

Chapter 235, FIRE PREVENTION

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 8 of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

- Fire Department -- See Ch. 67.
- Fire insurance proceeds -- See Ch. 71.
- Alarm systems -- See Ch. 167.
- Building construction -- See Ch. 200.
- Unsafe buildings -- See Ch. 203.
- Electrical standards -- See Ch. 225.
- Firearms and fireworks -- See Ch. 229.
- Housing and property maintenance -- See Ch. 265.
- Public assembly -- See Ch. 318.

ARTICLE I, In General

§ 235-1. Use of fire apparatus outside City limits.

- A. Generally. No Fire Department apparatus shall be taken beyond the territorial limits of the City to assist at a fire or for any other purpose, except by order of the Chief or Acting Chief of the Fire Department, and subject to the restrictions and conditions hereinafter set forth.
- B. Conditions governing use of apparatus outside City. The Chief or Acting Chief of the Fire Department is authorized, in his or her discretion, to aid in the extinguishing of fires in another city, incorporated village, town, hamlet, fire district, fire protection district, fire alarm district, territory or public institution, or on property immediately adjacent to the City, in which there is a possibility of fire spreading within the City limits, under the following conditions:
 - (1) A request from the city or incorporated village, town, hamlet, fire district, fire protection district, fire alarm district, territory, or public institution must come only from such person or persons as may be duly designated by the governing body of such city, incorporated village, town, hamlet, fire district, fire protection district, fire alarm district, territory or public institution, and such designee must be agreed to by the Chief of the Fire Department of the City, and a copy of such designation must be filed in the office of the Chief of the Fire Department of the City, except that as to the territory embraced within the limits of Fire Protection District No. 1 of the Town of Dickinson, no one need be designated to request aid, and the extension of such aid is authorized when coming from any inhabitant of such district.
 - (2) Calls may be responded to only by such apparatus which, in the judgment of the Fire Chief, can be safely sent without unduly impairing the fire apparatus or service within the City, and when highways and weather conditions are favorable.
 - (3) The city, incorporated village, town, hamlet, fire district, fire protection district, fire alarm district, territory or public institution requesting assistance must pay the charge of apparatus and service hereinafter provided, unless there exists a mutual aid agreement.
 - (4) The city, incorporated village, town, hamlet, fire district, fire protection district, fire alarm district, territory or public institution must compensate the City for any loss or damage to such apparatus while answering such call, working at such fire or returning from such call, and shall be responsible to the members of the Fire Department for any injuries suffered or incurred by them by responding to such call while working at such fire or returning therefrom.

- C. Payment for service, damages, expenses, etc. Unless there exists a mutual aid agreement, every city, incorporated village, town, fire district, fire protection district, fire alarm district, hamlet, territory or public institution requesting the service of the Fire Department of the City shall pay for such service any loss or damage to the fire apparatus of the City, together with the expense incurred in the operation of such fire apparatus and equipment in connection with such call.

§ 235-2. Authority to blockade streets at fires; breaking through blockade prohibited.

The engineer in charge of any fire may, when deemed necessary by him or her to ensure the efficient working of the persons or apparatus under his or her control, blockade any street or part of a street or other place, and no person shall break through or attempt to break through such blockade.

§ 235-3. Conduct at scene of fire.

Each and every person, whether a fire fighter or not, present at a fire shall conduct himself or herself in an orderly manner, without noise or disturbance, and shall promptly obey any order he or she may receive from the chief engineer or his or her assistants.

§ 235-4. Injury to fire implements or apparatus.

Any person who shall enter any place where any fire implements or apparatus may be with intent to injure the same or who shall willfully injure any such implements or apparatus or who shall remove any portion thereof or who shall willfully do any damage to any enginehouse or other place where fire apparatus is kept or stored, or to any fixtures, articles, furniture or ornaments in or about any such house or place, shall, on conviction, be punished as provided in § 1-4 of this Code.

§ 235-5. False fire alarms.

It shall be unlawful for any person to intentionally give or cause to be given a false alarm of fire.

§ 235-6. Obstructing fire hydrants.

No person shall leave an automobile or vehicle of any description standing within 15 feet of any fire hydrant in the City.

§ 235-7. Accumulations creating fire hazards.

No person, on being the owner or in control or management or charged with the control or management of any premises in the City shall suffer or permit the growth, accumulation or deposit thereon of any idle, wild, uncultivated or noxious weeds, thistles, brush, briars, brambles, leaves, waste, wastepaper, boxes, shavings or any filthy or highly inflammable materials, rubbish, garbage, dirt or leaves whereby said premises are or may be or become or liable to become, unsanitary, or whereby the fire hazard, danger or risk is or may be increased, or whereby the life, health or safety of another or others is or may be endangered or injuriously affected or whereby the premises of another or the enjoyment thereof are or may be injured, damaged, interfered with or prejudiced.

§ 235-8. Storage and accumulation of combustible materials.

- A. Excelsior, similar materials. No person shall keep, or suffer to be kept, any excelsior or other materials of a combustible nature used for packing within any building unless the same shall be kept in a covered metal container.
- B. Oily wastes, rags. No person shall keep, or permit to be kept, on any premises, any oily waste or oily rags unless at all times when not actually in use such oily waste and oily rags shall be kept in a metal can with a self-closing cover and riveted joints, standing on metal legs which raise the bottom of the container at least five inches above the floor.

- C. Rubbish, empty boxes, barrels. No person shall allow to remain in any cellar or basement any accumulation of rubbish, empty boxes, barrels or other light combustible materials which, in the judgment of the Fire Marshal, presents a fire hazard.
- D. Hay, straw, etc. No hay, straw or other combustible materials shall be deposited within 15 feet of any place where fire exists or ashes are stored, unless such combustibles be in a closed and secure building; nor shall any hay, straw, excelsior, packing boxes, wastepaper or other combustible material be kept, stored or thrown out in any public or private street, alleyway, court or yard contiguous to any building.

§ 235-9. Use of lamps and lanterns near combustible materials.

