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CHAPTER 8 – PUBLIC SAFETY

Article 1 – Fire Department and Rescue Squad

SECTION 8-101: AGREEMENT WITH RURAL FIRE DISTRICT

All operations for the volunteer Fire Department and Rescue Squad are under control of the Rural Fire Department. The Fire Department entered into an agreement with the Rural Fire District on May 3, 1999 for the mutual aid and protection of the residents of both the city and the Rural Fire District. Such agreement provides for mutual aid, protection and a sharing of necessary expenses between the city and the Rural Fire 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: 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 to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

SECTION 8-103: FIRE CHIEF

The fire chief reports to the Rural Fire District. 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. The fire chief 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, 81-506, 81-512)

SECTION 8-104: LAWFUL BURNING OF PROPERTY FOR TRAINING AND SAFETY PROMOTION

Property may be lawfully destroyed by burning such structures as condemned by law, structures no longer having any value for habitation or business, or no longer serving any useful value in the area in which situated, and any other combustible material that will serve to be used for test fires to educate and train members the Fire Department and promote fire safety. Before any structure may be destroyed by fire for training and educational purposes, it must be reported to the state fire marshal and the Nebraska Department of Environmental Quality (NDEQ) for a permit issued for that purpose. Any expense incurred in burning a structure shall be assumed by the department. (Neb. Rev. Stat. §28-506)

SECTION 8-105: IMPERSONATING FIREMAN

It shall be unlawful for any person to falsely personate a fireman by wearing a badge or apparel usually worn by a fireman for the purpose of obtaining any benefit whatsoever. Nothing in this section shall be construed to prohibit the theatrical representation of a fireman for bona fide entertainment purposes when there is no intent to defraud. (Neb. Rev. Stat. §28-609)

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

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

B. Disobeys the lawful orders given by any fireman 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

All of the provisions of the most recent 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. If requested, the city clerk shall provide a source for obtaining a copy of the said code. 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

Incorporated by reference into this municipal code are the standards recommended by the National Fire Protection Association known as the Life Safety Code, most recent edition and all subsequent amendments. This code shall have the same force and effect as if set out verbatim herein. If requested, the city clerk shall provide a source for obtaining a copy of the said code. (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; EXCEPTIONS; PERMIT

A. No person shall cause or permit any open fire within the city, except as set forth in subsections (B) and (C) herein. In explanation, and not by way of limitation, this citywide open burning ban shall include all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

B. Exceptions to subsection (A) herein shall be limited to the following:

1. Fires set solely for outdoor cooking of food for human consumption and fire pits, portable fireplaces and such related contained burning apparatus for outdoor enjoyment of the same on other than commercial premises where no nuisance or hazard is created;
2. Fires set for the purpose of training public or industrial firefighting personnel; and
3. Fires set in the operation of smokeless flare stacks for the combustion of waste gases; provided, emissions therefrom are not (a) of a shade or density equal to or darker than that designated as No. 1 on the Ringelmann Chart or equivalent, and (b) of such opacity as to obscure an observer's view to a degree equal to or greater than that designated as No. 1 on the Ringelmann Chart or equivalent.

C. A waiver of the citywide open fire ban may be obtained by a permit for the sole purposes of burning straw, hay, leaves, brush, trees or garden vegetation for the purpose of clearing land on roads or other construction activity or for essential agricultural operation in the growing of crops, where no nuisance or hazard is created. Said permit shall be issued by the fire chief and shall be in writing, signed by the fire chief and on a form provided by the state fire marshal. Anyone burning in such district when the open burning ban has been waived as set forth above must notify the fire chief of his/her intention to burn. Such burning must be done between the hours of 7:00 a.m. and 8:00 p.m. No burning of any kind contemplated by this section shall be done or accomplished while the said fire is unattended by the person setting out the same; and further provided, the said fire shall be located at least 20 feet from any building.

