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## **CHAPTER 8 – FIRE REGULATIONS**

### **Article 1 – Fires and Fire Prevention**

## **SECTION 8-101: FIRE PREVENTION CODE**

The rules and regulations promulgated by the office of the state fire marshal relating to fire prevention are incorporated by reference into this code and made a part of this article as though spread at large herein, together with all subsequent amendments thereto. One copy of the Fire Prevention Code shall be on file with the city clerk and shall be available for public inspection at the city office during normal office hours.

## **SECTION 8-102: LAWFUL ENTRY**

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, as designated by the City Council, 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.

## **SECTION 8-103: FIRES; PRESERVATION OF PROPERTY**

The fire chief or any officer in charge of the Fire Department shall have the authority and power to cause the removal of property whenever it shall become necessary for the preservation of more valuable property, the protection of human life, or to prevent the spreading of fire to adjoining property. The fire chief may direct the firefighters to remove any building, structure, or fence for the purpose of checking the progress of any fire. The fire chief shall have the authority to blow up, or cause to be blown up, with explosives any building or structure during the progress of a fire for the purpose of checking the progress of the same.

## **SECTION 8-104: FIRES; DISORDERLY SPECTATOR**

It shall be unlawful for any person during the time of a fire and for a period of 36 hours after its extinguishment to hinder, resist or refuse to obey the fire chief, or to act in a noisy or disorderly manner. The fire chief and assistant fire chief shall have the power and authority during such time to arrest or command any such person to assist them in the performance of their official duties. (Neb. Rev. Stat. §28-908)

## **SECTION 8-105: FIRES; EQUIPMENT**

It shall be unlawful for any person except the fire chief and the members of the Fire Department to molest, destroy, handle or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the City. (Neb. Rev. Stat. §28-519)

## **SECTION 8-106: FIRES; 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. (Neb. Rev. Stat. §28-908)

## **SECTION 8-107: FIRES; ASSISTANCE**

It shall be unlawful for any person to refuse, after the command of the fire chief or assistant fire chief, to aid in extinguishing a fire or to assist in the removal and protection of

property. (Neb. Rev. Stat. §28-908)

### **SECTION 8-108: FIRES; OBSTRUCTION OF HYDRANT**

It shall be unlawful for any person to obstruct the use of a fire hydrant or to have or place any material within 15 feet of the said hydrant. Any vehicle or material found as an obstruction may be immediately removed by the fire chief or any member of the Fire Department, at the risk, cost, and expense of the owner or claimant. (Neb. Rev. Stat. §39-672)

### **SECTION 8-109: FIRES; FALSE ALARM**

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

### **SECTION 8-110: POISONOUS OR FLAMMABLE GAS**

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 permission 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 City Council shall prescribe such rules, regulations and precautionary actions as it may deem necessary. (Neb. Rev. Stat. §17-549)

### **SECTION 8-111: PROHIBITED FUELS**

It shall be unlawful for any person to permit or allow crank case drainings, oil or other flammable substances, other than wood, to be burned in a homemade stove.

### **SECTION 8-112: STOVES, FURNACES AND CHIMNEYS**

All furnaces, stoves and other heating devices shall be installed at a proper distance from combustible materials and portions of the building in which they are located. Any combustible materials or portions of the building that are dangerously close to such heating devices shall be protected by non-combustible material. This section shall apply both to existing structures and those which may hereafter be erected.

### **SECTION 8-113: OPEN BURNING BAN; WAIVER**

A. Except as otherwise provided herein, there shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

B. The Hickman Rural Fire Protection District fire chief may waive an open burning ban under subsection (A) of this section for an area under the Hickman Rural Fire Protection District's jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit issued by the Hickman Rural Fire Protection District fire chief to a person desiring to conduct open burning shall be in writing, signed by the fire chief, and on a form prescribed by the state fire marshal.

C. The Hickman Rural Fire Protection District fire chief may waive the open burning ban in the Hickman Rural Fire Protection District's jurisdiction when conditions are

acceptable to the fire chief. Anyone intending to burn in such jurisdiction when the open burning ban has been waived shall notify the fire chief of his or her intention to burn prior to starting the burn.

D. The Hickman Rural Fire Protection District fire chief may adopt standards listing the conditions acceptable for issuing a permit to conduct open burning under subsection (B) of this section.

(Neb. Rev. Stat. §81-520.01) (Am. by Ord. No. 2012-10, 5/22/12)

## **SECTION 8-114: FIRES REGULATED; OUTDOOR FIREPLACES**

“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.

“Portable fire pits” are defined as being commercially designed and intended to confine and control outdoor wood fires.

“Chimineas” are defined as outdoor patio fireplaces, usually made from clay, intended to confine and control outdoor wood fires.

“Fire pits” are usually constructed of steel, concrete and/or stone, and constructed above ground with a heavy steel screen cover.

All outdoor fireplaces shall meet the following requirements:

A. *Clearances.* A minimum 10-foot clearance shall be maintained between the outdoor fireplace and property lines, combustible structures or materials such as, walls, roofs, fences, decks, wood piles and other combustible material.

