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CHAPTER 7 – FIRE REGULATIONS

Article 1 – Fires

§7-101 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 city 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. (Neb. Rev. Stat. §17-549)

§7-102 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)

§7-103 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)

§7-104 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 duty. (Neb. Rev. Stat. §28-908)

§7-105 OBSTRUCTION

It shall be unlawful for any person to obstruct the use of a fire hydrant or 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. §60-6,166)

§7-106 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)

§7-107 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)

§7-108 TRAFFIC

Every vehicle already stationary when the fire alarm shall have been sounded must remain so for a period of five minutes after the sounding of the fire alarm. No vehicle, except by the specific direction of the Fire Chief or Assistant Fire Chief, shall follow approach or park closer than 500 feet to any fire vehicle or to any fire hydrant to which a hose is connected. Nothing herein shall be construed to apply to vehicles carrying doctors or members of the Fire Department or to emergency vehicles. (Neb. Rev. Stat. §60-6,183)

§7-109 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)

§7-110 PEDESTRIANS

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

Article 2 – Fire Prevention

§7-201 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 any reasonable time. (Neb. Rev. Stat. §18-132, 19-902, 19-922, 81-502)

§7-202 FIRE CODE ENFORCEMENT

It shall be the duty of all city officials to enforce the incorporated fire code provisions, and all infractions shall be immediately brought to the attention of the Fire Chief. (Neb. Rev. Stat. §17-549)

§7-203 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 Chief to inspect or cause to be inspected as often as necessary the said structure for the purpose 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. (Neb. Rev. Stat. §81-512)

§7-204 VIOLATION NOTICE

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

§7-205 FIRE LIMITS DEFINED

The following-described territory in the City shall be and constitute the fire limits:

Lots 7 to 12, inclusive, Block 17, All of Blocks 22, 23, 24, 25, 30, 31 and 32, and Lots 1, 2, and 3, Block 33, all in that part of the City platted and formerly known as Flora City; and Block 8, Stambaugh's Addition to the City.

(Neb. Rev. Stat. §17-550)

§7-206 FIRE LIMITS MATERIALS

Within the aforesaid fire limits, no structure shall be built, altered, moved, or enlarged unless such structure will be enclosed with walls constructed wholly of stone, well-burned brick, terra cotta, concrete, or other such noncombustible materials as will satisfy the Fire Chief that the said structure will be reasonably fireproof. (Neb. Rev. Stat. §17-550)

§7-207 FIRES REGULATED

It shall be lawful to build or set out certain fires, provided that the person building such fires shall have the substance to be burned in a fireproof trash burner or incinerator with a metal fireproof screen of not more than one inch mesh and located at least 20 feet from any building. The incinerator shall be built in such a way as not to permit the escape of burning paper or other substance. If any person shall require a fire in the course of his trade as a blacksmith or mechanic, such fire shall be built and maintained in the manner prescribed by the Fire Chief. All fires shall be built after 7:00 A.M. and completely extinguished by 8:00 P.M., except the aforesaid fires used in the course of a trade, which shall be allowed during such hours as the Fire Chief shall prescribe. It shall be unlawful for any person to set fire to, burn, or cause to be burned any garbage, animal matter, or vegetable matter. The burning of straw, hay, leaves, or brush in the open air is hereby permitted and allowed; provided, the person setting out the same requests permission and receives an open burning permit in writing on a form provided by the State Fire Marshal and signed by the local Fire Chief. Any such burning shall be done while the said fire is attended at all times by the person setting out the same and the said fire shall be located at least 20 feet from any building. (Neb. Rev. Stat. §17-549, 17-556, 81-520.01)

§7-208 OPEN FIRES

It shall be unlawful for any person to build or cause to be built any fire in the open air in the City. Any fires as are required in the regular trade of blacksmithing or mechanics, those under the direct supervision of the Ashland Fire Department, or open air fires in non-occupied areas governed by Section 7-208 are specifically excepted from the provisions of this section.

§7-209 OPEN BURNING BAN, WAIVER

(1) There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land. The Fire Chief or his designee may waive an open burning ban issued under this section for an area under his jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. Said permit issued by the Fire Chief shall be in writing on a form provided by the State Fire Marshal and signed by the Fire Chief.

(2) The Fire Chief or his designee may waive the open burning ban in his district when conditions are acceptable to him. Anyone burning in such district when the open burning ban has been waived must notify the Fire Department of his or her intention to burn. (Neb. Rev. Stat. §81-520.01)

Article 3 – Fireworks

§7-301 DEFINITIONS

For purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“Distributor” shall mean any person engaged in the business of making sales of fireworks at wholesale in this state to any person engaged in the business of making sales of fireworks, either as a jobber or as a retailer or both.

“Fireworks” shall mean any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and which meets the definition of common or special fireworks set forth by the United States Department of Transportation in Title 49, Code of Federal Regulations.