(Neb. Rev. Stat. §81-520.01) (Am. Ord. No. 589, 11/19/07)

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 barbecue 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 caused by 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 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. 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 such condition within five days from the receipt of such notice.

(Neb. Rev. Stat. §81-512)

SECTION 8-307: PROHIBITED FUELS

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

SECTION 8-308: STOVES, FURNACES, AND CHIMNEYS

All stoves and other heating devices shall be installed at a proper distance from combustible materials and portions of the building. 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. (Neb. Rev. Stat. §17-549)

SECTION 8-309: SCHOOL DRILLS

It shall be the duty of the officials and teachers of all the schools in the city to cooperate with the Fire Department in conducting fire drills in such number and at such times as the fire chief shall prescribe and as further defined by Neb. Rev. Stat. §81-527 and the Nebraska Fire Code, as amended. (Neb. Rev. Stat. §28-908)

Article 4 – Hazardous Materials

SECTION 8-401: 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)

SECTION 8-402: EXPLOSIVES; STORAGE; REGISTRATION

A. Any person, firm, or corporation storing or keeping dynamite, gunpowder in excess of 50 lbs., 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 in excess of 50 lbs., 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 8-403: BULLETS

Cartridges, shells, and percussion caps shall be kept away from flames, flammable materials, and high explosives.

SECTION 8-404: BLASTING; SCOPE

The primary purpose of this article is to protect the citizens and residents of the city and its adjacent territory from unreasonable risk and danger to life, property and comfort arising from unlicensed, uncontrolled, indiscriminate or negligent use of explosives during the process of resource extraction or for other purposes, including the manufacture, transportation, storage and detonation of such explosives during the process of blasting. A balance between the objectives of lawful and orderly business and industrial economic growth, and the interest of the city in protecting the public is reached by restating and adopting by reference relevant federal and state licensure and safety codes, rules and regulations as minimum standards, and by the enactment of this article imposing additional requirements and restrictions. (Am. Ord. No. 531, 7/21/03)

SECTION 8-405: BLASTING; DEFINITIONS

As used herein, the following definitions shall apply:

"Blasting" shall mean the detonation of explosives and is hereby declared to be an ultra-hazardous activity.

"Explosives" shall have the same meaning as in Neb. Rev. Stat. §28-1213(3) through (7),

as amended, and shall include caps but shall not include consumer fireworks as defined in Neb. Rev. Stat. §28-1241(6).

"Land development ordinance" and "zoning ordinance" whether used separately or together, shall refer to the zoning regulations, Ord. No. 459 passed and approved January 15, 1996, and amendments thereto.

"Person" shall mean and include natural persons and all associations, general or limited partnerships, corporations, limited liability companies, and all other forms of business organization.

"Resource extraction" shall mean and include all uses involving an on-site extraction of surface or subsurface mineral products or natural resources, excluding only the simple process of grading and removal of dirt. Without limitation of the generality hereof, "resource extraction" shall include all mines and/or quarries, borrow pits, and sand and gravel dredging and similar operations.

SECTION 8-406: BLASTING; PERMITS AND LICENSES REQUIRED

It shall be unlawful for any person to engage in any aspect of resource extraction within the city limits, or outside such limits but within the jurisdiction of the city, or to engage in blasting within said described territory and area for any purpose or to cause others to do so without first having obtained all required and currently valid federal and state licenses and permits. The process and procedures required to obtain such permits, unless more specifically dealt with herein, shall follow all requirements as set forth in the zoning ordinance. Permits for such purposes, when granted and issued by the city, shall be valid only for the year in which issued and shall not be transferable nor assignable. A copy of the state and/or federal permit and any insurance coverage shall be submitted to the city clerk and fire chief.

SECTION 8-407: BLASTING; PROCEDURES REQUIRED

A. It shall be unlawful for any person to do, or cause to be done, any blasting within the city limits or outside such limits but within the jurisdiction of the city without having first developed and obtained approval by the city of a comprehensive set of blasting procedures covering such matters as magazine storage, transportation of explosives, drilling, loading, firing, misfires, flyrock, vibration, concussion and airblast.