No person shall have in his or her possession in any barn, stable, shop or other building in the City where hay, straw or shavings or other combustible substances shall be stored, kept or deposited any lighted or burning lamp, candle, torch or light unless the same shall be enclosed in a safe lantern, and kept so enclosed during all the time such lighted or burning thing shall be in such building; nor shall a person have in his or her possession in any such place any lighted pipe, cigarette or cigar.

§ 235-10. Disposal of cigars and cigarettes.

No person shall cast, throw or place any lighted cigar, cigarette or any burning fragment or portion of the same, or the burning contents of any pipe, upon any bridge or fence in the City or through any sidewalk grating, or the window of any building or into any accumulation of inflammable material, wherever located.

§ 235-11. Depositories for ashes.

All permanent depositories for ashes shall be built of brick, stone, or other fireproof material, and no ashes shall be kept or deposited by any owner, occupant or other person nor shall any owner or occupant suffer or permit ashes to be kept or deposited in or adjacent to any building or part of any building constructed of wood, except in securely closed metallic containers.

§ 235-12. Open burning and bonfires. [Amended 7-20-09 by Ord. No. 24-2009]

- A. No person shall burn or cause to be burned or aid or assist in the burning of any material for any purpose, other than those listed in Subsection B below, in any street, lot or parcel of land (either public or private), within the City of Binghamton limits.
- B. Exceptions to Subsection A are as follows:
 - (1) Residential outdoor cooking. Open burning is permitted for residential outdoor cooking when the fire is limited to the minimal size necessary and contained in a device designed for that purpose. Fuel for residential outdoor cooking is limited to charcoal, LP gas, natural gas, or seasoned or flavored wood chips commercially sold for the purpose of barbeques. Outdoor cooking of any kind is prohibited on balconies, covered porches and covered patios in any multiple dwelling home.
 - (2) Recreational. Open burning for recreational purposes (bonfires) shall be permitted only for organization-sponsored events and restricted to those meeting all of the requirements from the Fire Marshal's office. No fire shall be ignited prior to the issuance of an "open burning operating permit" from the Fire Marshal's office.
 - (3) Commercial. Open burning for commercial purposes in the City of Binghamton shall be permitted only upon obtaining an "open burning operating permit" from the Fire marshal's office. No fire shall be ignited prior to the issuance of an "open burning operating permit" from the Fire Marshal's office. "Commercial purposes" shall not include activities with a Pushcart Permit.

- (4) Fires set by the Fire Bureau for the instruction and training of firefighting personnel or for the elimination of a fire hazard.

§ 235-13. Fire escapes.

All dwelling houses now erected or that may hereafter be erected, more than two stories in height, occupied or built to be occupied by two or more families on any floor above the first, and all buildings now erected, or that may hereafter be erected, more than three stories in height, occupied or used as a hotel, lodging house or boardinghouse, having more than 10 guest rooms, and every apartment house, office building, hospital, asylum or institution for the care or treatment of individuals and every building in whole or in part occupied or used as a school, or place of instruction or assembly, shall be provided with good and sufficient fire escapes, either outside iron fire escapes, enclosed fireproof stairways or automatic safety devices operated from the outside of such building or buildings with steel cables, as a means of egress in case of fire, or with what in the judgment of the Fire Marshal or other delegated officer of the Department of Public Safety shall be deemed a good and sufficient means of egress in case of fire.

§ 235-14. Required fire safety equipment for hotels.

All hotels within the meaning of § 30 of the Liquor Tax Law of the State of New York shall be equipped with an electric fire alarm system with one or more bells and signal stations on each floor and of a type of construction in accordance with the Code of the National Association of Underwriters. All exit doors shall swing outward and be provided with night latches, or other suitable fastenings, that can be easily opened from the inside without a key. Exit signs and red lights shall be placed to indicate all exit doors. At least one three-gallon liquid fire extinguisher must be provided for every 2,000 square feet or fraction thereof of floor surface on each floor, such extinguishers to be hung on the wall in convenient places; such extinguishers must be recharged at least once a year. All stairways shall be provided with hand rails on both sides of the stairs. EN

§ 235-15. Storage and transportation of high explosives.

No person shall keep or store any dynamite, nitroglycerine, giant powder or other explosive other than gunpowder in any building or on any premises within the City limits; nor shall any of the above explosives be transported through the City or used within the City except upon written permission from the Deputy Commissioner of Public Safety, which permit must specify the precautions to be observed in such transportation or use. Nothing herein contained shall preclude the transportation of explosives by common carriers in railroad cars, subject to the rules and regulations governing such carriers.

§ 235-16. Storage of gunpowder.

No person shall keep or store in excess of one pound of gunpowder in any building or on any premises within the City limits, without written permission of the Deputy Commissioner of Public Safety, who is authorized to permit the keeping of not more than five pounds in closed metal canisters in a store or wareroom away from artificial heat or light, or the keeping of not more than 50 pounds of gunpowder, if in a magazine made of fireproof material, or of wood covered with sheet iron; said magazine to be mounted on wheels and kept locked except when necessarily opened for use by authorized persons, and not more than 1,000 blasting caps in a similar, but separate, magazine. Such magazine shall be conspicuously labeled in red letters at least four inches high, "EXPLOSIVES," and located within the building on the floor nearest the street level and within 10 feet of the street entrance.

§ 235-17. Fireworks. [Amended 8-1-1994 by Ord. No. 84-94]

- A. No person within the City of Binghamton shall, without an approved permit application on file with the Binghamton City Clerk and the Fire Marshal, possess, fire, discharge or set off, or cause, or procure to be fired, discharged, or set off within the City, any cannon, percussion, air or other pistol, skyrocket, Roman candle, mortar, firecracker, gunpowder, sparkler, or any other explosive combustible.

- B. Any person who shall possess, use, explode, or cause to explode any fireworks, without a permit obtained pursuant to the ordinances of the City of Binghamton and to § 405 of the New York State Penal Law, shall be guilty of a violation.

