

ORDINANCE 1050B

FIRE DEPARTMENT

THE CITY COUNCIL OF THE CITY OF LAKE MILLS, JEFFERSON COUNTY, WISCONSIN,
DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 1 of Title 9 of the Lake Mills Municipal Code is amended as follows:

9-1-1: **FIRE DEPARTMENT ESTABLISHED:** The Lake Mills Fire Department consists of a Fire Chief, and such number of officers and firefighters as shall from time to time be provided for by the City Council and appointed by the Fire Chief. The Department is organized under Wis. Stats. § 62.13, and it operates pursuant to the laws of the State of Wisconsin and ordinances of the City of Lake Mills, under the direct supervision of the Fire Chief, who is responsible for the program of fire defense and prevention for the citizens and property within the City and within any areas outside the City that are subject to fire service contracts.

9-1-2: **COMPOSITION OF FIRE DEPARTMENT:**

- A. The Fire Department of the City of Lake Mills shall be comprised of a combination of paid and voluntary paid-on-call personnel with salaries, benefits, expenses, and payments to be determined from time to time by the City Council.
- B. The Fire Department of the City of Lake Mills shall consist of a Fire Chief, who shall be the head of the department and who shall be subject to the lawful orders of the general supervision of the City Council Manager, who may issue lawful orders to the Chief, and who shall follow the chain of command in supervising the Chief by:
1. Upholding the Chief's authority as the head of the department; and
 2. Working with the Chief on any and all issues related to the department; and
 3. Working with subordinate officers or firefighters within the department with the knowledge and consent of the Chief and with the express and specific authorization of the Chief.
- C. The Chief shall appoint such deputies, assistant chiefs, captains, and lieutenants ~~and establish special officers~~ as determined to be in the best interests of the department, provided funding has been appropriated by the Council for such positions. The appointments of any such subordinate officers to deputy chief or assistant chief are subject to approval by the Police and Fire Commission.
- D. The Chief shall appoint volunteer paid-on-call firefighters as determined to be in the best interests of the department and, ~~except for volunteers,~~ such appointees are subject to the approval of the Police and Fire Commission.

9-1-3: **POLICE AND FIRE COMMISSION:**

- A. The Police and Fire Commission is established and operated under the provisions of Title 2, Chapter 7 of the Municipal Code of the City of Lake Mills and Wis. Stats. § 62.13. In addition, the Police and Fire Commission shall:
1. Appoint the Fire Chief, who shall serve an indefinite term unless removed by the Police and Fire Commission under procedures established herein and under the authority of Wis. Stats. § 62.13(5).

2. Confirm the appointment of all appointees of the Fire Chief, provided such appointments are in compliance with the Rules of the Police and Fire Commission, and provided appropriations for all such positions have been made by the Council. ~~deputy chiefs, assistant chiefs, and full-time paid firefighters.~~
- B. The Police and Fire Commission has the authority to suspend, reduce in rank, suspend and reduce in rank or remove the Chief or any member of the Department for just cause after hearing on charges filed by the Commission, the Chief, or any aggrieved person in accordance with the procedures of Wis. Stats. § 62.13(5), and in accordance with written rules established by the Commission. The Commission may also suspend the Chief, ~~or a member~~ officer or firefighter pending disposition of charges filed.
- C. The City Manager may not file charges with the Police and Fire Commission regarding the Fire Chief unless any and all such information supporting such charges has been investigated by the City Attorney, or in the case of a conflict of interest found to exist by the City Attorney, by a special counsel for labor and employment law, as authorized by the City Council. If adequate appropriations have been made in the City Attorney's budget for the special counsel's fees, then no specific authorization for the special counsel is needed from the Council before the City Attorney may authorize the use for the special counsel's services, if such need exists. No charges may be filed unless they are found to be based on probable cause, and unless such pending charges have been prepared in writing by the City Attorney or the special counsel.
- D. When charges may be warranted, the City Manager may not file charges with the Police and Fire Commission regarding any other officer or firefighter in the Department, unless:
1. The special counsel for labor and employment law has made a finding that the Fire Chief is incompetent to file such charges against such subordinate due to a conflict of interest; and
 2. Any and all information supporting such charges against a subordinate or officer, other than the Chief, has been investigated by the special counsel for labor and employment law; and
 3. Any such pending charges have been found by the special counsel to be based on probable cause and such charges have been prepared in writing by the special counsel.
- E. The Fire Chief may not file charges with the Police and Fire Commission regarding any officer or firefighter unless any and all such information supporting such charges has been investigated by the City Attorney, or in the case of a conflict of interest found to exist by the City Attorney, then by the special council for labor and employment law, as funded or authorized by the City Council. No charges may be filed unless they are found by the City Attorney or special counsel to be based on probable cause, and unless such pending charges have been prepared in writing by the City Attorney or special counsel.
- F. Notwithstanding the foregoing paragraphs, the City Manager may discipline the Fire Chief, and the Fire Chief may discipline subordinates, for violations of state statutes or regulations, or this ordinance, or for violations of the written rules, policies and standard operating guidelines of the Department, without filing charges with the Police and Fire Commission and without consulting with the City Attorney or special counsel, if such discipline is not intended to rise to the level of becoming a matter under the jurisdiction of the Police and Fire Commission. A matter falling within the jurisdiction of the Police and Fire Commission is any discipline that may result in suspension, reduction in rank, or removal, after the filing of charges, a hearing and a finding by the Police and Fire Commission that just cause under Wis. Stats. § 62.13(5) has been met.
- G. If either the City Manager or Fire Chief chooses to exercise authority to discipline under paragraph F of this section, no subject of such discipline may be threatened with demotion, suspension, removal or charges being filed before the Police and Fire Commission for the conduct giving rise to the particular disciplinary action.
- G.H Judicial Review: Decisions of the Commission under Section B. are subject to judicial review in the Jefferson County Circuit Court as provided in Wis. Stats. § 62.13(5)(i).

