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CHAPTER 8 – FIRE REGULATIONS

Article 1 – Fire Department and Rescue Squad

SECTION 8-101: OPERATION AND FUNDING; AGREEMENT WITH RURAL FIRE DISTRICT

A. The city operates the Fire Department and Rescue Squad through the fire chief and firefighters. The City Council may levy a tax annually of not more than \$0.07 on each \$100.00 upon the taxable value of all the taxable property within the city for the maintenance and benefit of the volunteer Fire Department. The amount of such tax shall be established at the beginning of the year and shall be included in the adopted budget statement. Upon collection of such tax, the city treasurer shall disburse the same upon the order of the fire chief with the approval of the City Council.

B. The Fire Department is authorized to enter into an agreement with the appropriate Rural Fire Protection District for the mutual aid and protection of the residents of both the city and the Rural District. Such an agreement shall provide for mutual aid, protection and a sharing of necessary expenses between the city and the Rural District. The agreement so entered into shall be on file in the office of the city clerk for public inspection during office hours.

(Neb. Rev. Stat. §§17-147, 17-718, 35-501, 35-530)

SECTION 8-102: RESCUE SQUAD

The Fire Department may also operate a rescue unit for the benefit of those within the Rural Fire Protection District. The department shall make rules and regulations for the proper and effective use of emergency rescue equipment and for the adequate training of personnel to operate such equipment, subject to the review of the City Council and Rural Fire Board. It shall be the duty of the official in charge of the Rescue Squad during the time of a rescue call to insure that every victim of mishap is aided or aided and transported to the emergency room of the nearest hospital. Rescue personnel also respond to all fire calls. (Neb. Rev. Stat. §35-514.02)

SECTION 8-103: FIRE CHIEF

A. The fire chief shall be elected by the members of the Fire Department. He shall manage the department and it shall be his duty to inform the City Council and Rural Fire Board when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the council and board, the fire chief shall cause the repair, improvement, or maintenance of the said equipment and shall personally supervise and approve of the same. It shall be the duty of the fire chief to come before the City Council and Rural Fire Board at their regular meetings in January each year to give a report of the general condition and the proposed additions or improvements recommended by him.

B. The fire chief shall, on the first day of April and October each year, file with the city clerk a certified copy of the rolls of all members in good standing in their respective companies. The fire chief shall keep or cause to be kept a record of all meetings of the Fire Department, the attendance record of all members, and a record of all fires; he shall make a full report of these records to the city clerk during the last week in April each year. The record of any fire shall include the cause, origin, circumstances, property involved, and whether criminal conduct may have been involved. In the event of sizable property damage, the fire chief shall include the information of whether the losses were covered by insurance, and if so, in what amount. All records shall be available to the public at any reasonable time.

C. The chief shall enforce all laws and ordinances covering the prevention of fires, the storage and use of explosives and flammable substances, the installation of fire alarm systems, the regulation of fire escapes, and the inspection of all premises requiring adequate fire escapes. He shall have the right to enter at all reasonable hours into buildings and upon all premises within his jurisdiction for the purpose of examining the same for fire hazards and related dangers. The chief shall investigate the cause, origin, and circumstances of any fire arising within his jurisdiction.

(Neb. Rev. Stat. §§17-505, 35-102, 35-108, 81-506, 81-512)

SECTION 8-104: MEMBERSHIP

A. The volunteer Fire Department shall not have upon its rolls at one time more than 25 persons for each engine company in the Fire Department.

B. Volunteer firefighters of the Fire Department shall be deemed employees of the city while in the performance of their duties as members of the department. Members of the volunteer Fire Department, before they are entitled to benefits under the Nebraska Workers' Compensation Act, shall be recommended by the fire chief or some person authorized to act for the chief for membership therein to the mayor and City Council, and upon confirmation shall be deemed employees of the city. Members of the department after confirmation to membership may be removed by a majority vote of the council and thereafter shall not be considered employees of the city. Firefighters shall be considered as acting in the performance and within the course and scope of their employment when performing activities outside of the corporate limits of the city but only if directed to do so by the fire chief or some person authorized to act for the chief.

