

Chapter 6

FIRE PREVENTION AND PROTECTION*

Article I. In General

- Sec. 6-1. Adoption of fire prevention code.
- Secs. 6-2--6-25. Reserved.

Article II. Fire Department

- Sec. 6-26. Established.
- Sec. 6-27. Composition.
- Sec. 6-28. Bylaws, rules, fee schedule for runs.
- Sec. 6-29. Nomination, appointment of chief, assistant chief.
- Sec. 6-30. Submission of list of personnel; determination of compensation, other benefits.
- Sec. 6-31. Equipment.
- Sec. 6-32. Budget.
- Sec. 6-33. Village ownership; fire committee.
- Sec. 6-34. Duties of chief.

- Secs. 6-35--6-50. Reserved.

Article III. Open Burning

- Sec. 6-51. Purpose.
- Sec. 6-52. Prohibited fires.
- Sec. 6-53. Exceptions.
- Sec. 6-54. Permits and permission.
- Sec. 6-55. General prohibition on outdoor burning and open burning.
- Sec. 6-56. Open burning of refuse
- Sec. 6-57. Open burning of trees, logs, brush, stumps, leaves, and grass clippings
- Sec. 6-58. Outdoor wood-fired boilers
- Sec. 6-59. Patio wood-burning units
- Sec. 6-60. Burn permits
- Sec. 6-61. Liability
- Sec. 6-62. Right of entry and inspection
- Sec. 6-63. Enforcement and penalties
- Sec. 6-64. Recovery of costs, charges for fire department services and administrative services.
- Sec. 6-65. Exceptions
- Sec. 6-66. Repeal of previous ordinance

* **State Law References:** Fires and fire departments, MCL 70.1 et seq., MSA 5.1397 et seq.; state fire prevention act, MCL 29.1 et seq., MSA 4.559(1) et seq.; crimes related to explosives and bombs, MCL 750.200 et seq., MSA 28.397 et seq.; crimes related to fires, MCL 750.240 et seq., MSA 28.437 et seq.

ARTICLE I.

IN GENERAL

Sec. 6-1. Adoption of fire prevention code.

The Uniform Fire Code, 1988, as promulgated by the International Conference of Building Officials, is adopted by reference as the code relating to fire prevention within the village and the following townships: DuPlain, Fairfield, Chapin and any other governmental units that may be added.

(Ord. No. 127, § 9, 4-22-85; Ord. of 5-31-99, § 1)

Secs. 6-2--6-25. Reserved.

ARTICLE II.

FIRE DEPARTMENT

Sec. 6-26. Established.

The village shall have a fire department, which shall be known as the Elsie Fire Department.

(Ord. No. 127, § 1, 4-22-85)

Sec. 6-27. Composition.

The fire department shall consist of a chief, one (1) assistant chief, sufficient volunteer firefighters and such other officers and officials of the department as shall from time to time be determined by the department with the approval of the village council.

(Ord. No. 127, § 2, 4-22-85)

Sec. 6-28. Bylaws, rules, fee schedule for runs.

(a) The fire department is authorized, empowered and required from time to time to adopt a code of bylaws and rules for the control, management and government of the department, including rules for membership and such officers as shall be deemed necessary. The code of bylaws and rules, after adoption by the department, shall not become effective until presented to and approved by the village council.

(b) The department shall determine a fee schedule for providing fire runs. The schedule shall be posted for public inspection at the fire hall. The department shall bill for fire runs pursuant to the approved schedule.

(Ord. No. 134, 5-27-86)

Sec. 6-29. Nomination, appointment of chief, assistant chief.

Candidates for the office of fire chief and assistant fire chief shall be nominated by the fire department and appointed by the mayor, with the consent of the village council, each for a term of one (1) year. They shall be subject to election for successive terms. Each shall reside within the Elsie Fire Department coverage district, and the council shall have the right to dismiss the chief or assistant chief if dissatisfied with the performance of either. The compensation of the chief shall be determined from time to time by resolution of the council. The chief and assistant chief shall be subject to the direction of the mayor and the resolutions of the village council which may from time to time be adopted. The fire chief, or his designate, shall attend the first council meeting of each month to present a monthly fire report.