B. All blasting operations shall be performed in strict conformity with applicable rules and regulations promulgated and adopted by the secretary of the U. S. Treasury, Department of Alcohol, Tobacco and Firearms (ATF), the U. S. Department of Labor Mine Safety and Health Administration (MSHA), the Federal Bureau of Mines (FBM), the Nebraska State Patrol (NSP), the Nebraska Department of Environmental Quality (NDEQ), the state fire marshal, and/or their respective functional successors, and all other regulatory agencies of federal, state or local government. A blasting log with all relevant information shall be maintained for each blast and made available for review by any and all appropriate regulatory agencies.

C. The following shall constitute the minimum requirements of proposed blasting procedures:

1. Blasting shall be conducted so that the maximum peak particle velocity shall not exceed 1 inch per second at the location of any dwelling, public building, school, church or commercial or institutional building. Peak particle velocities shall be measured in three mutually perpendicular directions. The maximum peak particle velocity shall be the largest of any of the three measurements.

2. Blasting shall be conducted only between 7:00 a.m. and 5:00 p.m. No blasting shall be conducted on Sunday.

3. All property owners within a 1 mile radius of the blast site shall be contacted by telephone at least one hour prior to each blast, if requested in writing.

(Am. Ord. No. 531, 7/21/03)

SECTION 8-408: BLASTING; SPECIAL USE PERMITS; STANDARDS

A. The City Council may by special use permit, after referral to and the affirmative recommendation by the Planning Commission, authorize and permit blasting for the purpose of resource extraction or other proper purposes within the affected use zone, in all cases expressly conditional upon full and continued compliance with all supplemental use regulations set forth in Article 6-6(a) of the zoning ordinance of the land development ordinance, as the same may, from time to time, be further amended. Procedures to obtain a special use permit or for the modification, extension or cancellation thereof shall be as set forth in said zoning ordinance.

B. No special use permit for the purpose of resource extraction nor any other purpose shall be granted, authorized, issued, extended or continued until and unless the City Council shall reasonably find, upon a balancing of interests, as follows:

1. That the establishment, maintenance or operation of the special use will not be detrimental to nor endanger the public health, safety, morals, comfort, or general welfare of the community.
2. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted nor substantially diminish nor impair property values within the neighborhood.
3. That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
5. That the special use shall not include any activity involving the use or storage of flammable or explosive material unless protected by adequate firefighting suppression equipment and by such safety devices as are normally used in the handling of such material.
6. That the special use shall not include noise which is objectionable due to volume, frequency or beat unless muffled or otherwise controlled.
7. That the special use shall not include excessive vibrations or concussions which are discernible without instruments on any adjoining lot or property.
8. That the special use shall not involve any pollution of the air by fly-ash dust, vapors or other substances which are harmful to the health of humans, animals, vegetation, or other property or which can cause soiling, discomfort or irritation.
9. That the special use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

(Am. Ord. No. 531, 7/21/03)

SECTION 8-409: BLASTING; NUISANCE; ABATEMENT

Blasting by any person within the city limits or outside of such limits but within the city's zoning jurisdiction, in violation of any of the provisions of this article, shall constitute a public nuisance, subject to suppression, abatement and removal as provided by law. (Am. Ord. No. 531, 7/21/03)

Article 5 – Fireworks

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

The use, sale, offer for sale, and possession of consumer 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.

SECTION 8-502: CONSUMER FIREWORKS DEFINED

"Consumer fireworks" shall mean any fireworks approved under the laws of the State of Nebraska. (Neb. Rev. Stat. §28-1241)

SECTION 8-503: RESTRICTION

No person shall possess, sell, offer for sale, bring into the city or discharge any pyrotechnics, commonly known as fireworks, other than consumer fireworks.

