

CHAPTER 8 – FIRE REGULATIONS

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CHAPTER 8 – FIRE REGULATIONS

Article 1 – Fire Department

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

A. The village operates the Fire Department through the fire chief and firefighters. The fire chief shall manage the Fire Department. The Village Board, for the purpose of defraying the cost of the management, maintenance, and improving 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 village that is subject to taxation. The revenue from the said tax shall be known as the Fire Department fund, which shall be at all times in the possession of the village treasurer.

B. The Fire Department may also operate a rescue unit for the benefit of those within the Fire Protection District. The department shall make rules and regulations for the proper and effective use of emergency rescue equipment and for the adequate training of personnel to operate such equipment, subject to the review of the Village Board. When available, rescue personnel shall respond to all fire calls.

C. 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 village and the Rural Fire District. Such an agreement shall provide for mutual aid, protection and a sharing of necessary expenses between the village and the Rural Fire District.

(Neb. Rev. Stat. §§17-718, 35-501, 35-514.02, 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 village, 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; DUTIES

A. The fire chief shall be elected by the members of the Fire Department. He or she shall manage the Fire Department and it shall be his or her duty to inform the Village Board when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the board, the fire chief shall cause the repair, improvement, or maintenance of the said equipment and shall personally supervise and approve of the same. It shall be the duty of the fire chief to come before the Village Board 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

or her.

B. The fire chief shall, on the first day of April and October each year, file with the village clerk a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law.

C. The Fire Chief shall keep or cause to be kept a record of all meetings of the Fire Department, the attendance record of all members, a record of all fires, and shall make a full report of such records to the Municipal Clerk during the last week in April each year. The record of any fire shall include the cause, origin, circumstances, property involved, and whether criminal conduct may have been involved. In the event of sizable property damage, he shall include the information of whether such losses were covered by insurance, and if so, in what amount. All records shall be available to the public at any reasonable time.

D. 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 or her 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 or her jurisdiction.

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

SECTION 8-104: MEMBERSHIP

A. The Fire Department shall consist of so many members as may be decided by the Village Board. The members may organize themselves in any way they may decide, subject to the review of the board. They may hold meetings and engage in social activities with the approval of the Village Board. The secretary shall, upon request, keep a record of all meetings and shall make a report to the board of all meetings and activities of the Fire Department.

B. The volunteer Fire Department shall not have upon its rolls at one time more than 25 persons for each company in the Fire Department. Members in good standing are those who keep their dues promptly paid up and are present and render active service when called out for the legitimate purposes of the Fire Department.

C. Volunteer firefighters of the Fire Department shall be deemed employees of the village while in the performance of their duties as members of the department. Members of the volunteer Fire Department, before they are entitled to benefits under the Nebraska Workers' Compensation Act, shall be recommended by the fire chief or some person authorized to act for the chief for membership therein to the chairman and Village Board, and upon confirmation shall be deemed employees of the village. After confirmation to membership, members of the department may be removed by a majority vote of the board and thereafter shall not be considered employees of the

village. Firefighters shall be considered as acting in the performance and within the course and scope of their employment when performing activities outside of the corporate limits of the village but only if directed to do so by the fire chief or some person authorized to act for the chief.

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

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

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

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

SECTION 8-105: DRILLS

The Fire Department shall hold departmental fire drills at least six times per year on such dates as the chief and members of the Fire Department shall decide.

SECTION 8-106: EQUIPMENT; HOSE TESTS

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 village.

B. All fire hose shall be pressure tested at least two times each year.
(Neb. Rev. Stat. §28-519)

SECTION 8-107: FIRES; DISTANT FIRES

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

B. Upon the permission of the chairman or fire chief, such fire equipment of the village as may be designated by the Village Board as rural equipment may be used beyond the corporate limits to extinguish reported fires.

C. The firefighters of the village shall be considered as acting in the performance and within the scope of their duties in fighting fires or saving property or life outside the corporate limits of the village when directed to do so by the fire chief or designee.

SECTION 8-108: 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. 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.