(Ord. No. 127, § 4, 4-22-85; Ord. of 5-31-99, § 2)

Sec. 6-30. Submission of list of personnel; determination of compensation, other benefits.

The fire department shall submit annually to the council for its approval, a list of the officers and volunteer firefighters making up the department. Such officers and volunteer firefighters shall receive such compensation and other benefits, including insurance, as the council may provide.

(Ord. No. 127, § 5, 4-22-85)

Sec. 6-31. Equipment.

The council shall purchase and provide suitable fire engines, apparatus and other property necessary for the extinguishment of fires, and all such buildings and other facilities needed to house and maintain such equipment. At the end of his tenure, each firefighter shall have the right to retain the boots and helmet provided him by the department.

(Ord. No. 127, § 6, 4-22-85; Ord. of 5-31-99, § 3)

Sec. 6-32. Budget.

The council shall have the power to establish a budget for the operation and maintenance of the fire department and its equipment. Annually, and prior to the adoption of a budget by the village, the department shall submit to the council such information as it may desire or which may be requested by the council for the use of the council in preparing such a budget.

(Ord. No. 127, § 7, 4-22-85)

Sec. 6-33. Village ownership; fire committee.

(a) The fire department shall be owned and operated by the village. The village will maintain vehicles, liability insurance and other insurances required by law, and will house vehicles and necessary equipment

(b) A fire committee will be established with representatives from the village and the following townships: Duplain, Fairfield, Chapin and any other governmental units that may be added. If the appointed representative is unable to attend necessary meetings, an alternate may be appointed. The committee was established as of April 1, 1985.

(c) The fire committee will act in an advisory capacity in regards to finances and purchasing of major equipment, i.e., new fire trucks.

(d) The financial commitment of each township shall be established with a mutual agreement with all governmental bodies involved. The committee will assist in the establishment of an agreeable contract to be presented and signed April 1 of each year.

(e) An annual meeting will be held the second Wednesday of February; additional meetings will be called when deemed necessary. This will enable the townships to discuss any changes or additions at their budget meetings. At this time each township and village representative will be presented with a yearly audit to review the financial condition of the department.

(f) Terms of withdrawal from this arrangement shall be covered in the fire contract agreement.

(g) The village will act as billing agent and will take care of depositing monies received and billing townships and/or individuals, as deemed necessary, for fires incurred. (Ord. No. 127, § 8, 4-22-85; Ord. of 5-31-99, § 4)

Sec. 6-34. Duties of chief.

The fire chief shall have the following powers and duties:

- (1) He shall extinguish fires, enforce all the rules and regulations pertaining to the department and shall be the enforcement officer to ensure compliance with all village ordinances, state codes and regulations in effect.
- (2) He shall be responsible for the proper training of all firefighters and for fire inspection of safety programs within the village.
- (3) He shall ensure that all equipment, machinery and buildings are properly maintained and in working order; shall, in general, be the supervisor and director of the fire department; and shall have the care, management and control of the fire engines, apparatus and property.
- (4) He shall be responsible for all reports and shall submit to the council at the first council meeting of each month a written report of all activities of the department.
- (5) He shall have administrative responsibility over all department personnel.

FIRE PREVENTION AND PROTECTION

- (6) He shall have disciplinary control over the members of the department in accordance with rules and procedures established by the bylaws of the department; provided, however, that any order of discipline may be appealed to the village council, which shall deny, affirm or modify the order of the chief.

(Ord. No. 127, § 10, 4-22-85; Ord. of 5-31-99, § 5)

Secs. 6-35--6-50. Reserved.

ARTICLE III.

OPEN BURNING*

6:51: PURPOSE

- 5.1.1 This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, safety and welfare of the citizens of the Village of Elsie, Michigan by regulating the air pollution and fire hazards of open burning and outdoor burning.