SECTION 8-504: SALE; LICENSE, TYPE, HOURS OF SALE AND DISCHARGE

A. *License.* It shall be unlawful for any person to sell, hold for sale, or offer for sale as distributor, jobber, or retailer any fireworks in this city unless such person has first obtained a license as a distributor, jobber or retailer from the State of Nebraska. Application for each such license shall be made to the state fire marshal on forms and in the manner prescribed by his office.

B. *Sale of Consumer Fireworks.* Only consumer fireworks may be offered for sale in this city. The state fire marshal's office maintains a list of consumer fireworks. Only items on such list may be sold at retail during the fireworks season. Said list is updated annually. The current list is available under "Lists/Publications" on the state fire marshal's website or by contacting that office.

C. *Sale Dates and Hours.* Consumer fireworks may only be sold at retail between June 24 and July 5 and between December 28 and January 1 of each year. The hours for sale of fireworks shall be from 8:00 a.m. to 10:00 p.m. (Neb. Rev. Stat. §28-1249) (Am. by Ord. No. 656, 11/15/10)

D. *Discharge Dates and Hours.* Consumer fireworks may be discharged, exploded, or used in the City on June 24 through July 5 and on December 28 through January 1 of each year, provided that on such days the discharge and explosion of fireworks shall be permitted during the following times:

1. June 24 through July 5: 8:00 a.m. to 11:00 p.m. on Sunday thru Thursday and 8:00 a.m. to midnight on Friday, Saturday, and 4th of July.

2. December 28 through January 1: 8:00 a.m. to 11:00 p.m. Sunday thru Thursday and 8:00 a.m. to midnight on Friday, Saturday, and New Year's Eve.

(Ref. Neb. Rev. Stat. §28-1249) (Am. by Ord. Nos. 656, 11/15/10; 749, 6/17/19)

SECTION 8-505: GENERAL REQUIREMENTS

In addition to all other requirements and regulations of the city, all fireworks stands, booths or other places of sale of fireworks shall conform to all rules and regulations promulgated by the state fire marshal's office. Fireworks may only be sold from within:

A. A temporary building structure, utilizing a booth or stand allowing for walk-up sales.

B. A temporary building structure that allows patrons to enter the structure.

C. A tent; provided, however, no structure or tent used for the sale of fire-works shall exceed a maximum floor space for sale and storage area of 3,600 square feet and shall be flame retardant. (Ref. NFPA 102)

D. A building or structure that complies with the regulations of the state fire marshal's office guidelines. (Ref. NFPA 1124)

SECTION 8-506: PROXIMITY TO CERTAIN BUSINESSES

Each licensed location offering consumer fireworks for sale must meet the minimum requirements as set forth by the state fire marshal regarding the minimum setbacks from certain businesses with flammable materials, i.e. a gasoline service station or other establishment selling, storing or using gasoline, kerosene, or other flammable or explosive liquids, gases or other combustible materials. Such distance shall be measured from the closest point where combustible material is dispensed or stored above ground. These distances are dependent on and determined by the type of structure and the fire rating of the structure's building material. The distance for temporary structures is 300 feet; however, the distances in the state fire marshal's regulations govern, so those regulations should be reviewed each year to determine if the distance requirement for temporary structures will need to be greater than the 300 feet listed herein and the 20-foot separation distances from each other. (Ref. NFPA 1124 Table 7.7.2)

SECTION 8-507: FIRE EXTINGUISHERS

Each licensed location offering consumer fireworks for sale must meet the minimum requirements for fire extinguishers as set forth by the state fire marshal. The number, size and type of fire extinguishers required are dependent on the size and type of structure at the location.