§ 235-18. Fireworks displays. [Added 8-1-1994 by Ord. No. 85-94; amended 5-15-1995 by Ord. No. 95-138; 5-19-2003 by Ord. No. 03-49]

- A. Permit application; regulations. The City of Binghamton's permit application for the use and discharge of fireworks shall be amended to include the following regulations:
- (1) The maximum diameter size shell allowable in the City of Binghamton will be determined by the Fire Marshal's site evaluation. (NFPA 1123/NYS Penal Law Article 405).
 - (2) The actual point at which the fireworks are to be fired shall have a distance separation of 70 feet per inch of mortar diameter (of the largest shell to be fired) from any spectator, dwelling, automobile parking, or public highway, and at least 50 feet from the nearest aboveground telephone transmission lines, trees, or other overhead obstructions. The actual point at which the fireworks are to be fired shall also be at least 200 feet from the nearest active railroad and 1,000 feet from any hospital.
 - (3) Only experienced operators shall handle explosives and load mortar tubes. At least two experienced operators of at least 21 years of age will be provided for each fireworks display. Assistants shall be at least 18 years of age.
 - (4) Fireworks delivered to the display site shall not be left unattended.
 - (5) Shells shall be inspected upon delivery by an experienced operator. Any shells having tears, leaks, broken fuses or showing signs of having been wet shall not be fired.
 - (6) Mortars shall be positioned so that the shell's trajectory is directed away from spectators. Under no circumstances shall mortars be angled toward the spectator viewing area.
 - (7) PVC pipe shall not be used for mortar tubes. Mortar tubes shall conform to requirements set forth in NFPA 1123.
 - (8) Security barriers shall be provided by the sponsor and erected around the discharge area to prevent spectators or any other unauthorized person from entering the discharge site. Smoking will not be allowed within this secure area when fireworks are present. The Fire Marshal shall determine the size of the area to be fenced. Only persons in active charge of the firing shall be allowed in the fenced area.
 - (9) No fireworks display shall be held during any period in which the wind reaches a velocity of more than 30 miles per hour. No fireworks display shall be held during any heavy rain.
 - (10) Standby fire apparatus.
 - (a) The sponsor of the display shall arrange for standby fire apparatus for protection down range. The operators shall provide (at discharge site) one 10# A-B-C fire extinguisher for every 200 shells fired at the discharge area.
 - (b) The City of Binghamton Fire Bureau, as the fire bureau of jurisdiction, shall provide the standby fire apparatus required by this section, and a fee as set from time to time by the City Council shall be paid to the City Clerk at the time of the submission of the application to reimburse the City of Binghamton for the cost of providing this apparatus and personnel (See Exhibit J).
 - (11) Before leaving the site, the entire site shall be inspected for the purpose of locating any unexploded shells. If conditions do not permit a thorough inspection immediately following the display, the operator shall ensure that the entire site is reinspected early the following morning.
 - (12) Upon receipt of such application, at least 30 days in advance of the date for this display, the Fire Marshal shall make or cause to be made an inspection of the site of the proposed display, for the purpose of determining whether provisions of these regulations are complied with for the particular display. An additional inspection will be made the night of the event,

after set-up, to assure compliance with all above stated regulations and §§ 270 and 405 of the New York State Penal Law and NFPA 1123 in its entirety.

- B. Hours prohibited; exception. No fireworks shall be discharged within the City after 10:00 p.m. on weeknights. This subsection shall not apply to fireworks displays that are scheduled on Fridays, Saturdays, or holidays.

§ 235-19. Indoor use of pyrotechnics. [Added 11-17-2003 by Ord. No. 03-119]

- A. New York State Penal Law §§ 405.10 through 405.18, as amended, are effective in the City of Binghamton and have been since November 1, 2003.
- B. Pursuant to New York State Penal Law § 405(1)(O), the City of Binghamton hereby establishes the City Clerk as its designated agent authorized to issue indoor pyrotechnic use permits.
- C. Said agent for the City shall issue or deny permits for indoor pyrotechnic use in accordance with the standards codified within New York State Penal Law §§ 405.10 through 405.18, as amended.
- D. Said permit shall also be subject to approval by the Fire Marshal in consultation with the Corporation Counsel of the City.
- E. Fees.
 - (1) The filing fee for the permit application and the permit fee shall be as set from time to time by the City Council.
 - (2) The permit fee includes the cost of posting one fire fighter/Fire Marshal at the location of the indoor pyrotechnic event as required by New York State Penal Law §§ 405.10 through 405.18.
 - (3) Should the Fire Marshal require the presence of a fire suppression apparatus (fire truck) at the indoor pyrotechnic event, the permit fee shall be as set from time to time by the City Council See Exhibit J).

§ 235-20. Inflammable volatiles. [Amended 3-7-1988 by Ord. No. 22-88]

- A. Permit required for storage and handling; inspections. Any person now handling or storing or proposing in the future to handle or store inflammable volatiles in excess of the quantity of five gallons shall make written application to the Deputy Commissioner of Public Safety, and the Fire Marshal shall forthwith make an inspection of the premises used or proposed to be used, as the case may be, for such sale or storage, and the means of distribution, and if the conditions, surroundings and arrangements are such that the intent of this chapter can be observed then he or she shall issue a permit that such sale, storage, or distribution may be conducted. Before any new installation is covered from sight, a notification in writing shall be given the Fire Marshal, who shall, within 48 hours after the receipt of such notification, inspect the installation and give his or her written approval or disapproval. Upon the failure of the Fire Marshal to inspect, within the specified time, the installation may be covered, but shall be subject to inspection at the expense of the City.
- B. Storage in underground tanks. No person shall keep or store within the fire limits of the City any gasoline, benzene, naphtha, ether, benzole, or any other inflammable volatile of like character, in greater quantity than five gallons, except as provided in Subsection D, unless in a properly constructed underground tank, which if within the building shall be buried not less than three feet below the level of the basement floor, or encased in concrete to the satisfaction of the State Board of Fire Insurance Underwriters, or if without the building and within 10 feet thereof, buried not less than two feet below the surface of the ground, which in all cases shall be drawn from the aforesaid tanks by approved safety pumps, and all piping shall be so arranged as to drain back to the tank.
- C. Storage in aboveground tanks.
 - (1) Inflammable volatiles not to exceed five gallons may be kept within any building in a tightly closed container, except as provided in Subsection D, and outside storage may be had in properly constructed tanks, which tank or tanks have the following total capacities and are

located at the following given distances from any building or property line which may be built upon:

<u>Size of Tank (gallons)</u>	<u>Distance from Building or Property Line (feet)</u>
Not exceeding 60	30
More than 60 and not more than 300	40
More than 300 and not more than 1,000	50
More than 1,000 and not more than 10,000	100
More than 10,000 and not more than 30,000	150
More than 30,000 and not more than 100,000	200

- (2) The above measurement capacities are based on level ground, and in no case shall a tank be so placed at such an elevation that it will endanger the surrounding property by leakage, and if said tank be at an appreciable elevation about the surrounding property, proper precautions must be taken by embanking or ditching to prevent such flow; nor shall any tank be so placed as to drain into any watercourse or canal.

- D. Use in connection with garages. No volatile inflammable liquid shall be kept or carried in open vessels in a garage, and no volatile inflammable liquid shall be drawn except into approved safety cans of a capacity not exceeding five gallons each, and then, with the exception of liquids with flashpoint above 30 ° F., only for the purpose of immediately filling the tanks of automobiles contained in a garage. In lieu of the above safety cans, approved portable filling tanks, not to exceed 60 gallons in capacity, may be used for transporting volatile inflammable liquid to and from the storage tanks for filling and charging the automobile. The portable tanks shall be supported on rubber-tired wheels, and liquids must be drawn by means of a tightfitting pump. Hose attachments must not exceed 10 feet in length equipped at the end with a shutoff valve. No volatile inflammable liquid shall be allowed to run upon the floor or to fall or pass into the drainage system of a garage, nor shall any such liquid be put into or removed from the tanks of a vehicle while any light or fire on the same is burning.
- E. Use near open flame or fire. Inflammable liquids shall not be drawn or handled in the presence of an open flame or fire, but may be drawn and handled when lighting is by incandescent electric lamps with vaporproof globes and keyless sockets, and the installation otherwise fully in compliance with all the requirements of the National Electric Code, and said rules and regulations are hereby made a part of this chapter as affecting all electrical equipments. Smoking shall be prohibited, and signs to this effect shall be posted wherever inflammable volatiles are stored or handled.

§ 235-21. Storage of kerosene, camphene and turpentine.

No person shall keep, or suffer to be kept, without the written consent of the Deputy Commissioner of Public Safety, in any building or other structure, owned, occupied or controlled by him or her, any larger quantity of kerosene, camphene, or turpentine, either or all, than 10 barrels, nor shall any larger quantity of such substances be kept in any one place without like consent.

§ 235-22. Storage, installation, maintenance and use of fuel oil.

No oil-burning equipment or fuel oil storage shall be installed, maintained or used for the burning of fuel oil in any building or structure within the City, except in compliance with the rules and regulations of the National Board of Fire Underwriters, and the rules and regulations are hereby made a part of the requirements of this chapter. Before the installation of any such equipment shall be made, a permit for same shall be secured as required in § 235-20A insofar as it relates to the granting of permission and inspection by the Deputy Commissioner of Public Safety, or his or her authorized representative.

§ 235-23. Periodic inspections. [Amended 12-4-2006 by L.L. No. 2-2006; Amended 12-9-09 by Ord. No. 40-2009]

It shall be the duty of the Deputy Commissioner of Public Safety, to cause an inspection by the Fire Marshal or other delegated officer of premises within the City, as hereinafter specified, for the purpose of ascertaining and causing to be corrected any condition liable to cause fire or endanger human life or any violation of the provisions or intent of this chapter.

- A. All buildings within the fire limits used for manufacturing or mercantile purposes shall be inspected at least once every 24 months from the date of the last inspection
- B. All buildings outside the fire limits used for manufacturing or mercantile purposes shall be inspected at least once every 24 months from the date of the last inspection.
- C. All buildings used or intended to be used for the exhibition of motion pictures shall be inspected at least four times a year.
- D. All buildings used or intended to be used as a hotel within the meaning of § 30 of the Liquor Tax Law of the State of New York shall be inspected at least once every twelve months from the date of the last inspection.
- E. Such other buildings as may come to the attention of the Deputy Commissioner of Public Safety, by reason of complaint or otherwise, and in which he or she may have reason to believe improper condition exists.
- F. All alleyways and open courts within the fire limits where accumulations of rubbish are likely to be found shall be inspected as often as may be deemed necessary.

§ 235-24. Revenue recovery program for emergency services provided by Fire Department. [Added 8-21-1995 by Ord. No. 189-95]

The City, through its Fire Department, is directed to examine and implement a revenue recovery program to recover fees for the delivery of such pre-hospital emergency medical care and ambulance service to be provided by the Binghamton Fire Department. The revenue recovery program shall be established pursuant to New York State regulations.

§ 235-25. Notices of intention to claim against insurance proceeds on fire-damaged buildings. EN [Added 9-3-1996 by Ord. No. 140-96]

The City Treasurer of the City of Binghamton is hereby authorized to file a notice of intention to claim against insurance proceeds with the State Superintendent of Insurance.

§ 235-26. Sprinklers. [Added 12-1-1997 by Ord. No. 97-162]

- A. If a commercial building or facility ceases to operate and/or is no longer occupied on a daily basis, the existing sprinkler system shall be maintained and operating as long as any flammable, combustible or hazardous materials remain located on the premises.
- B. If a commercial building or facility is no longer in operation on a daily basis, and production/storage materials are still located on the premises, in addition to Subsection A above, adequate aisle space, a minimum of six feet in width at all times, shall be maintained to allow free passage throughout the building.