B. *Construction.* Outdoor fireplaces shall be constructed of concrete or approved non-combustible materials. The fire fuel area and openings shall be completely enclosed by a steel screening (spark guard) or an approved non-combustible screening material with openings no greater than one-half inch square. Vent stacks, chimneys, and chimineas shall have a steel screen cover made of heavy wire mesh or other non-combustible material with openings no greater larger than one-half inch square. Not permitted are barrels, half-barrels, drums or similarly constructed devices.

C. *Size.* The fuel area for a fire pit shall not be larger than 3 feet in diameter and two feet in height.

D. *Location.* Outdoor fireplaces shall be placed on a stable non-combustible surface such as a concrete pad and only at grade level. Outdoor fireplaces shall not be located on combustible balconies or decks and shall not be located under any combustible balcony or any overhanging portion of a structure.

E. *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.

F. *Amount of Materials Being Burnt.* Users must (1) 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 (2) follow the manufacturer's recommendation on the maximum amount of fuel to be used at one time with spark guard in place.

G. *Supervision.* Outdoor fireplaces shall be under constant supervision by at least one responsible person of 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.

H. *Provisions for Protection.* A garden hose connected to a water supply or other approved fire extinguishing equipment shall be readily available for use.

I. *Wind and Weather Conditions.* Outdoor fireplaces shall be completely extinguished and/or not be operated when winds are blowing over 10 mph and wind direction will cause smoke, embers, or other burning materials to be carried by the wind toward any building or other combustible materials. Outdoor fireplaces shall not be operated when weather conditions are extremely dry.

J. *Maintenance.* The owner is responsible to ensure proper maintenance and care is accomplished in accordance with manufacturer's instructions. At the minimum, the outdoor fireplace will be checked regularly for the appearance of cracks and other physical deterioration or loose parts.

K. *Discontinuance.* Smoke from any outdoor fireplace shall not create a nuisance for neighboring property owners. The fire shall be extinguished immediately upon the complaint of the neighboring property owner of any smoke nuisance. The fire chief or an authorized representative has the authority to require outdoor fireplace use to be immediately discontinued if such use is determined to constitute a hazardous condition to occupants of surrounding property.

L. *Hours of Operation.* An outdoor fireplace shall be completely extinguished and embers cooled prior to 11:59 p.m. so as to prohibit the fire from rekindling.  
(Neb. Rev. Stat. §17-549, 17-556, 81-520.01) (Ord. No. 2012-10, 5/22/12)

## **SECTION 8-115: VIOLATION NOTICE**

It shall be the duty of the owner, lessee, or occupant of any building or structure that was lawfully inspected as herein prescribed, and who receives written or verbal notice of a violation of any of the provisions of the city ordinances, to correct the condition within five days of the date of receipt of such notice.

## **Article 2 – Explosives**

### **SECTION 8-201: STORAGE; REGISTRATION**

A. Any person, firm, or corporation storing or keeping for any period of time dynamite, gunpowder, nitroglycerine, or other high explosives within the City shall register such information with the city clerk within ten days after such explosives are brought in-

to the City. The clerk shall provide such information to the fire chief and to the City Council. Transfer of explosives to another individual within the City shall require the individual receiving the explosives to register the transfer and the new location of the explosives with the city clerk. Also, moving explosives to a new location by the owner shall require registration of that fact to the city clerk.

B. All 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 cement, metal, or stone receptacle shall not be located in any room where there is a flame or flammable materials. The area surrounding storage facilities 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)

### **SECTION 8-202: BULLETS**

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

### **SECTION 8-203: 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 their direction and under their supervision, and 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) (Am. by Ord. No. 90-1, 1/11/90)

### **SECTION 8-204: TRANSPORTATION; PERMIT REQUIRED**

Any person wishing to transport high explosives in the City shall first acquire a permit from the City Council and shall take such precautions and use such route as may be prescribed. Nothing herein shall be construed to apply to city law enforcement officers or any of the armed services of the United States. No vehicle transporting explosives shall make an unscheduled stop for longer than five minutes within the City, and in the event of mechanical failure, immediate notice of such breakdown shall be given the county sheriff, who shall then prescribe such precautions as may be necessary to protect the residents of the City and a reasonable time for removal of the vehicle from the City. (Neb. Rev. Stat. §17-549, 28-1235)

## **Article 3 – Fireworks Regulations**

(Adopted by Ord. No. 88-4, 11/10/88)

### **SECTION 8-301: DEFINITIONS**

For the purpose of this chapter, certain words, phrases, and terms shall be construed as specified below unless the context otherwise requires:

“Fireworks” shall mean any combustible or explosive composition, or any substance or combination of substances, or articles prepared for the purpose of producing a visible or

an audible effect by combustion, explosion, deflagration or detonation.

“Permissible fireworks” shall mean only those allowed by Neb. Rev. Stat. §28-1247 or successive statutes.

“Retailer” shall mean any person engaged in the business of making sales of fireworks at retail.

“Sale” shall include barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

## **SECTION 8-302: PERMISSIBLE FIREWORKS; RETAIL SALE; LICENSE; FEE**

A. It shall be unlawful for any person to sell, hold for sale, or offer for sale at retail any permissible fireworks in the City unless such person has first obtained a license from the City as a retailer.