9-1-4: **FIRE CHIEF:**

- A. Head of Department: The Fire Department shall be under the direction of the Fire Chief, subject to the City Manager's general supervision within the chain of command, as provided in sec. 9-1-2-B, and subject to the lawful orders of the City Manager.
- B. Appointment; Removal: The Chief of the Lake Mills Fire Department shall be appointed by the City of Lake Mills Police and Fire Commission for an indefinite term, subject to suspension, reduction in rank, or removal by the Commission for just cause under Wis. Stats. § 62.13(5) and the rules and regulations of the Commission. The Chief shall be selected on the basis of demonstrated qualifications in fire prevention, control and management.
- C. Duties and Responsibilities: The Chief shall have the following duties and responsibilities:
1. To appoint, assign and promote individuals to deputy chief, assistant chief, ~~other officers~~ captain, lieutenant, and paid-on-call volunteer firefighter within the department in accordance with Wis. Stats. § 62.13, ~~the appropriations necessary to fund such positions, the personnel policies of the City,~~ the rules and regulations of the Commission, and the written policies and procedures of the department. Appointments of deputy chief, assistant chief, and any officer shall be made by promotion when this can be done to advantage ~~and are subject to approval by the Commission. Appointment to volunteer firefighter is at the sole discretion of the Chief.~~ All appointments and promotions are subject to the approval of the Commission.
 2. To administer the Lake Mills Fire Department pursuant to the laws and applicable regulations of the State of Wisconsin and the ordinances and resolutions of the City of Lake Mills, and any lawful orders of the City Manager.
 3. To administer and enforce, or cause to be enforced, all laws relating to fire prevention and control, including the provisions of this chapter.
 4. To develop organizational structure, written department policies, and procedures to achieve the goals of the department, or as required by the State of Wisconsin.
 5. To develop written department policies and standard operating guidelines to provide for operation of the Department, or as required by the State of Wisconsin. The prevention of accidents, injuries, and occupational illnesses shall be primary considerations at all times. ~~This concern for safety and health applies to all members of the department and to any other persons who may be involved in department activities.~~
 6. To ~~develop and~~ administer the annual department budget in accordance with Section 1-9-~~35~~ of the Municipal Code ~~of the City.~~
 7. To provide the ~~City Council~~ City Manager, under sec. 1-9-4-F, with projections of needs and goals spanning 5, 10, ~~and 20~~ years. These reports should be provided annually to the City Manager by September 1 ~~adjusted as frequently as changing conditions dictate~~ and shall include predicted annual budget requests for personnel, equipment and capital expenditures.
 8. To identify the need for, negotiate and draft mutual and/or automatic aid agreements with agencies of other communities.
 9. To maintain liaison with other City departments on matters of importance to the goals of the Fire Department.
 10. To provide all requested information to the City Manager to facilitate contract negotiations with other municipalities entering into agreements for Fire Department services.