(Ord. No. 8-7, § 1, 10-25-93; Amended Ord. No. 6-51--6-66, § 1, 02-23-2009)

6:52: APPLICABILITY

- 52.1 This ordinance applies to all Outdoor Burning and Open Burning within the Village of Elsie, Michigan.
- 52.2 This ordinance does not apply to grilling or cooking food using charcoal, clean wood, propane or natural gas in cooking or grilling appliances.
- 52.3 This ordinance does not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.
- 52.4 This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

6:53: SEVERABILITY

- 53.1 Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

6:54: DEFINITIONS

- 54.1 “Campfire” means a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste, wood or refuse.
- 54.2 “Clean wood” means natural wood which has not been painted, varnished or coated with a similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products.
- 54.3 “Construction and demolition waste” means building waste materials, including but not limited to waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on a house, commercial or industrial building, or other structure.
- 54.4 “Fire Chief” means the Chief of the Elsie Area Fire Department or other person designated by the Fire Chief.
- 54.5 “Municipality” means a county, township, city, or village.
- 54.6 “Outdoor Burning” means open burning or burning in an outdoor wood-fired boiler or patio wood burning unit.
- 54.7 “Open Burning” means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. This includes burning in a burn barrel.
- 54.8 “Outdoor wood-fired boiler” means a wood-fired boiler, stove or furnace that is not located within a building intended for habitation by humans or domestic animals.
- 54.9 “Patio wood-burning unit” means a chimney, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.
- 54.10 “Refuse” means any waste material, garbage, animal carcasses, and trash or household materials except trees, logs, brush, stumps, leaves, and other vegetative matter.

6:55: GENERAL PROHIBITION ON OUTDOOR BURNING AND OPEN BURNING.

- 55.1 Except as provided in this Ordinance, Open Burning and Outdoor Burning are prohibited in the Village of Elsie.

6:56: OPEN BURNING OF REFUSE

- 56.1 Open burning of refuse or grass clippings are prohibited.

6:57: OPEN BURNING OF TREES, LOGS, BRUSH, STUMPS, LEAVES, AND GRASS CLIPPINGS

- 57.1 Open Burning of trees, logs, and leaves is allowed only in accordance with all of the following provision

FIRE PREVENTION AND PROTECTION

- 57.1.1** Except Fires occurring during the times specified in 7.2.8, a permit issued in accordance with Section 10 of this ordinance must be obtained prior to Open Burning under this section.
- 57.1.2** Except for barbecue, gas, and charcoal grills, no Open Burning shall be undertaken during periods when the Governor of Michigan has issued a burning ban applicable to The Village of Elsie.
- 57.1.3** All allowed Open Burning shall not create a visibility hazard on roadways, railroads or airfields. Open Burning shall be conducted in conformance with all local and state fire protection regulations.
- 57.1.4** Open Burning shall be conducted only on the property on which the materials were generated or naturally deposited.
- 57.1.5** Outdoor Campfires for cooking, ceremonies, or recreation are allowed. Said fires may be around a home or place of residence, within the curtilage of said dwelling where the material to be burned has been properly placed in a debris burner constructed of metal or masonry. Said burners shall not be larger than 3 feet square or 3 feet in diameter and located not less than 25 feet away from any building or less than 10 feet from any adjoining property line. Said Campfires must be supervised at all times by an adult. No permits shall be required for such fires. Except as provided in this Ordinance, leaf burning is specifically prohibited.
- 57.1.6** Open Burning under this section shall only be conducted at a location at least 25 feet from the nearest building and 10 feet from any property line.
- 57.1.7** Except for Campfires, Open Burning shall only be conducted during months of April, May, October and November. Burning hours are from sunrise to sunset, local time.
- 57.1.8** Open Burning shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire. One adult must be in attendance of each fire (i.e. three fires = three attendees). The adults in attendance must be free from the effects of alcohol and/or illegally used controlled substances and/or over the counter medicines and/or prescribed medications that may impair proper judgment.
- 57.1.9** Open burn fires must not exceed eight (8) feet in diameter or square or be within 25' of a lake, stream, or river.
- 57.1.10** No materials may be burned upon any street, curb, gutter, sidewalk, or active railroad right of way.
- 57.1.11** Barbecue, gas, charcoal grills, and patio wood-burning units are exempt under this section.
- 57.1.12** The Fire Chief or designee shall have the authority to implement a temporary burning ban due to environmental conditions including but not limited to high winds or extreme dry conditions. The fire department shall make a reasonable attempt to inform the public of the ban using available resources. If a temporary burning ban is imposed, the Fire Chief or designee shall have the authority to implement alternate open burning

times. The alternate burning times shall be comparable in length to the temporary burning ban.

