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CHAPTER 8 – FIRE REGULATIONS

Article 1 – Fire Department

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

A. The city operates the Fire Department through the city fire chief and firemen. The fire chief shall manage the Fire Department. The City Council, for the purpose of defraying the cost of the management, maintenance, and improvement of the Fire Department, may each year levy a tax not exceeding the maximum limits prescribed by state law on the actual valuation of all real estate and personal property within the city that is subject to taxation. The revenue from the said tax shall be placed in the general fund, which shall be in the possession of the city treasurer. Said monies so levied and collected shall be set aside in the city budget as the Fire Department budget for defraying the cost of those departments.

B. The Fire Department is authorized to enter into an agreement with the appropriate Rural Fire District for the mutual aid and protection of the residents of both the city and the Rural Fire District. Such an agreement shall provide 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. §17-718, 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

A. The fire chief shall be elected by the members of the Fire Department. He shall manage the Fire Department and it shall be his duty to inform the City Council when any of the fire engines, hose, ladders, or other apparatus needs repair. 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 at the regular meeting 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, before January 1 each year, file with the city clerk a certified copy of the rolls of all members in good standing in their respective companies.

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. 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 fires arising within his jurisdiction.
(Neb. Rev. Stat. §17-505, 35-102, 35-108, 81-506, 81-512)

SECTION 8-104: MEMBERSHIP

A. The Fire Department shall consist of so many members as may be decided by the City Council. The fire chief shall appoint no more than 25 members for each Fire Department company, subject to the review and approval of the council. All vacancies shall be filled in this manner.

B. 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.

C. Members of the Fire Department may hold meetings and engage in social activities with the approval of the City Council. The secretary shall keep a record of all meetings. All records shall be available to the public at any reasonable time.

D. Members of the Fire Department shall be considered to be employees of the city for the purpose of providing them with workers' compensation and other benefits. The City Council may compensate or reimburse any member of the Fire Department for expenses incurred in carrying out his duties in an amount set by resolution. The council shall purchase and maintain in force a policy of group term life insurance to age 65 covering the lives of all of the city's active volunteer fire and rescue personnel, except that when any such person serves more than one municipality or rural or suburban fire protection district, the policy shall be purchased only by the first entity or district which he serves. The policy shall provide a minimum death benefit of \$10,000 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 Fire Department.

E. For purposes of Neb. Rev. Stat. §33-139.01, volunteer firefighters and rescue squad members testifying as witnesses in that capacity alone shall not be deemed employees of the city.

(Neb. Rev. Stat. §33-139.01, 35-101 through 35-103, 35-108) (Ord. No. 698, 6/10/04)

SECTION 8-105: EQUIPMENT

A. 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)

B. Fire equipment may not be removed from the Fire Department without prior approval of department personnel. City employees shall not be involved in the fire or rescue actions other than as firemen. Maintenance of the Fire Department building is the responsibility of the City Council. The temperature control of the building shall be administered to insure that oxygen and other equipment are maintained at safe operating and administration temperatures.

SECTION 8-106: COMMUNICATIONS EQUIPMENT

No unauthorized person shall operate any radio or communications equipment of the Fire Department. All persons authorized to operate said equipment shall do so only as authorized by the license granted to that particular piece of equipment and shall strictly comply with all of the rules and regulations established.

SECTION 8-107: IMPERSONATING FIREFIGHTER

It shall be unlawful for any person to falsely personate a firefighter by wearing a badge or other apparel usually worn by a firefighter for the purpose of obtaining any benefit whatsoever. Nothing in this section shall be construed to prohibit the theatrical representation of a firefighter 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 firefighters 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 has 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 shall have sounded until the fire trucks shall 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 intentionally and without good and reasonable cause raise any false alarm of fire. (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. In the event that a spectator refuses, neglects or fails to assist the Fire Department after a lawful order to do so, he 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 or her 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. (Neb. Rev. Stat. §81-506)

Article 3 – Fire Prevention

SECTION 8-301: FIRE PREVENTION CODE

All of the provisions of the most recent edition of the Fire Prevention Code, as 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

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. 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

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 or his designee may waive an open burning ban under subsection (A) of this section for an area under his 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 or his designee. The fire chief may adopt and promulgate rules and regulations listing the conditions acceptable for issuing a permit to conduct open burning.

C. The fire chief or his designee may waive the open burning ban in his jurisdiction when conditions are acceptable to the chief or his designee. Anyone burning in such jurisdiction when the open burning ban has been waived shall notify the Fire Department of his/her intention to burn.