11. Destruction of Property. During the progress of any fire, the Chief of the Fire Department, or, in the case of his the Chief's absence or disability, the ~~Assistant Chief~~ officer in charge, may order the removal or destruction of any property necessary to prevent the further spread of fire.

12. To determine the duties and responsibilities of all department personnel and supervise such personnel in their execution of their duties through the chain of command developed by the Chief for the operations and management of the department. ~~the Fire Inspector and supervise the Fire Inspector in the execution of these duties.~~

13. To provide whatever reports that may be required by the City Manager, the Police and Fire Commission, or by the City Council, with copies of any such reports being provided to the Council and the City Manager.

14. To seek clarification or interpretation from the City Attorney of ordinances, state laws, or policies, and to seek guidance from the City Attorney for the creation or modification of any department policies, procedures or operating guidelines.

15. To delegate within the chain of command any duties or responsibilities in this section to other officers of the department for performance in the absence or disability of the Chief. Any and all such delegations of authority shall be at the discretion of the Chief, who remains responsible for the ultimate performance and execution of such delegated duties or responsibilities.

16. If any unresolved dispute regarding written department policy or standard operating guidelines should arise between the Chief and the City Manager, the particulars of such dispute shall be brought to the attention of the City Council for resolution.

9-1-5: **FIREFIGHTERS:**

A. Selection: Firefighters shall be selected by the Chief. ~~Full-time paid firefighter and all such appointments are subject to confirmation by the Police and Fire Commission.~~

B. Compensation, Reimbursements, and Expenses: Persons receiving ~~permanent~~ appointments as firefighters shall receive such compensation, reimbursements and expenses as from time to time are established by the City Council. Such payments may be based upon participation in department activities including emergency response, training and non-emergency activity. Except for failure to participate, rates of payment shall not be reduced without previous recommendation of the Commission.

C. Chain of Command: Firefighters and other members of the Department shall observe the chain of command as set forth in this ordinance or Department policy.

D. Insubordination: Firefighters or other members of the Department may be subject to discipline by the Chief if a lawful order is issued by a superior to any subordinate and that order is ignored, disobeyed, or not promptly obeyed.

E. Neglect of Duty: Firefighters and other members of the Department may be subject to discipline by the Chief if the firefighter fails to conform to the policies, standard operating guidelines, rules and regulations of the Department, fails to observe laws and ordinances related to the Fire Department, or fails to follow the chain of command within the Department.

F. Harassment: No firefighter or member of the Department may engage in conduct with other members of the Department or members of the public while performing duties of the Department if such conduct is considered under state or federal law to be harassment on the basis of age, race, creed, color, disability, marital status, sex, national origin, ancestry, arrest or conviction record, military service, or the use or nonuse of lawful products when not on Department premises or performing Department duties.

G. Honesty: No firefighter or member of the Department may engage in the falsification of records or the misrepresentation of material information when performing duties or engaging in the business of the Department.

H. Negligence in performing duties: No firefighter or member of the Department may be negligent in performing duties or may engage in conduct that constitutes the willful hindrance of the performance of duties to the Department.

I. Layoffs and Dismissals:

1. When it becomes necessary, because of need for economy, lack of work or funds, or for other just causes, to reduce the number of subordinates, the emergency, special, temporary, part-time or provisional subordinates, if any, shall be dismissed first, and thereafter subordinates shall be dismissed in the order of the shortest length of service in the department.

2. When it becomes necessary for reasons stated in Section 9-1-5-~~C~~I-1 to reduce the number of subordinates in the higher positions or offices, or to abolish any higher positions or offices in the department, the subordinate or subordinates affected thereby shall be placed in a position or office in the department less responsible according to his/her efficiency and length of service in the department.

9-1-6: **FIRE INSPECTOR DEPUTY FIRE CHIEF AND FIRE INSPECTORS:**

A. ~~Created:~~ To assist in the performance of the responsibilities and duties of the Fire Chief, the position of Deputy Fire Inspector Chief is hereby created as a full-time position within the Lake Mills Fire Department.