(1) “Common fireworks” shall mean any small firework device designed to produce visible effects by combustion and which is required to comply with the construction, chemical composition and labeling regulations of the United States Consumer Product Safety Commission set forth in 16 C.F.R., small devices designed to produce audible effects such as whistling devices, ground devices containing 50 milligrams or less of explosive composition and aerial devices and firecrackers containing 130 milligrams or less of explosive composition. Class C explosives as classified by the United States Department of Transportation shall be considered common fireworks.

(2) “Display fireworks” shall mean those materials manufactured exclusively for use in public exhibitions or displays of fireworks, designed to produce visible or audible effects by combustion, deflagration or detonation. Includes but is not limited to firecrackers containing more than 130 milligrams of explosive composition, aerial shells containing more than 40 grams of explosive composition and other display pieces which exceed the limits for classification as common fireworks. Class B explosives as classified by the United States Department of Transportation shall be considered display fireworks. Display fireworks shall be considered an explosive as defined in Neb. Rev. Stat. §28-1213 and shall be subject to Neb. Rev. Stat. §28-1213 to 28-1239, except that display fireworks may be purchased, received and discharged by the holder of an approved display permit issued pursuant to Neb. Rev. Stat. §28-1239.01.

(3) “Permitted fireworks” shall mean only sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star- and comet-type color aerial shells without explosive charge for the purpose of making a noise, lady fingers, not to exceed seven-eighths of an inch in length or one-eighth inch in diameter, total explosive composition not to exceed 50 milligrams in weight, color wheels and any other fireworks approved under Neb. Rev. Stat. §28-1247.

(4) “Jobber” shall mean any person engaged in the business of making sales of fireworks at wholesale to any other person engaged in the business of making sales at retail.

(5) "Retailer" shall mean any person engaged in the business of making sales of fireworks at retail to consumers or to persons other than distributors or jobbers.

(6) "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. (Neb. Rev. Stat. §28-1241)

§7-302 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.

§7-303 FIREWORKS RESTRICTED

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

§7-304 SALE, USE, HOURS RESTRICTED

(1) Permissible fireworks may be sold at retail or offered for sale at retail within the City only from 8:00 a.m. on June 25 to 12:00 midnight on July 4 and from 8:00 a.m. on December 29 to 12:00 midnight on December 31 each year.

(2) It shall be unlawful to discharge, explode or use permissible fireworks before 8:00 a.m. on June 25 through July 3 and on December 29 through December 30 and after 11:00 p.m. on June 25 through July 3 and on December 29 through December 30.

(3) On July 4 and December 31 each year, permissible fireworks may be lawfully discharged, exploded or used between the hours of 8:00 a.m. and 12:00 midnight.
(Am. by Ord. Nos. 1006, 9/15/05; 1095, 4/7/11)

§7-305 LOCATION OF STAND; GENERALLY

(1) In addition to all other requirements and regulations of the City, all fireworks stands, booths or other places of sale of fireworks shall be located and set back at least 25 feet from the nearest right of way line of any public right of way and be separated from any permanent building structure by a minimum of 50 feet. Fireworks shall be sold from within:

(a) A temporary building or structure or utilizing a booth or stand allowing for walk-up sales;

(b) A temporary building structure which allows patrons to enter the structure;

(c) A tent (provided, however, no structure or tent used for the sale shall exceed a maximum floor space for sales and storage area of 3,600 square feet); or

(d) A metal trailer.

(2) In addition, structures or tents used for the sale of fireworks must have a minimum

of two entryways which shall be a minimum of three feet across and be as remote from the other entryways as is practicable given the size and design of the structure or tent. Tents used for the sale of fireworks shall be flame retardant and a retailer using such shall keep proof at the sale location that the tent is flame retardant.

§7-306 PROXIMITY TO CERTAIN BUSINESSES

Stands and areas where fireworks are to be sold shall be located at least 100 feet from any gasoline service station or automotive repair shop using flammable materials. Such distance shall be measured from the closest point where fireworks are sold or stored to the closest point where gasoline or combustible material is dispensed or stored above ground.

§7-307 FIRE EXTINGUISHER

A minimum ten-pound Class A fire extinguisher must be kept in each fireworks stand at all times.

§7-308 COMPLIANCE WITH STATE LAWS

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.

§7-309 LICENSE REQUIRED

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. 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 or property interest in the issuance of a license for another season.

§7-310 CONSIDERATION FOR LICENSURE

(1) Factors that may be considered by the City in deciding whether to issue a license include, but are not limited to:

- (a) Presence or absence of any past violations of applicant;
- (b) Experience or expertise of applicant;
- (c) Safety record of applicant;
- (d) Training programs of applicant;
- (e) Proof of financial responsibility in the form of a bond or insurance policy deemed acceptable to the City;
- (f) Recommendations of law enforcement and emergency response personnel;
- (g) Recommendations of city officials; and
- (h) Whether applicant is a civic or not-for-profit organization committed to the betterment of the City.

(2) No organization, individual, or individual or group of individuals representing an organization shall receive, directly or indirectly, more than one license during any one calendar year. Each license granted shall be for one specific location identified by address or suitable area description on the application. Licenses shall be considered personal to the applicant and shall not be assignable or transferable in any manner. The issuance of a license for any particular season or combination of seasons does not create any expectation of or property interest in the issuance of a license for another season.