SECTION 8-508: COMPLIANCE WITH STATE LAW

In addition to all requirements and regulations of the city, all sellers of fireworks shall comply with all laws, regulations and rules of the State of Nebraska dealing with the sale and distribution of fireworks. (Ref. Neb. Rev. Stat. §28-1241 to 28-1252)

SECTION 8-509: RETAIL LICENSE REQUIRED

A. No person shall sell, hold for sale, or offer for sale any fireworks in the city unless such person has first obtained a license as a retailer from the city. Such license is valid for one fireworks season only and the issuance of a license for any particular season or combination of seasons does not create any expectation of a proprietary interest in the issuance of a license for another season.

B. Each license granted shall be for one specific location identified by address or suitable area described on the application. A license shall not be assignable or transferable in any manner.

SECTION 8-510: APPLICATION FOR LICENSE

A. Application for a license required under the provisions of this article shall be made in the office of the city clerk only between January 2 and March 1 of each year in which the license, if issued, would be valid. The clerk will provide the application form. Upon submission of a fully completed application form, including any pertinent subsidiary information, the city clerk will provide notice of the date and time of the hearing for licenses. Applicants are expected to appear at the hearing either in person or by representative.

B. At the time of application, an applicant shall furnish to the city the name and address of the fireworks stand manager. The person designated as manager must be at least 16 years of age. It shall be incumbent upon the applicant to keep the list current so that the names of the employees having management responsibilities will always be on file in the office of the city clerk.

C. Each applicant shall provide a plat plan showing the location of the stand, address, setback from the street right of way, access to the site, the area for and how parking will be handled, the distance to the surrounding building(s) or structure(s), occupancy of the surrounding building(s), plus any and all other information required to show that the location meets all the safety and setback requirements as promulgated by the state fire marshal for a site of such dimensions and the type of structure planned.

D. Requirements for issuance of a license:

1. Prior to issuance of part "A" of the license, which covers the sales period of June 25 through July 4: Every applicant who is approved to receive a license has until June 15 to (a) submit a copy of his or her state license, (b) submit a certificate of insurance meeting the requirements of Section 8-515, (c) pay the applicable fees and (d) submit the bond.
2. Prior to issuance of part "B" of the license, which covers the second sales period of December 29 through December 31: Applicants have until December 15 to certify no change in the original application (for part "A") or submit a supplement to the application detailing any changes in the original application and to re-submit (a) a certificate of insurance meeting the requirements of Section 8-515 and (b) the bond, if the original documents were not for the entire year.

(Am. by Ord. No. 656, 11/15/10)

SECTION 8-511: HEARING ON GRANT OF LICENSES

A. At the regular meeting in March, the City Council will hold a hearing on the applications for licenses. The council shall take testimony regarding the reputation and experience of the applicants; receive and review reports, which may include background or criminal checks on each applicant and/or his or her manager; assessments from the mayor and/or designee regarding site suitability and compliance with all city and state fireworks safety and sale regulations; and comments from the local fire and law enforcement departments. If the City Council finds that an applicant has satisfactorily met all the established criteria for operating a fireworks stand, the license shall be granted, in two parts, when the applicant has submitted a copy of his or her state license, a certificate of insurance, paid the applicable fees and submitted the bond.

B. If, prior to the public hearing required by this section, the mayor determines that an applicant has held a city fireworks license and no complaints have been received pertaining to the applicant, the mayor may waive the requirement that the applicant attend the public hearing.

C. With the modification of the ordinance in 2010 to add the second sales period of December 28 through January 1, current license holders will be granted part "B" of the new license if they meet the requirements of the new ordinance as set out in section 8-510(D).

(Am. by Ord. No. 656, 11/15/10)

SECTION 8-512: FEE

The license fee for each retail sales outlet shall be set by the City Council and kept on file in the office of the city clerk, available for public inspection during office hours.