B. Administration: The Deputy Fire Inspector Chief shall operate under the supervision of the Chief and shall be appointed by the Chief to the office of Deputy Chief-Fire Inspector Chief. This appointment is subject to confirmation by the Police & Fire Commission. The Deputy Chief-Fire Inspector shall be responsible for direct administration and enforcement of the Lake Mills Fire Prevention Code.

C. Appointment of Deputy Chief and Fire Inspector: The Deputy Chief-Fire Inspector shall be selected on the basis of the candidate's demonstrated qualifications in fire prevention and public fire safety education. The Deputy Fire Chief may also recommend to the Chief the appointment of such number of inspectors as shall be authorized by the City Council. Inspectors shall be selected on the basis of demonstrated qualifications in fire prevention and public fire safety education. Any appointments to Fire Inspector shall be made by the Chief, subject to the approval of the Police and Fire Commission.

D. Duties: The Deputy Chief and Fire Inspector shall have the following duties and powers:

1. To enforce all laws and ordinances of the City relating to prevention of fires, storage, sale and use of combustible, flammable or explosive materials, installation and maintenance of automatic suppression fire alarm and other fire extinguishing equipment; and means and adequacy of exit in case of fire from factories, schools, hotels, rooming houses, multiple family dwellings, hospitals, churches, halls, theaters, amphitheaters, and all other places in which numbers of persons work, live or congregate, from time to time for any purpose.

2. Any other duties assigned by the Chief to the Deputy Chief or Fire Inspectors shall be as provided in the written job descriptions created by the Chief and approved by the Police and Fire Commission, as may be amended from time to time, or as may otherwise be imposed by law. In addition, duties of the Chief may be delegated to the Deputy Fire Chief or Inspectors, subject to sec. 9-1-4-15.

3. The Deputy Chief and any Fire Inspectors shall be subject to sec. 9-1-5 in its entirety.

E. Permit Inspections: The Deputy Chief or Fire Inspector shall inspect and approve all locations and objects for any use or structure requiring a permit under this Fire Code.

- F. Periodic Fire Inspections: The Deputy Chief or Fire Inspector shall inspect all premises classified as public occupancies on a periodic basis to determine compliance with the laws and ordinances applicable to fire prevention.
- G. Corrective Orders: Whenever the Deputy Chief or Fire Inspector finds any of the following conditions, the ~~inspector~~ Deputy Chief shall order removal of the dangerous matter, obstruction or remedy of the condition:
1. Combustible or explosive matter.
 2. Dangerous accumulations of rubbish or flammable material.
 3. Obstructed means of exit.
 4. Obstructions likely to interfere with operations of the Department or egress of occupants in case of fire. A corrective order shall be served upon the occupant of the premises by delivering a copy to the occupant personally or leaving it with any person of suitable age and discretion in charge of the premises, or, in case no such person is found upon the premises by affixing a copy thereof in a conspicuous place on or near the entrance of said premises. The owner of the premises shall be served personally or by delivering a copy of the order to a person of suitable age and discretion at the owner's residence or place of business, or, if such owner is absent from the City, by mailing a copy by certified mail to the owner's last known post-office address.
- H. Appeals: Any person aggrieved by any of the following decisions of the ~~Fire~~ Deputy Chief or Fire Inspector may appeal to the ~~Lake Mills Zoning Board of Appeals~~ Fire Chief within 30 days after the decision and shall be entitled to review in accordance Wis. Stats. Ch. 68, with a final determination, if necessary, being made by the City Manager. ~~the rules of procedure for the Board of Appeals except those rules specifically related to zoning appeals.~~
1. Rejection of an application for any required permit, certificate or approval.
 2. Revocation of any permit or certificate previously issued.
 3. Conditioning issuance of any required permit certificate or approval upon compliance with any requirements other than those established by this Chapter or by any other applicable state, federal, county or City laws or regulations.