C. The City Council and Rural Fire Board shall purchase and maintain in force a policy of group term life insurance to age 65 covering the lives of all of the active volunteer fire and rescue personnel, except that when any such person serves more than one city or rural fire protection district, the policy shall be purchased only by the first city or district which he or she serves. The policy shall provide a minimum death benefit of \$10,000.00 for death from any cause and shall, at the option of the insured, be convertible to a permanent form of life insurance at age 65. The coverage of such policy shall terminate as to any individual who ceases to be an active volunteer member of the department.

D. For purposes of the prohibition on receipt of any witness fee, attendance fee, or mileage fee by an employee of the city called as a witness in connection with his or her officially assigned duties, volunteer firefighters and rescue squad members testifying in that capacity alone shall not be deemed employees of the city.

E. The City Council may compensate or reimburse any member of the Fire Department for expenses incurred in carrying out his or her duties in an amount set by resolution.

F. All members of the Fire Department shall be subject to such rules and regulations and shall perform such duties as may be prescribed or required of them by the fire chief or the City Council. The members of the department shall, during the time of a fire or great public danger, have and exercise the powers and duties of police officers and shall have full power and authority to arrest all persons guilty of any violation of the city code or the laws of the state.

(Neb. Rev. Stat. §§33-139.01, 35-101 through 35-103, 35-108, 48-115)

SECTION 8-105: DUTIES OF DEPARTMENT

It shall be the duty of the Fire Department to use all proper means for the extinguishment of fires, to protect property within the city and Rural Fire Protection District, and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

SECTION 8-106: EQUIPMENT

A. The Fire Department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and properly protect life and property from fire.

B. Recommendations of apparatus needed shall be made by the chief and, after approval of the City Council or the Rural Fire Board, shall be purchased in such manner as may be designated by such groups. For such equipment as may be designated for urban or rural use, approval of the proper group is to be obtained in any event.

C. All equipment of the department shall be safely and conveniently housed in such places as may be designated by the City Council or the Rural Fire Board. Such places shall be heated during cold weather.

(Neb. Rev. Stat. §28-519)

Article 2 – Fires

SECTION 8-201: PRESERVATION OF PROPERTY

Any official of the Fire Department shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the preservation of such property from fire, to prevent the spreading of fire, or to protect adjoining property. The said officials may direct the firemen to remove any building, structure, or fence for the purpose of checking the progress of any fire.

SECTION 8-202: TRAFFIC

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus have stopped in answer to a fire alarm. (Neb. Rev. Stat. §60-6,183)

SECTION 8-203: PEDESTRIANS

It shall be unlawful for any pedestrian to enter or remain in any street after a fire alarm has sounded until the fire trucks have completely passed. (Neb. Rev. Stat. §28-908)

SECTION 8-204: DRIVING OVER HOSE

It shall be unlawful for any person, without the consent of the fire chief or assistant fire chief, to drive any vehicle over unprotected hose of the Fire Department. (Neb. Rev. Stat. §60-6,184)

SECTION 8-205: FALSE ALARM

It shall be unlawful for any person to raise any false alarm of fire intentionally and without good and reasonable cause. (Neb. Rev. Stat. §§28-907, 35-520)

SECTION 8-206: MANDATORY ASSISTANCE

Any official of the Fire Department may command the assistance and services of any person present at a fire to help in extinguishing the fire or in the removal and protection of property. Any spectator who refuses, neglects, or fails to assist after a lawful order to do so shall be deemed guilty of a misdemeanor.

SECTION 8-207: INTERFERENCE

It shall be unlawful for any person or persons to hinder or obstruct the fire chief or the members of the Fire Department in the performance of their duties. A person com-

mits the offense of interfering with a firefighter if at any time and place where any firefighter is discharging or attempting to discharge any official duties he or she willfully:

A. Resists or interferes with the lawful efforts of any firefighter in the discharge or attempt to discharge an official duty; or

B. Disobeys the lawful orders given by any firefighter while performing his duties; or

C. Engages in any disorderly conduct which delays or prevents a fire from being extinguished within a reasonable time; or

D. Forbids or prevents others from assisting or extinguishing a fire or exhorts another person, as to whom he has no legal right or obligation to protect or control, not to assist in extinguishing a fire.

