accident or design. In the course of any such investigation, the Fire Chief may demand that an insurer furnish information in its possession relating to the fire.

4.1.1 No insurer shall refuse, ignore or fail to timely furnish any information in its possession relating to a fire loss involving property to which a policy of insurance issued or serviced by that insurer may apply.

4.1.2 No insurer or person acting on behalf of an insurer shall commit fraud or malice in any statement made, material furnished or action taken in regard to the Fire Chief's demand for information.

4.1.3 No person shall "obstruct" the Fire Chief's fire investigation by knowingly giving false information, or knowingly placing, removing, altering or concealing physical evidence with intent to mislead the fire investigation.

4.2 **FIRE OR EMERGENCY SCENES.** Pursuant to §213.095 the Fire Chief, Officers and Firefighters of the New Franken Fire Department in the course of their duties of extinguishing fires, preventing fire hazards, or responding to first aid calls involving either persons or property, have the authority to: suppress any disorder and order all individuals or companies to leave the neighborhood of any fire or first aid scene; command from the inhabitants of the Town all necessary assistance for the suppression of fires and the preservation of property exposed to fire; enter any premises to do whatever may reasonably be necessary in the performance of the officer's duties while engaged in the work of extinguishing any fire or performing any duties incidental thereto; and enter any property or premises to do whatever may reasonably be necessary in the performance of the officer's duties while engaged in the work of aiding persons or minimizing the loss to property at a first aid scene. No person at a fire or emergency scene shall:

4.2.1 Ignore, refuse or fail to obey any order, by the Fire Chief, an Officer or Firefighter: issued to suppress disorder; or commanding the person to leave the neighborhood of any fire or first aid scene.

4.2.2 Ignore, refuse or fail to obey the command of the Fire Chief, an Officer or Firefighter to provide all necessary assistance for the suppression of fire or the preservation of property exposed to fire.

4.2.3 Block, hinder, obstruct, delay or deny the Fire Chief, Officer or Firefighter entry to any property or premises to do whatever may be reasonably necessary in the performance of NFFD's duty while engaged in the work of extinguishing any fire or performing any duties incidental thereto.

4.2.4 Block, hinder, obstruct, delay or deny the Fire Chief, Officer or Firefighter entry to any property or premises to do whatever may be reasonably necessary in the performance of NFFD's duty while engaged in the work of aiding persons or minimizing the loss to property at a first aid scene.

4.3 INSPECTIONS. Pursuant to §101.14 the Fire Chief, as a Deputy of the Wisconsin Department of Safety and Professional Services, is required to provide for the regular inspection of every public building and place of employment in the Town of Humboldt within required time periods and make reasonable orders for the repair or removal of any building or other structure which for want of repair or by reason of aged or dilapidated condition or for any other cause is especially liable to fire, and which is so situated as to endanger other buildings or property. The Fire Chief may also order the repair or removal of any combustible or explosive material or inflammable conditions, dangerous to the safety of any building or premises or the occupants thereof or endangering or hindering fire fighters in case of fire. The Fire Chief is authorized to at all reasonable hours enter into and upon all buildings, premises and public thoroughfares excepting only the interior of private dwellings, for the purpose of ascertaining and causing to be corrected any condition liable to cause fire, or any violation of any law or order relating to the fire hazard or the prevention of fires. The Fire Chief is required to provide inspections with the minimum frequency required by law, but the Fire Chief may require more frequent inspections than the minimum required by law. The Fire Chief is required to designate a sufficient number of inspectors to make the inspections required by law. No person shall:

4.3.1 Block, hinder, obstruct, delay or deny the Fire Chief or a Designated Inspector requested access to a public building or place of employment for the purpose of performing any inspection authorized by law.

4.3.2 Ignore, refuse or fail to obey any reasonable order for the repair or removal of any building or other structure which for want of repair or by reason of aged or dilapidated condition or for any other cause is especially liable to fire, and which is so situated as to endanger other buildings and property.

4.3.3 Ignore, refuse or fail to obey any order for the repair or removal of any combustible or explosive material or inflammable conditions, dangerous to the safety of any building or premises or the occupants thereof or which may endanger or hinder fire fighters in case of fire.

4.3.4 Ignore, refuse or fail to obey any order requiring correction of: any condition liable to cause fire; or violation of any law or other order relating to minimizing or eliminating fire hazard or promoting the prevention of fires.

4.3.5 Ignore, refuse or fail to obey a written notice regarding installation or maintenance of a residential building smoke detector issued by the Chief pursuant to §101.145.

4.4 SPECIAL INSPECTION WARRANTS. Pursuant to §66.0119 the Chief is hereby authorized to apply for, obtain and execute special inspection warrants for inspection of personal or real properties which are not public buildings or for portions of public buildings which are not open to the public upon showing that consent to entry for inspection purposes has been refused.

4.5 CHIEF FIRE WARDEN. Pursuant to §26.13 as town fire warden for the Town, the Town Chairman hereby delegates to the Chief full authority to perform all delegable duties of town fire warden and appoints the Chief as an emergency fire warden.

4.5.1 Among other things, in his role as a fire warden the Chief shall monitor fire risk conditions in the Town. Whenever the Chief deems it imprudent to set fires upon any land in the Town, the Chief may seek fire prohibition resolutions from the Town Board causing the posting of notices forbidding the setting of fires in the Town except those utilized for warming the person or cooking food. Any such Town Board resolution shall remain in effect until further written advice has been received from the Chief advising the Town Board that the fire ban resolution be rescinded.

4.5.2 The Chief is hereby empowered to take prompt measures against the spread and illegal setting of fires, and as to the later issue citations under this Ordinance. The Chief may also call upon any able bodied citizen to assist in fighting fires in such manner as the Chief directs, and any able-bodied citizen who refuses to render assistance may be subjected to the Chief's issuance of a citation for such unlawful refusal.