- C. If a commercial building or facility is no longer in operation on a daily basis and is not heated from October 1 to May 1 each year, prior to October 1 the sprinkler system shall be serviced and drained, including adequate capping of all Fire Department connections, by a qualified contractor to prevent damage to the system due to low temperature and to allow the system to be operated or otherwise activated by Fire Department or other emergency personnel in case of fire or other threat to the building or facility. In addition, the sprinkler system shall also be inspected and maintained on a regular basis to ensure that the sprinkler system, including all Fire Department connections, will be available for use in the event of a fire. The owner of the building or facility shall contact the City of Binghamton Fire Marshal's office in writing, by certified mail, return receipt requested, of his or her intention to deactivate any sprinkler system. Said deactivation shall not occur without the prior express written permission of the City of Binghamton Fire Marshal's office.
- D. The owner(s) of any unoccupied or abandoned building shall file information with the City of Binghamton Fire Department Fire Marshal's office that shall include the name(s), address(es) and telephone number(s) of person(s) authorized to act on behalf of the owner(s) of the building. This information shall be supplemented or corrected immediately upon any changes due to authorization, name(s), address(es) and/or telephone number(s).

ARTICLE II, Bureau of Fire Prevention

§ 235-27. Establishment; supervision.

A Bureau of Fire Prevention in the Fire Department of the City is hereby established, which shall be operated under the supervision of the Chief of the Fire Department.

§ 235-28. Duties of officers.

- A. Enumerated. It shall be the duties of the officers of the Bureau of Fire Prevention to enforce all laws and ordinances of the state and City covering the following:
 - (1) The prevention of fires.
 - (2) The storage and use of explosives and flammables.
 - (3) The installation and maintenance of automatic and other fire alarm systems and fire extinguishing equipment.
 - (4) The maintenance and regulation of fire escapes.
 - (5) The means and adequacy of exit in case of fire, from factories, schools, hotels, lodging houses, asylums, hospitals, churches, halls, theaters, amphitheaters and all other places in which numbers of persons work, live or congregate time to time for any purpose.
 - (6) The investigation of the cause, origin and circumstances of fires.
- B. Additional duties. The officers of the Bureau of Fire Prevention shall have such other powers and perform such other duties as are set forth in other sections of this article, and as may be conferred and imposed from time to time by law.

§ 235-29. Enforcement of fire prevention regulations. [Added by L.L. No. 8-1989]

Notwithstanding the provisions of Chapter 265, § 265-21, of the Code of the City of Binghamton, enforcement of violations of the New York State Fire Prevention and Building Code, the Multiple Residence Law and the City Code by the Fire Marshal's office shall be commenced by issuance of an appearance ticket without the necessity of compliance with the procedure set forth for code enforcement in Chapter 265.

§ 235-30. Duty of Chief to recommend ordinances and amendments.

It shall be the duty of the Chief of the Fire Department to investigate and to recommend to the City Council such ordinances or amendments to existing ordinances as he or she may deem necessary for safeguarding life and property against fire.

§ 235-31. Authority of Chief to delegate powers and duties.

The Chief of the Fire Department may delegate any of his or her powers or duties under this article to the Fire Marshal.

§ 235-32. Preparation of instructions and forms.

The Chief of the Fire Department shall prepare instructions for the Fire Marshal and his or her assistants and forms for their use in the reports required by this article.

§ 235-33. Right of access to buildings and premises.

The Chief of the Fire Department, the Fire Marshal or any assistant inspector may at all reasonable hours enter any building or premises within his or her jurisdiction for the purpose of making any inspection or investigation which, under the provisions of this article, he or she or they may deem necessary to be made.

§ 235-34. Investigation of fires.

The Bureau of Fire Prevention shall investigate the cause, origin and circumstances of every fire occurring in the City by which property has been destroyed or damaged, and, as far as possible, shall determine whether the fire is the result of carelessness or design. Such investigation shall be begun immediately upon the occurrence of such a fire by the assistant in whose district the fire occurs, and if it appears to the officer making such an investigation that such fire is of suspicious origin, the Chief of the Fire Department shall be immediately notified of the fact; he or she shall take charge immediately of the physical evidence, shall notify the proper authorities designated by law to pursue the investigation of such matters, and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case.

§ 235-35. Reports of fires.

- A. Required. Every fire shall be reported in writing to the Bureau of Fire Prevention within two days after the occurrence of the same, by the officer in whose jurisdiction such a fire has occurred.
- B. Form; contents. Such report shall be in such form as shall be prescribed by the Chief of the Fire Department, and shall contain a statement of all facts relating to the cause, origin and circumstances of such fire, the extent of the damage thereof, and the insurance upon such property, and such other information as may be required.

§ 235-36. Handling of flammables and explosives; investigation of storage.

Before licenses may be issued for the keeping, storage, use, manufacture, sale, handling, transportation or other disposition of highly flammable materials and rubbish, crude petroleum or any of its products, gun or blasting powder, dynamite or explosives of any kind, including fireworks, fire crackers and signaling explosives, the Chief of the Fire Department, the Fire Marshal or his or her assistants shall inspect and approve the receptacles, vehicles, buildings or storage places to be used for any such purposes.

§ 235-37. Inspection of hazardous processes, installations, fire alarms and sprinkler systems.

The Chief of the Fire Department, Fire Marshal or an assistant specially designated thereto shall inspect, as often as may be necessary, but not less than four times a year, all specially hazardous manufacturing processes, storages or installations of acetylene or other gases, chemicals, oils, explosives and flammable materials, all interior fire alarms and automatic sprinkler systems, and such other hazards or appliances as the Chief of the Fire Department shall designate, and shall make such orders as may be necessary for the enforcement of the laws and ordinances governing the same and for safeguarding of life and property from fire.

§ 235-38. Inspection of buildings and premises for hazardous conditions.