(Neb. Rev. Stat. §28-908)

SECTION 8-208: FIRE INVESTIGATION

It shall be the duty of the Fire Department to investigate or cause to be investigated the cause, origin, and circumstances of every fire occurring in the city in which property has been destroyed or damaged. Any fire of unknown origin shall be reported and such officers shall especially make an investigation and report as to whether such fire was the result of carelessness, accident, or design. Such investigation shall be in compliance with the rules and regulations of the state fire marshal. The officer making the investigation of fires occurring within the city shall immediately notify the state fire marshal and shall, within one week of the occurrence of the fire, furnish him or her with a written statement of all the facts relating to the cause and origin of the fire and such further information as he or she may call for. (Neb. Rev. Stat. §81-506)

Article 3 – Fire Prevention

SECTION 8-301: FIRE CODE; ADOPTED BY REFERENCE

All of the provisions of the 2018 edition of the Fire Code, as published by the National Fire Protection Association and recommended by the American Insurance Association, are hereby adopted by reference as part of this chapter. One copy, together with all revisions of and amendments thereto, shall be available in the office of the city clerk for public inspection during office hours. In the event that any of the provisions of said code are in conflict with any of the provisions of the municipal code, the provisions of the municipal code shall prevail. (Neb. Rev. Stat. §§18-132, 19-902, 19-922, 81-502)

SECTION 8-302: LIFE SAFETY CODE; ADOPTED BY REFERENCE

Incorporated by reference into this municipal code are the standards recommended by the National Fire Protection Association known as the Life Safety Code, 2018 edition, and all subsequent amendments. This code shall have the same force and effect as if set out verbatim herein. One copy of the Life Safety Code shall be on file with the city clerk, available for public inspection during office hours. (Neb. Rev. Stat. §§18-132, 19-902, 81-502)

SECTION 8-303: CODE ENFORCEMENT

It shall be the duty of all city officials to enforce the incorporated fire code provisions as provided in Sections 8-301 and 8-302, and all infractions shall be immediately brought to the attention of the fire chief.

SECTION 8-304: OPEN BURNING BAN; WAIVER; PERMIT

A. There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

B. The fire chief may waive an open burning ban under subsection (A) of this section for an area under the Fire Department's jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. Said person shall make application on a form provided by the state fire marshal. The permit shall be signed by the fire chief. He or she may adopt standards listing the conditions acceptable for issuing a permit to conduct open burning under this section.

C. The fire chief may waive an open burning ban under the local fire department's jurisdiction when conditions are acceptable to the chief. Anyone intending to burn in such jurisdiction when the open burning ban has been waived shall notify the fire chief beforehand of his or her intention to burn.

D. The Fire Department may set and charge a fee not exceeding \$10.00 for each such permit issued. Such fees shall be remitted to the City Council for inclusion

in the general funds allocated to the Fire Department. Such funds shall not reduce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (B) of this section in the course of such state's or political subdivision's official duties.

(Neb. Rev. Stat. §81-520.01)

SECTION 8-305: OUTDOOR FIRE PITS AND FIREPLACES

A. The following definitions shall apply in this section:

1. "Outdoor fireplaces" shall include fire pits, portable fire pits, and chimineas. These residential outdoor fireplaces use wood as a fuel and are used for containing recreational fires located at a private residence for the purpose of outdoor cooking and personal enjoyment. Outdoor fireplaces do not include barbeque grills that use propane or charcoal as a fuel and are used primarily for outdoor cooking.
2. "Portable fire pits" are defined as being commercially designed and intended to confine and control outdoor wood fires.
3. "Chimineas" are defined as outdoor patio fireplaces, usually made from clay, intended to confine and control outdoor wood fires.
4. "Fire pits" are usually constructed of steel, concrete and/or stone, and constructed above ground with a heavy steel screen cover.