4.5.3 The Chief shall be responsible for preparing the itemized accounts on forms provided by the Department of Natural Resources documenting the Chief's services, the services of others and other expenses incurred in fighting any forest fire pursuant to §26.14(4).

4.5.6 As provided at §26.14(9)(b) any person who sets a fire on any land and allows such fire to escape and become a forest fire shall be liable for all expenses incurred in the suppression of the fire by the Town and NFFD and the Chief shall account for those expenses and pursue recovery of those expenses from the responsible persons either as restitution in the Municipal Court or pursuant to other civil action commenced within two (2) years of the setting of the fire as provided in §893.91.

SECTION 5 - STATE STATUTES ADOPTED AND ENFORCEABLE BY CHIEF.

5.1 STATUTES ADOPTED. The provisions of §26.14(5) failure to extinguish a fire set; §26.14(6) setting a fire and allowing it to escape and become a forest fire; §26.14(7) setting a fire for the purpose of driving out game birds or animals; §26.14(8) setting fire to the land of another or a marsh; §941.10 negligent handling of burning materials; §941.11 unsafe burning; §941.12 interfering with fire fighting; §941.13 false alarm; §941.37 obstructing emergency or rescue personnel; §941.375 public safety worker protection; §940.20 battery to fire fighter; §946.40 refusing to aid officer; and §946.41 resisting or obstructing officer; are hereby adopted as part of this Ordinance.

5.2 CITATION ISSUANCE. The Chief may issue citations for violations of Section 5.1 and every other Section of this Ordinance.

SECTION 6 - REIMBURSEMENT FOR FIRE CALLS.

6.1 FIRE CALLS ON HIGHWAYS. Pursuant to §60.557 the Chief is hereby authorized to document statutorily required written proof and may thereupon attempt to collect the costs incurred by NFFD in responding to vehicle fire calls:

6.1.1 On a county trunk highway: from the insurer of the person to whom the fire call was provided; or from the person to whom the fire call was provided but only if unsuccessful in collecting from the insurer or if the person has no insurer. If unsuccessful in collecting from the insurer or the person, then the Chief may proceed to collect the statutory reimbursement from the county maintaining that portion of the highway where the vehicle was located at the time of the call.

6.1.2 On a state truck highway or any highway that is part of the national system of interstate highways and maintained by the Wisconsin Department of Transportation: from the insurer of the person to whom the fire call was provided; or from the person to whom the fire call was provided but only if unsuccessful in collecting from the insurer or if the person has no insurer. If unsuccessful in collecting from the insurer or the person, then the Chief may proceed to collect

statutory reimbursement from the Department of Transportation for the costs, even if the fire equipment is not actually used.

6.2 EMERGENCY FEE SCHEDULE. The Chief shall determine the reasonable costs incurred by NFFD for a fire call. The reasonable costs shall include NFFD's operating and maintenance costs for response by its personnel and apparatus to emergency calls. The Chief shall thereafter document, publish, and from time to time thereafter update, revise and republish that document as the NFFD Emergency Fee Schedule.

6.3 RECOVERY OF FEE AMOUNTS. The Chief is hereby authorized to exercise the Chief's discretion to recover the amounts dictated by the Emergency Fee Schedule as and for the costs incurred by NFFD: in responding to any call under Section 6.1; or in the Town's Municipal Court as restitution for any other violation of any other Section of this Ordinance.

6.4 AMOUNTS RECOVERED. All Emergency Fees recovered pursuant to Section 6.3 shall be payable to NFFD, disbursed to the NFFD capital account portion of NFFD's Budget Account accumulated and utilized for the acquisition of new equipment for NFFD.

SECTION 7 - PENALTY PROVISION

7.1 SEPARATE OFFENSES. Forfeitures, restitution, injunctive and such other relief as permitted by law may be pursued as to each and every violation of this Ordinance. All available legal and equitable remedies may be pursued as to each Separate Offense as defined in Section 3.7 above and by the statutory and common law of Wisconsin.

7.2 FORFEITURES. Upon the issuance of a citation returnable to the Municipal Court and upon conviction, any person or legal entity that fails to comply with the provisions of this Ordinance, in addition to any such other or further order(s) for restitution or other relief issued by the Municipal Court, shall be required to pay a forfeiture of not less than \$50.00 nor more than \$500.00, plus the applicable surcharges, assessments, and costs for each Separate Offense, except that no forfeiture charged hereunder shall exceed any State Law prescribed maximum forfeiture for those violations of State Laws adopted as provisions of this Ordinance. In addition to the forfeiture and costs, the convicted person or entity shall fully reimburse the Town for all Town Attorney's fees incurred by the Town in the investigation and prosecution of each charged violation.

7.3 INJUNCTIVE RELIEF. In addition to the forfeitures and restitution remedies available in the Town's Municipal Court, the Town may in an appropriate case also seek injunctive relief from a Circuit Court to enjoin further violations.

SECTION 8 - SEVERABILITY.

8.1 If any provision of this Ordinance or its application to any person, entity or circumstance is held invalid by a final court judgment, the invalidity of that provision or application in that instance does not affect other provisions or applications of this Ordinance that can be given effect with the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 9 - EFFECTIVE DATE.

9.1 This Ordinance is effective on the date following the date of its adoption by the Town Board.

9.2 The Town Clerk shall lawfully publish this Ordinance as provided in §60.80(5).

Adopted this 2 day of April 2012 by the Humboldt Town Board,
Brown County, Wisconsin:



Norbert Dantine Jr. Town Chairman

Attest: 

Judy Baierl Town Clerk