Article 2 – Fires

SECTION 8-201: 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. 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 such alarm. Nothing herein shall be construed to apply to vehicles carrying doctors, members of the Fire Department, or emergency vehicles. (Neb. Rev. Stat. §60-6,183)

SECTION 8-202: 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 8-203: 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 8-204: 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 8-205: HYDRANTS; OBSTRUCTION

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 any 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)

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. (Neb. Rev. Stat. §28-908)

SECTION 8-207: INTERFERENCE; POWER OF ARREST

A. 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:

1. Resists or interferes with the lawful efforts of any fireman in the discharge or attempt to discharge an official duty; or
2. Disobeys the lawful orders given by any fireman while performing his or her duties; or
3. Engages in any disorderly conduct which delays or prevents a fire from being extinguished within a reasonable time; or
4. Forbids or prevents others from assisting or extinguishing a fire or exhorts another person, as to whom he or she has no legal right or obligation to protect or control, not to assist in extinguishing a fire.

B. The fire chief or the assistant chief shall have the power during the time of a fire and for a period of 36 hours after its extinguishment to arrest any suspected arsonist or other person hindering or resisting the firefighting effort or any person who conducts himself in a noisy or disorderly manner. The said officials shall be severally vested with the usual powers and authority of municipal police to command all persons to assist them in the performance of their duties.

(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 village in which property has been destroyed or damaged in excess of \$50.00. All fires 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 begun within two days of the occurrence of such fire and the state fire marshal shall have the right to supervise and direct the investigation whenever he deems it expedient or necessary. The officer making the investigation of any fire occurring within the village shall immediately notify the state fire marshal and shall, within one week of the occurrence of the fire, furnish him with a written statement of all the facts relating to the cause and origin and such further information as he may call for.

(Neb. Rev. Stat. §81-506)

Article 3 – Fire Prevention

SECTION 8-301: FIRE CODE; ADOPTED BY REFERENCE

The Fire Code, most recent edition, as published by the National Fire Protection Association and recommended by the American Insurance Association, is hereby adopted by reference as part of this chapter. In the event that any of the provisions of said code are in conflict with any of the provisions of the municipal code, the provisions of the municipal code shall prevail. (Neb. Rev. Stat. §§18-132, 19-902, 19-922, 81-502)

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

The Life Safety Code, most recent edition, as recommended by the National Fire Protection Association, is adopted by reference as part of this chapter. This code shall have the same force and effect as if set out verbatim herein. (Neb. Rev. Stat. §§18-132, 19-902, 81-502)

SECTION 8-303: CODE ENFORCEMENT

It shall be the duty of all village officials to enforce the incorporated fire and life safety 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: FIRE LIMITS; DEFINITIONS

For the purposes of this article, the following terms, phrases, words and their derivations shall have the meaning given herein, unless the context otherwise requires:

A. "Building" shall mean a house for business, residence, or public use or for the shelter of man or beast or the storage or display for sale of goods, wares and merchandise; or any erection connected with the temporary or permanent use of man; any fixture or article of a chattel nature which can be severed from the land after having been affixed to it.

B. "Structure" shall mean any production or piece of work used for shelter artificially built up or composed of parts joined together in some definite manner and not necessarily affixed to the land, although resting upon it and capable of being moved from one place to another.

C. "Ironclads" shall mean buildings, sheds or structures constructed of wood and covered with sheet iron or tin, constructed of sheet iron or tin attached to a framework or posts, or any skeleton support constructed of wood or other combustible material.

(Neb. Rev. Stat. §17-550)

SECTION 8-305: FIRE LIMITS; BOUNDARIES

The following territory shall constitute the fire limits of the village:

Bounded on the north by South Railway Street, on the east by the first alley east of Fairmont Avenue, on the south by Jackson Street, and on the west by the first alley west of Fillmore Avenue.

SECTION 8-306: FIRE LIMITS; NEW CONSTRUCTION AND ADDITIONS

It shall be unlawful for any person, persons, company or corporation to build, erect, construct, or cause to be built, erected, or constructed any wooden or other combustible building or part thereof or to enlarge any such building or to build any addition thereto within the fire limits.

A. *Building Requirements.* Every building hereafter erected or enlarged within the fire limits shall be enclosed on all sides with walls constructed wholly of stone, well-burned brick, terra cotta, concrete or equivalent incombustible materials; provided, roofs and dormer windows on said masonry buildings may be constructed with wood joists but said roofs and dormer windows shall, in all cases, be covered with noncombustible material, with tin, iron, slate, tile or fireproof roof and provided further, incombustible materials may be construed to include wood when applied to floors in any building within the fire limits. All cornices shall be of incombustible material.

B. *Minor Repairs.* Minor repairs on existing wooden or ironclad structures, such as to stop leaky shingle roofs, siding on existing warehouses or storage sheds, where the work might be fairly construed as patching or covering small areas on the outside or inside of combustible buildings, shall not require fireproof materials.