9-1-7: ASSISTANT CHIEFS, CAPTAINS, AND LIEUTENANTS:

- A. To assist in the performance of the responsibilities and duties of the Fire Chief, the positions of Assistant Chief, Captain, and Lieutenant are hereby created as part-time, salaried positions as officers within the Department.
- B. Administration: The Assistant Chief, Captain and Lieutenant positions shall operate under the supervision of the Chief and shall be appointed by the Chief in accordance with appropriations for such positions being made by the Council. All such positions are subject to confirmation by the Police & Fire Commission. The Assistant Chief, Captain and Lieutenant positions shall be responsible for duties as assigned by the Chief.
- C. Appointment of Assistant Chief, Captain and Lieutenant: The appointees to the positions of Assistant Chief, Captain and Lieutenant shall be selected on the basis of the candidates' demonstrated qualifications in fire department leadership and training.
- D. Duties: Any duties assigned by the Chief to the Assistant Chief, Captain and Lieutenant positions shall be as provided in the written job descriptions created by the Chief and approved by the Police and Fire

Commission, as may be amended from time to time. In addition, duties of the Chief may be delegated to the Assistant Chief, Captain and Lieutenant positions, subject to sec. 9-1-4-15.

E. Additional Duties: All Assistant Chiefs, Captains, and Lieutenants shall also be subject to sec. 9-1-5 in its entirety.

9-1-7 ~~8~~: **GENERAL AUTHORITY OF FIRE OFFICIALS AT FIRES AND RELATED EMERGENCIES:**

- A. Control at Scene: The Fire Chief or Department official conducting operations in connection with the extinguishment and control of any fire, explosion or other emergency shall have full authority to direct all operations of fire extinguishment or control and to take the necessary precautions to save life, protect property and prevent further injury or damage as provided in Wis. Stats. § 213.095. In the pursuit of such operations, including the investigation of the cause of such emergency, the Chief or department official may control or prohibit the approach to the scene of such emergency by any person.
- B. Access Barriers at Scene of Emergency: The Chief or official in charge of an emergency scene shall have the authority to establish fire line barriers to control access in the vicinity of such emergency, and to secure any street, alley or fire lane.

9-1-8 ~~9~~: **INTERFERENCE WITH FIRE FIGHTING OR EMERGENCY ACTIONS PROHIBITED:**

- A. Obstruction of Operations Prohibited: No person shall obstruct the operations of the Department in connection with extinguishing any fire or responding to other emergencies.
- B. Disobedience of Fire Officials: No person shall disobey any lawful command of a fire official in charge of the emergency, or any lawful order of a police officer assisting the Fire Department at any fire or other emergency.
- C. Crossing or Removing Fire Line Barriers: No unauthorized person shall cross a fire line barrier or remove, unlock, destroy or tamper with any barricade or sign which has been lawfully installed by the Fire Department or by its order or which is under its control.

9-1-9 ~~10~~: **ASSISTANCE FROM BYSTANDERS:** Any officer of the Fire Department or any police officer may require the aid of any citizen or inhabitant of the City for the purpose of removal or guarding of property during a fire.

9-1-40 ~~11~~: **POLICE OFFICERS DUTIES:** The Chief of Police shall designate police officers to respond, on an alarm of fire, to the place where the fire may be and remain there for the preservation of order and guard the members of said Fire Department from interference from bystanders and shall remove all persons not actively engaged in extinguishing the fire to a reasonable and safe distance ~~therefrom~~.

9-1-44 ~~12~~: **OFFENSES, OBSTRUCTIONS TO FIRE DEPARTMENT AND EQUIPMENT:**

- A. Resistance to Firefighters, Injury to Apparatus: No person shall willfully hinder a firefighter in the discharge of his/her duty, nor shall any person willfully injure in any manner any hose or apparatus belonging to the Fire Department and in use at a fire.
- B. Molesting Fire Equipment: No person shall take, borrow or remove from the fire engine house of the City, any of the fire apparatus or equipment of the Fire Department, nor shall any person in any manner molest, disturb or misplace any of such equipment or apparatus while stored in said engine house of the Fire

Department without first receiving written permission from the Chief of the Fire Department or the City Manager.

- C. Right of Way: All fire apparatus shall have the right-of-way upon any street, avenue or highway when going to an alarm of fire. No person shall obstruct the right-of-way of the fire apparatus of the City while going to a fire.

Section 2. This ordinance was sponsored by Council Representative Joe Van Tassel.

Section 3. All ordinances or parts of ordinances inconsistent with or contravening the provisions of this ordinance are hereby repealed.

Section 4. This ordinance shall be in full force and effect upon passage and publication.

Dated this _____ day of _____, 2009.

Ed Grunden, Council President

Attest:

James E. Heilman, City Clerk-Treasurer