D. The Fire Department may set and charge a fee 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 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) (Am. by Ord. No. 512, 2/9/95)

SECTION 8-305: OUTDOOR FIRE PITS AND 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 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.

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 three feet in diameter and a height of more than three feet.

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 12 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. *Building Permit.* For a fire pit, a site plan showing the location of the fire pit on the property and a detailed drawing of the construction of the fire pit shall be submitted to the Permits and Inspections Department of the City for review. A building permit will be issued based on approved plans. A building permit is not required for portable fire pits or chimineas, provided they are commercially designed and have been approved by an independent testing laboratory.

M. *Hours of Operation.* An outdoor fireplace shall be completely extinguished and embers cooled so as to prohibit the fire from rekindling prior to 11:00 pm. (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.

(Neb. Rev. Stat. §81-512)

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.

SECTION 8-307: FIRE ON PAVEMENT

It shall be unlawful for any person to set out a fire on the pavement or near any curb within the city. (Neb. Rev. Stat. §17-556)

SECTION 8-308: PROHIBITED FUELS

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

SECTION 8-309: FIRE LIMITS; DEFINED

A. The following-described territory shall be and constitute the fire limits of the city, to-wit: All of the City of Creighton within city limits..

B. All of that part of the city that has been zoned business use and business-industrial use and the fire limits restrictions shall apply to all new buildings constructed for business use and business-industrial use but not to buildings constructed for residential use.

SECTION 8-310: FIRE LIMITS; PERMITTED REPAIRS

It shall be unlawful for any person to repair, alter, or add to any building in the fire limits where the repair is less than 50% of the building unless the said person shall first submit an application to the city clerk to make such repairs, alterations, or to add to any building and shall state on the application that the material used will be non-combustible and approved by the fire chief. Repairs in the form of patching and other minor repairs shall not require a permit. In the event that the repairs, alteration, or addition is to involve more than 50% of the building, the owner shall be required to apply for a new building permit which shall state that the building, when completed, shall be fireproof and made of noncombustible materials. (Neb. Rev. Stat. §17-550)

SECTION 8-311: FIRE LIMITS; REMOVAL REQUIRED

In the event that any wooden or combustible building or structure or any non-combustible building which stands within the fire limits is damaged to the extent of 50% or more of its value, exclusive of the foundation, it shall not be repaired or rebuilt but shall be taken down and removed within 60 days from the date of such fire or other casualty. (Neb. Rev. Stat. §17-550)

SECTION 8-312: FIRE LIMITS; REMOVAL OR REPAIR REQUIRED

In the event that a building within the fire limits becomes damaged by fire, wind, flood, vandalism or any other cause, to the extent of less than 50% of its value, exclusive of the foundation, it shall be the duty of the owner, lessee, or occupant to remove or repair the said building in accordance with the provisions of this article. It shall be unlawful for any person to allow a building to stand in such damaged or decayed condition. Any such building shall be removed or repaired within 30 days after receiving notice to do so by the City Council. (Neb. Rev. Stat. §17-550)

Article 4 – Fireworks

SECTION 8-401: 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.

SECTION 8-402: DEFINED

“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 consumer or special fireworks set forth by the U. S. Department of Transportation in Title 49, Code of Federal Regulations. (Ord. No. 520, 8/10/95) (Am. by Ord. No. 756, 5/13/10)

SECTION 8-403: PERMITTED FIREWORKS; DISCHARGE DATES AND TIMES

A. It shall be unlawful for any person to ignite or cause to be exploded fireworks or firecrackers of any description whatsoever, except those defined as “consumer fireworks” in Neb. Rev. Stat. §28-1241, and then only between June 24 and July 4 of each year.

B. Between June 24 and July 2 fireworks may be discharged only from 8:00 a.m. until 10 p.m. Between July 3 and July 4 fireworks may be discharged from 8:00 a.m. until midnight.

C. Permissible fireworks may be discharged at other times with an approved fireworks permit issued by the fire chief.
(Ord. No. 520, 8/10/95) (Am. by Ord. No. 756, 5/13/10)

SECTION 8-404: SALE

It shall be unlawful for any person to sell, hold for sale, or offer for sale as a distributor, jobber, or retailer any fireworks without first obtaining a license from the state fire marshal for that calendar year. Licensed vendors shall only sell fireworks which have been approved by the state fire marshal and such permissible fireworks may be sold at retail only between June 24 and July 4 of each year. (Ord. No. 520, 8/10/95) (Am. by Ord. No. 756, 5/13/10)

Article 5 – Penal Provision

SECTION 8-501: 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. (Ord. No. 658, 7/13/00)