B. All outdoor fireplaces shall meet the following requirements:

1. *Clearances.* A minimum ten-foot clearance shall be maintained between the outdoor fireplace and combustible structure or materials such as walls, roofs, fences, decks, wood piles, and other combustible material.
2. *Construction.* Outdoor fireplaces shall be constructed of concrete or approved non-combustible materials. Not permitted are drums, barrels, half-barrels, or similarly constructed devices.
3. *Size.* The fuel area for a fire pit shall not be larger than 3 feet in diameter and not more than 3 feet in height.
4. *Location.* An outdoor fireplace shall be placed on a stable non-combustible surface such as a concrete pad and only at grade level and shall not be located on a combustible balcony or deck nor under any combustible balcony or any overhanging portion of a structure.
5. *Type of Materials Being Burnt.* Materials allowed by this section shall be limited to untreated wood or approved fireplace starter logs. Petroleum

products, rubbish, grass, leaves, cardboard, plastics, rubber, or any material that may flow out of the containment or cause excessive heat, smoke, or offensive smell shall not be permitted.

6. *Amount of Materials Being Burnt.* Users must (a) limit the amount of material being burnt to ensure the flames are confined inside the fuel area of the outdoor fireplace and the flames do not extend above the pit or into the chimney and (b) follow the manufacturer's recommendation on the maximum amount of fuel to be used at one time with the spark guard in place.
7. *Supervision.* Every outdoor fireplace shall be under constant supervision by at least one responsible person age 18 or older from the ignition of the fire until the fire is completely extinguished and embers are cooled so as to prohibit the fire from rekindling.
8. *Provisions for Protection.* A garden hose connected to a water supply or other approved fire extinguishing equipment shall be readily available for use.
9. *Weather Conditions.* Outdoor fireplaces shall not be operated when weather conditions are extremely dry.
10. *Hazard.* Outdoor fireplaces shall be completely extinguished and/or not be operated when breezes or winds are blowing which will cause smoke, embers, or other burning materials to be carried toward any building or other combustible materials. The fire chief or an authorized representative shall have the authority to require that use of the outdoor fireplace be immediately discontinued if such use is determined to constitute a hazardous condition to occupants of surrounding property.
11. *Nuisance to Neighbors.* Smoke from any outdoor fireplace shall not create a nuisance for neighboring property owners. The fire shall be extinguished immediately upon the complaint of any neighboring property owner of any smoke nuisance.
12. *Maintenance.* The owner is responsible to ensure proper maintenance and care is accomplished in accordance with manufacturer's instructions. At a minimum, the outdoor fireplace will be checked regularly for the appearance of cracks and other physical deterioration or loose parts.

(Neb. Rev. Stat. §§17-549, 17-556, 81-520.01)

SECTION 8-306: INSPECTIONS; VIOLATION NOTICE

A. It shall be the duty of the fire chief, when directed to do so by the City Council, to inspect or cause to be inspected by a Fire Department officer, member, or some other official as often as may be necessary but no less than two times a year,

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 create a fire hazard. It shall be the duty of the owner, lessee, or occupant of any building or structure, except the interiors of private dwellings, to allow the fire inspector to inspect the structure for purposes of ascertaining and enumerating all conditions therein that are likely to cause fire or any other violations of the provisions of the city ordinances affecting the hazard of fire.

B. The inspection shall be of the storage, sale, and use of flammable liquids, combustibles, and explosives; electric wiring and heating; and the means and adequacy of exits in case of fire in schools, churches, hotels, halls, theaters, factories, hospitals, and all other buildings in which numbers of persons congregate from time to time for any purpose, whether publicly or privately owned; the design, construction, location, installation, and operation of equipment for storing, handling, and utilizing of liquefied petroleum gases, specifying the odorization of said gases and the degree thereof; and chemicals, prozylin plastics, nitrocellulose films, or any other hazardous material that may now or hereafter exist.