B. Any person desiring to sell, or offer for sale any permissible fireworks as a retailer shall make application to the city clerk for a license authorizing the same. Such application shall include the following information and such additional information as the City shall deem necessary.

1. The name and residence address of the applicant;
2. The location of the premises for which the license is sought;
3. When the license is sought for a permanent building, the application shall provide an accurate drawing or plat showing the location of the sales display within the building, together with aisles, exits, etc.
4. When the license is sought in a temporary structure or facility, the applicant shall provide a legal description of the premises, a description of the structure or facility to be used, and a drawing showing the location of such temporary structure or facility upon the premises, including the dimensions of the temporary structure or facility, the distance of the temporary structure or facility from the property lines, and the location of each parking space necessary for the size of the temporary structure or facility.
  - a. The temporary structure or facility must be located a minimum of ten feet from side and back property lines and a minimum of 30 feet from the front property line.
  - b. The applicant shall provide one off-street parking space for each 200 square feet of the temporary structure or facility.
  - c. The term “temporary structure or facility” shall include tents.

C. After consideration of the information contained in the application for a license, the clerk may issue a permit therefor, conditioned upon reasonable safety measures to be specified in the license and upon payment by the applicant of a fee set by ordinance of the City Council, on file at the office of the city clerk and available for public inspection during office hours. Out of such fee, portions will be used to sponsor and promote

the community fireworks show in the amount of \$400.00 and pay the Hickman building inspector \$150.00 for winter inspection costs and \$150.00 for summer inspection costs. Applicants must also pay a deposit to ensure that the sales area is kept in an orderly manner and cleaned up after the sales are complete, and to prevent any damage to public property. The amount of such deposit shall be set by ordinance of the City Council, on file at the office of the city clerk and available for public inspection during office hours. Any license issued under the provisions of this section shall be valid only for the period of June 25 through and including July 4 and for the period of December 29 through and including December 31 of the year in which issued.

D. The premises shall be subject to inspection at any time during the period for which the permit is issued. If the premises are not in conformity with the permit as issued, including the drawing submitted with the application, the permit may be suspended until the premises are brought into compliance.

(Am. by Ord. Nos. 99-2, 2/25/99; 2007-19, 10/23/07; 2009-13, 8/11/09; 2010-16, 11/23/10)

### **SECTION 8-303: FEES RECEIVED; DEPOSIT IN GENERAL FUND**

The funds received under the provisions hereof shall be deposited in the General Fund of the City.

### **SECTION 8-304: SALE AND USE DATES; HOURS OF USE RESTRICTED**

A. Permissible fireworks may be sold at retail, offered for sale at retail from:

1. June 25 through June 30 from 9:00 a.m. to 11:00 p.m.
2. July 1 through July 3 from 9:00 a.m. to 11:59 p.m.
3. July 4 from 9:00 a.m. to 11:59 p.m.
4. December 29 through December 31 from 9:00 a.m. to 11:59 p.m.

B. Permissible fireworks may be discharged, exploded or used within the City only from:

1. June 25 through June 30 from 10:00 a.m. to 10:00 p.m.
2. July 1 through July 3 from 10:00 a.m. to 11:00 p.m.
3. July 4 from 10:00 a.m. to 11:59 p.m.
4. December 29 through December 30 from 10:00 a.m. to 11:00 p.m.
5. December 31 from 10:00 a.m. to January 1 at 1:00 a.m.

(Am. by Ord. Nos. 91-5, 11/14/91; 99-1, 2/25/99; 2009-13, 8/11/09; 2010-16, 11/23/10; 2014-06, 4/22/14)

### **SECTION 8-305: THROWING FIREWORKS; WHERE UNLAWFUL**

It shall be unlawful for any person to throw any firecracker, fireworks or pyrotechnic device, or any device which explodes upon contact with another object: (A) from or into a motor vehicle, (B) onto any street, highway or sidewalk, (C) at or near any person, (D) at or near any group of persons or (E) into any building or structure.

### **SECTION 8-306: PROHIBITION; WHEN APPLICABLE**

The provisions herein shall not apply to:

A. Any fireworks for purposes of public exhibition or displays purchased from a



distributor licensed under state law or the holder of a display license issued by the state fire marshal as provided by state law;

B. Any public exhibition or display under the auspices of any governmental subdivision of this state; and

C. Toy cap pistols or toy caps, each of which does not contain more than twenty-five hundredths of a gram of explosive material.

#### **SECTION 8-307: SALE PROHIBITED; EMERGENCY**

The City Council may prohibit the sale of all fireworks at any time during which the state fire marshal has declared a fire emergency by virtue of drought conditions or at any time during which the Lancaster County sheriff's office deems such banning to be necessary to preserve the life, safety, and welfare of the population.

#### **SECTION 8-308: VIOLATIONS; PENALTIES**

A conviction for violation of any provisions of this article shall constitute grounds for denial of a license under Section 8-302 hereof.

### **Article 4 – Penal Provision**

#### **SECTION 8-401: 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.