57.1.13 Only the Village of Elsie DPW, with permission of the Fire Chief, may be allowed additional open burning times if a storm or storms result in large amounts of downed trees, branches and/or leaves. Such additional open burns shall also comply with the applicable requirements of this Ordinance.

6:58: OUTDOOR WOOD-FIRED BOILERS

- 58.1 Intent and Purpose. This section is intended to control and regulate construction and operation of outdoor wood boilers for the purpose of securing and promoting the public health, safety and welfare of the Village and its inhabitants.
- 58.2 Prohibition. It shall be unlawful to install, operate, or construct an outdoor wood-fired boiler, and to add to or expand the size of any existing outdoor wood-fired boilers within the Village of Elsie, as of the effective date of this ordinance.
- 58.3 Nuisance. Any outdoor wood-fired boiler installed or operated in violation of this Ordinance is declared to be a nuisance *per se*. Nothing in this ordinance shall be deemed to bar, limit, or otherwise affect the rights of any person to take private legal action regarding a nuisance caused by the use of said outdoor wood-fired boilers.
- 58.4 No Replacements. No replacement outdoor wood-fired boilers shall be installed or put into use within the Village of Elsie.
- 58.5 Existing Outdoor Wood-Fired Boiler. This section shall not apply to any outdoor wood-fired boiler that was installed, connected and operating as of the effective date of this section; however, an existing outdoor wood-fired boiler shall within 90 days of the effective date of this section meet the following requirements:
1. The outdoor wood-fired boiler shall not be used to burn refuse and shall be used to burn only clean wood.
 2. The outdoor wood-fired boiler shall be located at least 50 feet from the nearest residential dwelling which is not on the same property as the outdoor wood-fired boiler.
 3. The outdoor wood-fired boiler shall have a chimney that extends at least 15 feet above the ground surface or 3 feet above the building it

serves, whichever is greater. In addition, the chimney shall extend 3 feet above the highest peak of any residence located within 500 feet from the wood-fired boiler. The Zoning Administrator or designee may approve a lesser height on a case-by-case basis if, in the opinion of the Zoning Administrator or designee, it is necessary to comply with manufacturer's recommendations and if a lower chimney height does not create a nuisance for neighbors.

4. The owner of the outdoor wood-fired boiler shall obtain a permit from the Zoning Administrator prior to any installation and the final installation shall be inspected by the Zoning Administrator and only put into operation with written approval from the Zoning Administrator. The purpose of the Zoning Administrator's inspection will only be to ensure compliance with this ordinance and shall not be considered a safety inspection.
5. The use of the wood-fired boiler does not create a nuisance, which is defined as the burning of materials that create a foul and offensive odor or that causes smoke emissions that are reasonably offensive to occupants of surrounding properties.

58.5.1 This section shall not be deemed as specific authorization for use of any pre-existing outdoor wood-fired boilers and shall not be deemed to bar, limit, or otherwise affect the rights of any person to take private legal action regarding a nuisance caused by the use of said outdoor wood-fired boilers.

58.5.2 If a pre-existing outdoor wood-fired boiler is converted, modified, replaced or moved to a new location within the same property or is adapted to service additional structures, it will be construed to be a newly installed boiler and this ordinance shall apply in its entirety.

58.5.3 Existing outdoor wood-fired boilers that require repair, or that require modification to conform to applicable regulations and codes, or that are not used for twelve (12) consecutive months shall be dismantled and removed at the sole expense of the property owner.