(Am. by Ord. Nos. 1006, 9/15/05; 1095, 4/07/11)

§7-311 APPLICATION FOR LICENSE

(1) Application for a license required under this Article shall be made in the office of the City Clerk only between January 1 and January 31 of each year in which the license, if issued, would be valid. The City Clerk will provide the application form. A valid license shall permit a licensee to sell fireworks during all permissible periods identified in Section 7-304.

(2) At a regular meeting in February, the City Council will hold hearings on the applications for licenses. The City Clerk will, at the time of accepting the applications for licenses, give notice of the date and time of the hearing. Applicants are expected to appear at the hearing either in person or by representative.

(3) At the time of an 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 21 years of age. The applicant must keep this manager information current and on file in the office of the City Clerk.

(4) Each applicant shall provide a plat plan showing location of the stand, address, setback from street right-of-way, distance to nearest building or structure, occupancy of nearest building, and a safety plan.

(Am. by Ord. Nos. 1006, 9/15/05; 1095, 4/07/11)

§7-312 CONTRACTING WITH NOT-FOR-PROFIT

As a condition to issuance of a fireworks license, any vendor contracting with not-for-profit corporations or organizations dedicated to community betterment purposes must fulfill the terms and conditions of any agreement made between the vendor and the contracting not-for-profit corporation or organization. Failure to do so may cause forfeiture of said license and denial of license consideration in the future. (Am. by Ord. Nos. 1006, 9/15/05; 1095, 4/07/11)

§7-313 FEES

(1) Each application for a license shall be accompanied by a \$150.00 nonrefundable application fee.

(2) Each organization granted a license shall pick up the license at City Hall upon presenting a \$2,000.00 licensee fee to the City Clerk.

(Am. by Ord. Nos. 1006, 9/15/05; 1095, 4/07/11)

§7-314 CONSENT FOR BOND; 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 (1) the licensee shall abide by any and all regulations proposed by the City pertaining to the sale of fireworks and (2) the licensee shall clean the area in and around any stand where fireworks were sold, such work to be done by July 7 of each year. Any portable stand or tent shall be removed from its temporary location by July 12 of each year. The amount of said cash bond shall be set by the City Council and shall be available for public inspection at the office of the City Clerk during office hours.

§7-315 BOND FORFEITURE OR RETURN

Cash bonds as provided in Section 7-314 shall be returned to the licensee when the City Administrator 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.

§7-316 INSURANCE

Each applicant must attach to its application a copy of a certificate of public liability insurance with minimum amounts of \$1,000,000.00 per occurrence and \$200,000.00 per person.

§7-317 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.

§7-318 INSPECTION REQUIRED

The license may be obtained at the office of the City Clerk only after an inspection by the City Administrator or his or her designated representative of the fireworks stand or place of sale to determine if such stand or place of sale conforms to all city standards, building codes, and land use regulations.

§7-319 DUTY OF LICENSEE TO REQUEST INSPECTION

The applicant for a license required by the provisions of this article shall request the City to make such inspection not later than June 22 of each calendar year and such inspection shall be made by the City within 48 hours after the request. In the event of any violation, the license may not be picked up at the City Hall until the violation is corrected.

§7-320 DISPLAY OF LICENSE

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

§7-321 DURATION OF LICENSE

Licenses issued under the provisions of this article shall be valid for the calendar year in which issued.

§7-322 AGE OF MANAGER ON PREMISES

During all hours of operation of a fireworks stand, a manager who is at least 21 years of age shall be on the premises.

§7-323 VIOLATIONS

Any person or licensee who violates any of the provisions of this article shall be deemed guilty of an offense, and in addition to any fine, any person who is licensed shall be subject to the revocation of such license. Upon 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 Council shall conduct a special hearing for purposes of determining whether said license shall be revoked. The licensee shall appear in person or by his attorney and upon revocation, no refund of any portion of the license fee shall be made to the licensee and he shall immediately close all business at all places under such license.

§7-324 THROWING FIREWORKS

It shall be unlawful for any person to throw any fireworks 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.

§7-325 SKY LANTERNS PROHIBITED

(1) Sky lanterns or any other uninhabited free floating device which includes a flame or other heating device to heat air as a lifting mechanism shall be prohibited within the City. Notwithstanding any action or interpretation by any state official to the contrary, it shall be unlawful for any person to sell at retail or otherwise barter, exchange, or offer for sale at retail, give away, or have in his, her or its possession, discharge, light, release, use or bring into the City any said sky lanterns.

(2) For purposes of this section, a "sky lantern" shall mean any unmanned or uninhabited device with a combustible fuel source that incorporates an open flame to heat the air inside the device with the intention of causing the device to lift into the atmosphere.

(Ord. No. 1124, 10/15/15)

Article 4 – Penal Provisions

§7-401 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. (Am. by Ord. No. 870, 5/3/00)

§7-402 ABATEMENT OF NUISANCE

(1) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate the same in the manner provided by law.

(2) Whenever in any action it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(Neb. Rev. Stat. §18-1720, 18-1722)