- A. Duty. It shall be the duty of the Chief of the Fire Bureau to inspect or cause to be inspected by the Office of Fire Prevention or by the Fire Bureau officers and members, as often as may be necessary, but not less than twice a year in outlying districts and four times a year in the closely built portions of the City, 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 the provisions or intent of any ordinance of the City affecting the fire hazard.
[Amended 12-4-2006 by L.L. No. 2-2006]
- B. Order to correct condition. Whenever any inspector shall find in any building, or upon any premises or other place, combustible or explosive matter or dangerous accumulations of rubbish or unnecessary accumulation of wastepaper, boxes, shavings or any highly flammable materials especially liable to fire, and which is so situated as to endanger property, or shall find obstructions to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the operations of the Fire Department or egress of occupants in case of fire, he or she shall order the same to be removed or remedied, and such order shall forthwith be complied with by the owner or occupant of such premises or buildings, subject to appeal within 48 hours to the Chief of the Fire Department, as provided in § 235-39B of this article.
- C. Service of order. The service of any such order may be made upon the occupant of the premises to whom it is directed, either by delivering a copy of same to such occupant personally or by delivering the same to and leaving it with any person 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 the door to the entrance of the premises. Whenever it may be necessary to serve such an order upon the owner of premises, such order may be served either by delivering to and leaving with the person a copy of the order or, if such owner is absent from the jurisdiction of the officer making the order, by mailing such copy to the owner's last known post office address.
- D. Failure to comply with order. Any owner or occupant failing to comply with such order within a reasonable period after the service of the order shall be liable to a penalty as provided in § 1-4 of this Code.

§ 235-39. Inspection of premises and buildings susceptible to fire.

- A. Duty; order. The Chief of the Fire Department or inspectors of the Bureau of Fire Prevention, upon the complaint of any person or whenever he or she or they shall deem it necessary, shall inspect all buildings and premises within their jurisdiction. Whenever any of said officers shall find any building or other structure which, for want of repairs, lack of or insufficient equipment or by reason of age or dilapidated condition, or from any other cause, is especially liable to fire, and which is so situated as to endanger other property or the occupants thereof, and whenever such officer shall find in any building combustible or explosive matter or flammable conditions dangerous to the safety of such building or the occupants thereof, he or she or they shall order such dangerous conditions or materials to be removed or remedied, and such order shall forthwith be complied with by the owner or occupant of such premises or building.
- B. Appeal of Fire Marshal's or inspector's order. If such order is made by the Fire Marshal or any of his or her assistant inspectors, such owner or occupant may, within 48 hours, appeal to the Chief of the Fire Department, who shall, within five days, review such order and file his or her decision thereon, and unless by his or her authority the order is revoked or modified, it shall remain in full force and be complied with within the time fixed in said order or decision of the Chief of the Fire Department.

- C. Appeal from Chief's order. Any owner or occupant may, within five days after the making or affirming of any such order by the Chief of the Fire Department, file his or her petition with the City Court praying a review of such order, and it shall be the duty of such court to hear the same within not less than five days nor more than 10 days from the time the petition is filed, and to make such order in the premises as right and justice may require, and such decision shall be final. Such parties so appealing to the City Court shall file with said Court within two days a bond in an amount to be fixed by the Court, to be approved by the Court, conditioned to pay all the costs of such appeal in case such appellant fails to sustain his or her appeal or the same be dismissed for any cause.

§ 235-40. Duties of Fire Department with respect to unsafe buildings. [Added 9-6-1977 by Ord. No. 203-77]

The Chief of the Fire Department shall make a report in writing to the Building Inspector and the Director of Code Enforcement of all buildings or structures which are, may be or are suspected to be unsafe buildings or which create a serious hazard to the health and safety or inadequately protect the health or safety of the occupants or of the public as set forth in § 265-10 of Chapter 265, Housing and Property Maintenance, of the Code of the City of Binghamton. Such reports shall be delivered to the Building Inspector and the Director of Code Enforcement within 24 hours of the notice of discovery by any employee of the Fire Department.

§ 235-41. Duty of Corporation Counsel to assist in investigation of suspicious fires.

The Corporation Counsel, upon request of the Bureau of Fire Prevention, shall assist the inspectors in the investigation of any fire which in their opinion is of suspicious origin.

§ 235-42. Fire drills in schools; school doors and exits to be unlocked during school hours. [Amended 12-4-2006 by L.L. No. 2-2006]

It shall be the duty of the Chief of the Fire Department to require teachers of public, private or parochial schools and educational institutions to have 12 fire drills each school year and to keep all doors and exits unlocked during school hours.

§ 235-43. Records of fires.

The Chief of the Fire Department shall keep in the office of the Bureau of Fire Prevention a record of all fires and of all the facts concerning the same, including statistics as to the extent of such fires and the damage caused thereby, and whether such losses were covered by insurance and, if so, in what amount. Such record shall be made daily from the reports made by the inspectors under the provisions of this article. All such records shall be public.

§ 235-44. Annual report by Bureau; recommended amendments. [Amended 12-4-2006 by L.L. No. 2-2006]

The annual report of the Bureau of Fire Prevention shall be made on or before the 15th day of April and be transmitted to the City Council. Such report shall contain all proceedings under this article, with such statistics as the Chief of the Fire Department may wish to include therein; the Chief of the Fire Department shall also recommend any amendments to this article which, in his or her judgment, shall be desirable.

§ 235-45. Compressed and liquefied flammable gases. [Added 5-6-1974 by Ord. No. 65-74]

- A. Applicability of section. This section shall apply to the use, storage and handling of compressed or liquefied petroleum or other flammable gases.
- B. Permits required. An application for a permit accompanied by plans shall be made to the Fire Marshal for all systems connected to liquefied petroleum or other compressed flammable gas container or containers.