58.6 Penalty. A person in violation of this ordinance shall be responsible for a civil infraction, and shall be subject to the payment of a civil fine in the amount as provided in this ordinance and all other sanctions that apply to civil infractions for each infraction. Each day that a violation exists or continues shall constitute a separate and additional violation. In addition, the Village of Else shall have the ability to proceed in any court of competent jurisdiction to obtain equitable relief, injunctive relief, or any other appropriate remedy to

58.7 compel compliance with this ordinance, and seek damages, which include but are not limited to its actual attorney fees, costs and expenses incurred.
(Ord. No. 8-7, § 4, 10-25-93; Amended Ord. No. 6-51--6-66, § 2, 02-23-2009, Ordinance 157, Amended Ord. No. 6-58, § 1.3, 07-26-2010)

6:59: PATIO WOOD-BURNING UNITS

- 59.1** A patio wood-burning unit may be installed and used in the Village of Elsie only in accordance with all of the following provisions:
 - 59.1.1** The patio wood-burning unit shall not be used to burn refuse.
 - 59.1.2** The patio wood-burning unit shall burn only clean wood.
 - 59.1.3** The patio wood-burning unit shall be located at least 25 feet from the nearest structure which is not on the same property as the patio wood-burning unit.

6:60: BURN PERMITS

- 60.1** For all fires not otherwise defined in this Ordinance or for fires which would otherwise result in the violation of specifications and requirements of this Ordinance, a permit shall be obtained through the Elsie Area Fire Department. The Fire Chief or its designee has the discretion to issue all such permits. The application must be made to the Elsie Area Fire Department at least 30 days in advance of any such fire. The Fire Chief or its designee shall immediately notify the Village of Elsie Council of any such application.
- 60.2** A burning permit for a Special Event Fire is necessary. Special Event Fires are those which are normally incident to commemorative or celebration events that are sponsored by schools, municipalities and other charitable type organizations. Any person, partnership, firm, association, corporation, other entity seeking a special event fire must make application to and obtain from the Elsie Area Fire Department a permit for such fire. A formal written request must be made to the Elsie Area Fire Department c/o the Fire Chief at least 30 days in advance of any such special event fire.
- 60.3** The Fire Chief or designee shall immediately notify the Village of Elsie Council of any such application.

6:61: LIABILITY

- 61.1** A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

6:62: RIGHT OF ENTRY AND INSPECTION

- 62.1** Upon probable cause of a possible violation of this ordinance, the Elsie Police, Zoning Administrator, or any member of the Elsie Village Council who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

6:63: ENFORCEMENT AND PENALTIES

- 63.1** The enforcing authority for this Ordinance shall be the Village of Elsie Council, The Village of Elsie Police Department, The Elsie Area Fire Department or the Village of Elsie Zoning Board.
- 63.2** The fines and penalties in Sec. 7.5-31. Schedule of Civil Fines established and set forth in The Village of Elsie Ordinance are incorporated herein by reference.

6:64: RECOVERY OF COSTS, CHARGES FOR FIRE DEPARTMENT SERVICES AND ADMINISTRATIVE SERVICES.

64.1 Any person, partnership, firm, association, corporation or other entity who violates this ordinance, and any owner of any property upon which a fire has been started in violation of this ordinance either through an intentional act or negligence, which necessitates a fire run by the Elsie Area Fire Department, or any other fire department or police agency, shall pay to The Village of Elsie any and all costs and charges incurred by the Village by reason of such fire or emergency run. Provided, however, that the minimum charge for any fire run shall be \$600.00 plus additional minimum charge of \$200.00 for an administration fee. All of the foregoing charges and expenses shall be due and payable within thirty (30) days from the date an invoice is prepared and mailed to any person, partnership, firm, association, corporation, or other entity, who sets or is responsible for such an open fire, or to any property owner upon which such a fire occurred. The Village may proceed in any court of competent jurisdiction for any such civil damages and may recover any costs, expenses, or attorney fees incurred in the fire run or in the process of the recovery of such costs.

6:65: EXCEPTIONS

65.1 Exceptions to this ordinance must have final approval by the Elsie Village Council.

6:66: REPEAL OF PREVIOUS ORDINANCE

66.1 The Village of Elsie **ARTICLE III OPEN BURNING**, adopted on October 25, 1993, is repealed.

(Ord. No. 8-7, § 4, 10-25-93; Amended Ord. No. 6-51--6-66, § 2, 02-23-2009,)

[The next page is 341]