C. Upon the finding that any provisions set forth in this chapter have been violated, the fire chief shall notify, or cause to be notified, the owner, occupant, or manager of the premises where a violation has occurred. Notice may be made personally or by delivering a copy to the premises and affixing it to the door of the main entrance. Whenever it may be necessary to serve such an order upon the owner, the order may be served personally or by mailing a copy to the owner's last known post office address if the owner is absent from the jurisdiction.

D. Any such order shall be immediately complied with by the owner, occupant, or manager of the premises or building. The owner, occupant, or manager may, within five days after the order by the fire chief or his or her agent, appeal the order to the City Council, requesting a review. It shall be the duty of the council to hear the same within not less than five days nor more than ten days from the time when the request was filed in writing with the city clerk. The council shall then affirm, modify, or rescind the order as safety and justice may require and the decision shall then be final, subject only to any remedy which the aggrieved person may have at law or equity. The order shall be modified or rescinded only where it is evident that reasonable safety exists and that conditions necessitate a variance due to the probable hardship in complying literally with the order of the fire chief. A copy of any decision so made shall be sent to both the fire chief and the owner, occupant, or manager making the appeal.

(Neb. Rev. Stat. §81-512)

Article 4 – Explosives; Poisonous and Flammable Gases

SECTION 8-401: EXPLOSIVES; STORAGE; REGISTRATION

A. Any person, firm, or corporation storing or keeping dynamite, gunpowder, nitroglycerine, or other high explosives within the city for any period of time shall register such information with the city clerk 24 hours prior to being brought into the city. The clerk shall forward such information to the fire chief and to the City Council. Transfer of explosives to another individual within the city shall require the recipient to register the transfer and the new location of the explosives with the clerk. Also, moving explosives to a new location by the owner shall require registration of that fact to the clerk.

B. Any high explosives including dynamite, gunpowder, and nitroglycerine shall be stored in a proper receptacle which shall be closed at all times except when actually in use. Such concrete, metal, or stone receptacle shall not be located in any room where there is a flame or flammable materials. The area surrounding the storage facility shall be kept clear of rubbish, brush, dry grass, or trees for not less than 25 feet in all directions. Any other combustible materials shall be kept a distance of not less than 50 feet from outdoor storage facilities.

(Neb. Rev. Stat. §§17-549, 17-556, 28-1213, 28-1229, 28-1233)

SECTION 8-402: EXPLOSIVES; BULLETS

Cartridges, shells, and percussion caps shall be kept in their original containers away from flame, flammable materials, and high explosives.

SECTION 8-403: EXPLOSIVES; BLASTING PERMITS

Any person wishing to discharge high explosives within the city must secure a permit from the City Council and shall discharge such explosives in conformance with its direction and under its supervision. In no case shall any person perform blasting operations unless operating under the direct supervision of a person in possession of a valid user's permit issued by the Nebraska State Patrol. (Neb. Rev. Stat. §§17-556, 28-1229)

SECTION 8-404: POISONOUS OR FLAMMABLE GASES

Any person, firm, or corporation desiring to store or keep in the city any form of poisonous or flammable gas or liquefied petroleum gas in excess of 100 gallons or to add to, enlarge, or replace any facility used for the storage of such gases must first get a permit from the City Council, which shall require the name of the gas, the place of storage, and the amount of gas stored. If permission is granted, the council shall prescribe such rules, regulations, and precautionary actions as it may deem necessary. (Neb. Rev. Stat. §17-549)

Article 5 – Fireworks

SECTION 8-501: REGULATION OF USE, SALE, POSSESSION

The use, sale, offer for sale, and possession of permissible fireworks in the city as defined by Neb. Rev. Stat. §28-1241 shall be governed and regulated by Neb. Rev. Stat. §§28-1241 to 28-1252, including any and all amendments thereto, together with any rules and regulations adopted by the state fire marshal for the enforcement of said sections.

Article 6 – Penal Provision

SECTION 8-601: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.