SECTION 8-513: BOND; CONSENT REQUIRED

Before the issuance of a fireworks license, the applicant shall execute a consent form agreeing to abide by any regulations imposed by the city pertaining to the sale of fireworks and shall furnish to the city a cash bond conditioned that the licensee shall abide by any and all regulations proposed by the city pertaining to the sale of fireworks and that the licensee shall clean the area in and around any stand where fireworks are sold. Such work shall be done within three days after the close of the sales period. Any portable stand or tent shall be removed from its temporary location within eight days after the close of the sales period. Said bond amount shall be set by the City Council and kept on file in the office of the city clerk, available for public inspection during office hours. (Am. by Ord. No. 656, 11/15/10)

SECTION 8-514: BOND; FORFEITURE OR RETURN

The cash bond as provided in Section 8-513 shall be returned to the licensee when the mayor or his or her designated representative shall have certified that the conditions of the bond have been satisfied. In the event any portable stand is not removed from its temporary location within the allotted time or the sale area is not cleaned and the debris and trash not removed therefrom, then the cash bond shall be forfeited and the proceeds used by the city to clean the area and remove the stand.

SECTION 8-515: INSURANCE

Each applicant must attach to his or her application a copy of a certificate of public liability insurance with minimum amounts of \$3,000,000.00 general aggregate and \$500,000.00 per occurrence.

SECTION 8-516: PLACE OF BUSINESS

A license issued under the provisions of this article shall be conditioned upon the licensee providing an acceptable fireworks stand or place of business.

SECTION 8-517: INSPECTION REQUIRED; DUTY OF LICENSEE TO REQUEST

A. The license may be obtained at the office of the city clerk only after an inspection of the fireworks stand or place of sale by the mayor or his or her designated representative to determine (A) if the stand or place of sale conforms to all city standards, building codes, land use regulations and NFPA 1124 guidelines and (B) that the site and structure conform and comply with all the rules established by the state fire marshal for the retail sale of consumer fireworks.

B. The applicant for a license required by the provisions of this article shall request the city to make such inspections not later than June 22 and/or December 26 each calendar year. Such inspection shall be made by the city within 48 hours after the request. In the event of any violations, the license may not be picked up at the city hall until the

violation is corrected.
(Am. by Ord. No. 656, 11/15/10)

SECTION 8-518: DISPLAY OF LICENSE

Every license issued under the provisions of this article shall be displayed at all times at the place of business of the licensee.

SECTION 8-519: DURATION OF LICENSE

Licenses issued under the provisions of this article shall be valid only for the year in which issued (January 2 through January 1). (Rev. Neb. Stat. §28-1246) (Am. by Ord. No. 656, 11/15/10)

SECTION 8-520: MANAGER ON PREMISES; AGE

During all hours of operation of the fireworks stand, a manager shall be on premises who is at least 16 years of age.

SECTION 8-521: EXCEPTION

The provisions of this article shall not apply to the discharge of any fireworks for purposes or under the auspices of any governmental subdivision. (Ref. Rev. Neb. Stat. §28-1241)

SECTION 8-522: UNLAWFUL ACTS; THROWING

It shall be unlawful for any person to throw any firecracker or any object which explodes upon contact with another object from or into a motor vehicle; onto any street, highway or sidewalk; at or near any person; into any building; or into or at any group of persons. (Neb. Rev. Stat. §§17-556, 28-1242)

SECTION 8-523: VIOLATIONS

Any person or licensee who violates any of the provisions of this article shall be subject to the provisions of Section 8-601 herein. In addition to any fine, any person who is licensed shall be subject to the revocation of such license. Upon a complaint being filed with the city clerk, he or she shall notify the licensee in writing and shall order a hearing before the City Council to show cause why said license should not be revoked. The hearing shall be not less than seven days after the filing of the complaint. The City Council shall conduct a special hearing for purposes of determining whether such license shall be revoked. The licensee shall appear in person or by his or her attorney. Upon revocation of the license, no refund of any portion of the license fee shall be made to the licensee and he or she shall immediately close all businesses at all places under such license. (Neb. Rev. Stat. §28-1252)

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.