- C. Manufacture, filling or recharging. No person, firm or corporation shall engage in the manufacture or compression of compressed or liquefied flammable gas for any purpose or the business of filling, charging or recharging any containers with compressed or liquefied petroleum gases within the City of Binghamton, except that filling, charging or recharging containers may be done when permits as required under Subsection B have been duly issued.
- D. Installation of systems. No person, firm or corporation shall install liquefied petroleum or other type of compressed flammable gas systems or equipment used in connection with such systems unless the person actually doing the work of installing such systems has been trained in proper handling and operating procedures.
- E. Odorization. All compressed or liquefied flammable gases shall be effectively odorized by an approved agent of such character as to positively indicate the presence of gas down to concentrations in air of not over 1/5 the lower limit of flammability.
- F. Containers required. Only approved cylinders which are acceptable for distribution in the City and are marked to the effect that they comply with the United States Department of Transportation (DOT) (formerly ICC) cylinder specifications shall be considered suitable for use in any compressed system for lighting, cooking, or any other purpose.
- G. Empty cylinders; protection of cylinders. When cylinders are empty or not in use, outlet valves shall be kept tightly closed. Cylinders shall be protected against mechanical injury, extreme heat, accumulation of ice and snow, or tampering at all times.
- H. Changing cylinders. Valves shall be arranged so that the changing of cylinders may be accomplished without shutting down the system, and the system shall be provided with shut-off valves to the building. Every system shall be provided with a means of shutting off the gas supply to the building, outside the building.
- I. Location of cylinders.
 - (1) Cylinders and regulating equipment shall be located outside buildings in well-ventilated steel cabinets or otherwise protected from tampering or exposure to the weather. The discharge from the safety reliefs shall be located at least five feet away from any opening which is below the level of such discharges.
 - (2) Readily ignitable material such as rubbish, weeds, and long dry grass shall not be within 10 feet of any container.
- J. Storage limits. The Chief of the Fire Department or the Fire Marshal may restrict the storage of compressed or liquefied petroleum flammable gases inside the City of Binghamton to any amount which they deem safe.
- K. National Fire Codes. The National Fire Protection Association standards, as amended from time to time, for the handling, installation and pertinent equipment for the use and handling of compressed flammable gases in the City of Binghamton shall be accepted as necessary requirements in this section.
- L. Tank trucks and trailers forbidden. No person shall fill, load or unload any tank truck or trailer with compressed or liquefied flammable gas, inside the City of Binghamton, and no truck or trailer containing such gas shall make any stops inside the City but shall go without stopping to the outside of the City limits after entering the City; except that a person may perform the aforementioned acts and a truck or trailer may make stops as aforesaid if a written permit has been obtained from the Fire Marshal as set forth hereinabove at Subsection B.

M. Buildings under construction or undergoing major renovation.

- (1) Containers may be used in buildings or structures under construction or undergoing major renovation when such buildings are not occupied by the public.
- (2) Containers, equipment, piping and appliances shall comply with Subsections F and G.
- (3) Application for a permit and installation shall be in accordance with Subsections B and C.
- (4) Storage limits shall comply with Subsection J.

N. Retroactivity. Existing installations for the storage or use of compressed flammable or liquefied petroleum gas in compliance with the provisions of this section at the time of installation may be continued in use, provided that such continued use does not constitute a distinct hazard to life or adjoining property.

O. Protection against tampering. Suitable devices which can be locked in place shall be provided. Such devices, when in place, shall effectively prevent unauthorized operation of any of the container appurtenances, system valves or equipment.

ARTICLE III, Tents and Other Structures Used as Places of Assembly

§ 235-46. Occupancy load of places of assembly. [Added 5-20-1974 by Ord. No. 77-74]

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

OCCUPANCY LOAD -- The maximum number of persons allowed to occupy a place of assembly at any one time.

PLACES OF ASSEMBLY -- Include, but are not limited to, buildings or portions of buildings in which the primary or intended occupancy or use is the assembly for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social, sports, or similar purposes.

B. Occupancy loads. The occupancy loads for a place of assembly shall be in accordance with the New York State Fire Code. [Amended 12-4-2006 by L.L. No. 2-2006]

C. Enforcement of section provisions. The Chief of the Fire Department of the City of Binghamton and his or her duly authorized representatives shall enforce the regulations of this section with the aid and assistance, where necessary, of the Department of Police.

D. Establishment and posting of occupancy load.

- (1) The Chief of the Fire Department or his or her designee shall establish the occupancy load for each place of assembly in the City.
- (2) Each place of assembly, including each room thereof, shall have a sign indicating its occupancy load posted in a conspicuous place. Such signs shall be approved by the Chief of the Fire Department or his or her designee and shall be maintained in a legible manner by the owner of the place of assembly or his or her authorized agent.
- (3) Upon completion of the construction or remodeling of any place of assembly and before permitting the use thereof by any persons, the owner, manager or other person having authority or control over such place of assembly shall contact the Fire Department and request an inspection for the purpose of establishing the occupancy load of such place of assembly. The Fire Chief or his or her designee shall forthwith make such an inspection. No persons shall be permitted to use or occupy any new or remodeled place of assembly until an inspection has been made pursuant to this subsection and an occupancy load has been established for and posted in such place of assembly.

E. Restrictions on occupancy.

- (1) No place of assembly shall be occupied by a number of persons greater than its occupancy load.
- (2) No owner, manager or any other person having authority or control over any place of assembly shall permit such place of assembly to exceed its occupancy load.

F. Inspection and enforcement.

- (1) The following persons are hereby authorized to enter onto and make inspections, at any time, of places of assembly to determine whether the requirements of this section are being complied with: the Fire Chief and the Police Chief and their respective designees.
- (2) If such an inspector determines that a place of assembly exceeds its occupancy load, he or she may order the immediate removal of all persons from such place of assembly, or he or she may order the removal of a sufficient number of persons so that the occupancy load is not exceeded.
- (3) Any person ordered to remove himself or herself from a place of assembly in accordance with the above subsection shall do so immediately, and failure to do so shall constitute a violation of this section.
- (4) The owner, manager and any other person having authority or control over a place of assembly shall assist the inspector in removing persons from the place of assembly as aforesaid. Failure to do so shall constitute a violation of this section.

§ 235-47. Permit to erect and maintain tents required.

It shall be unlawful for any person to erect or maintain within the City any tent or canvas covered structure having a capacity of more than 250 persons, with the intent that such structure shall be used for a place of assembly, in violation of the limitations and requirements of a permit issued pursuant to this article or without first having secured a permit so to do.

§ 235-48. Application for permit to erect and maintain.

- A. Application for a permit required herein shall be made to the Chief of the Bureau of Fire.
- B. Each application shall be accompanied by a diagram drawn to scale which shall clearly indicate:
 - (1) The seating arrangement.
 - (2) The aisles.
 - (3) The structural details and calculations of the seats and supports.
 - (4) The location of all electric wiring.
 - (5) The location of all exits.
 - (6) The location of all fire equipment within the structure and the specifications of such equipment.
 - (7) The location, insofar as feasible, of adjacent structures and obstructions which might hinder the free egress of persons from the exits.
- C. Each application shall specify:
 - (1) Whether any open flame is intended to be used within the structure and, if so, what precautions are to be taken to render it safe.
 - (2) The name of the person, firm or corporation to use the structure.
 - (3) The location of the principal place of business of such person, firm or corporation.
 - (4) The names and addresses of the officers of such firm or corporation.
 - (5) The length of time the structure is expected to be used for the purpose applied for.
 - (6) The hours of the day or night during which such structure will be used as a place of assembly.

- (7) The formula of the solution to be used for flameproof.
- (8) What provisions have been made for sanitation facilities for persons using the premises on which such structure is to be erected or is maintained.
- (9) Such other relevant information as the Deputy Commissioner of Public Safety, may require.

§ 235-49. Insurance required.

The applicant for a permit to be issued hereunder, before such permit is granted, shall furnish evidence to the City Clerk that a public liability insurance policy in amounts of not less than \$50,000 for one person and \$100,000 for any one accident, shall be in force and effect at the time such carnival or circus is to operate in the City. Said policy shall be approved by the Corporation Counsel.

§ 235-50. Prerequisites to issuance of permit to erect and maintain.

No tent or canvas-covered structure for use as a place of assembly shall be erected or maintained and no permit shall be issued unless:

- A. The plans and specifications of the structures required to be submitted with the application are approved by the Building Inspector.
- B. Provisions are made for:
 - (1) Adequate aisles and exits properly lighted and marked.
 - (2) Lighted and unobstructed passageways to areas well away from the tent structure.
 - (3) Sufficient first aid fire appliances approved by the Board of Fire Underwriters to be distributed throughout with operating personnel familiar with the operation of such equipment available and assigned during the use of such structure for a place of assembly.
 - (4) An employee at each entrance to require the extinguishment of cigarettes and cigars and other smoking material, upon entering, and sufficient "No Smoking" signs visible at all times.
 - (5) The proper safeguarding of any use of open flame or its use prohibited.
 - (6) Straw or dry grass and combustible trash to be cleared from the structure.
 - (7) Proper facilities for the calling of the Fire Department.
 - (8) Such special fire equipment of the City to attend at such structure during its use as a place of assembly as the Fire Chief may decide necessary for proper fire protection.
 - (9) The attendance of such special police officers to be appointed by the Chief of Police as he or she may decide necessary for the control of the persons in the assembly, to prevent overcrowding, obstruction of aisles and exits, and such other control as may be necessary to render the occupation of such structure by the public safe, such officers to be employed at the expense of the permittee.
 - (10) Announcement to the persons in the assembly of the fact that smoking within the structure is prohibited.
 - (11) The tent and canvas parts of the structure, and all combustible decorative materials, including curtains, acoustic materials, streamers, cloth, cotton batting, straw, vines, leaves, trees and moss to be rendered flameproof.
- C. The Chief of the Bureau of Fire finds that such structure will not constitute a fire hazard and be dangerous to persons and property when used for the purpose specified in the application.
- D. The county health officer approves of the provisions made for sanitation facilities on and near the premises on which the structure is maintained or is to be maintained.

§ 235-51. Attendance of City fire equipment at location of structure; deposit required.

If the Chief of the Bureau of Fire decides that the attendance of fire equipment at the location of the structure during the use of such structure as a place of assembly is necessary for the safety of persons and property, the Chief of the Bureau of Fire shall require that the applicant deposit with the City Clerk a sum equal to the reasonable value of the use of said equipment and the furnishing of the necessary personnel for such time as required, in order to reimburse the City for such expense.

§ 235-52. Issuance of permit to erect and maintain.

- A. If the Chief of the Bureau of Fire finds that the provisions of § 235-50 are complied with, or will be complied with for the erection of the structure, he or she shall issue a permit to erect or maintain such structure, conditioned upon such reasonable limitations and requirements as he or she may deem necessary for the safety of persons and property.
- B. Such permit shall specify the limitations and requirements under which it is granted, including the provisions of § 235-50B.

§ 235-53. Inspection upon completion of structure.

Upon the completion of such structure, it shall not be used as a place of assembly until the Chief of the Bureau of Fire has inspected the entire premises upon which the structure is located.

§ 235-54. Permit to occupy.

- A. Required. It shall be unlawful for any person to cause or permit the occupancy of such a structure as a place of assembly without the issuance of a permit to occupy by the Chief of the Bureau of Fire.
- B. Issuance. If the Chief of the Bureau of Fire finds that all of the limitations and requirements of the permit to erect and maintain and this article have been complied with and that the structure has been erected in accordance with the plans and specifications submitted with the application, he or she shall grant a permit to occupy such premises.
- C. Revocation. The permit to occupy provided for herein may be revoked at any time by the Chief of the Bureau of Fire, upon a finding by him or her that such structure, or the premises on which it is located, is being maintained in violation of any of the provisions of the permit granted herein, or any of the provisions of this article, or in such a manner as to constitute a fire hazard.
- D. Appeals. Any person whose permit to occupy shall have been revoked may, within 10 days after receipt of a notice thereof, appeal to the City Council for a hearing thereon; and the decision of the Council in this regard shall be final. If no appeal is taken within 10 days, the action of the Chief of the Bureau of Fire shall be final.

§ 235-55. Penalties for offenses.

Any person violating any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than \$100, or more than \$500, or by imprisonment for a term not exceeding six months, or by both such fine and imprisonment.