C. *Roofing.* When combustible buildings are permitted to be roofed or reroofed in the fire limits, roof coverings over all combustible roof construction shall be either of the following kinds: composition roofing bearing the label and laid in the manner provided by the Underwriters Laboratory, Inc., for Class A and B; concrete slab or concrete tile; slate; clay; tile; or asphalt.

SECTION 8-307: FIRE LIMITS; MOVING COMBUSTIBLE BUILDINGS

It shall be unlawful for any person, persons, company or corporation to move in, on or place upon any lot or parcel of ground within the fire limits any wooden or combustible building or structure or of any part thereof which had been built, erected or constructed or of any part thereof which had been built, erected or constructed elsewhere or to remove any such building or structure or part thereof from one part of the same lot to another part thereof within said fire limits.

A. *Temporary Permit.* Upon application in writing from the owner or agent, permission may be granted by a two-thirds vote of the members of the Village Board for a

temporary removal of said combustible building to such location in the street or other place within said fire limits as the board shall specify, when the owner of any such building desires immediately to construct on its former site a building of noncombustible material and shall immediately after the completion of said noncombustible building, move said combustible building outside of the fire limits.

B. *Bond.* Before any such permits shall be issued, the owner or agent desiring the same shall furnish the village with a good and sufficient bond conditioned to save the village harmless from any liability occasioned by such removal.

C. *Penalty.* There is hereby imposed a payment of a penalty as set by resolution by the Village Board and kept on file in the office of the village clerk for each and every day such combustible building is allowed to remain on its temporary site after the completion of the noncombustible building.

SECTION 8-308: FIRE LIMITS; BARRICADES AND LIGHTS

It shall be the duty of the owner, tenant, lessee or contractor during the construction of any building or improvement upon or near the line of any public street, highway, alley or sidewalk to have all excavations or exposures of any kind protected and guarded by suitable guards or barricades by day and by warning red lights at night. In case of the failure, neglect, or refusal of said persons to erect such guards and keep the street, highway, or sidewalk well and securely guarded, it shall be lawful for the fire chief or police chief forthwith to stop all work upon said buildings and improvements until guards are erected and kept in the manner aforesaid.

SECTION 8-309: FIRE LIMITS; DAMAGED BUILDINGS OR STRUCTURES

Whenever any wooden or any noncombustible building stands within said fire limits and it shall be damaged by fire or other casualty to the extent of 50% or more of its value, exclusive of foundation. it shall not be repaired or rebuilt but shall be taken down and removed.

A. *Time Limitation.* The building so damaged shall be removed within 60 days from the date of the casualty causing the damage.

B. *Penalty.* It shall be unlawful for any person, persons, company or corporation to repair or rebuild any such damaged building or structure or for any owner thereof to fail to remove any such damaged building or structure and to protect and guard the public from injury or damage arising out of such excavation or open basement remaining, if any, within 30 days after notice to do so from the Village Board.

C. *Removal by Village.* If such owner fails or neglects to remove said building or structure and to protect and guard the public from injury or damage arising out of such excavation or open basement remaining, if any, as commanded by said notice, the police chief or fire chief, upon motion of the Village Board, shall remove said build-

ing or structure and shall protect and guard said excavation or open basement, if any, and shall report the cost and expense thereof to the village attorney, who shall collect such cost and expense from said owner by civil suit or otherwise.

SECTION 8-310: FIRE PREVENTION BUREAU; DEFINITIONS

For the purposes of this article under the Fire Code hereby adopted, the following terms, phrases, words and their derivations shall have the meaning given herein. unless the context otherwise requires:

"Chief of the Bureau of Fire Prevention" is the chief of the Fairmont Volunteer Fire Department.

"Bureau of Fire Prevention" is the Volunteer Fire Department of Fairmont.

"Fire prevention inspector" or "inspector" is the chief of the Volunteer Fire Department or his duly authorized agent.

"Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

SECTION 8-311: FIRE PREVENTION BUREAU; DUTIES

The Fire Prevention Bureau, under the supervision of the fire prevention inspector, shall enforce all laws and ordinances covering the following:

- A. Inspection of potential fire hazards.
- B. Abatement of existing fire hazards.
- C. Investigation of the cause, origin, and circumstances of fires.
- D. Control and use of explosives and flammables.
- E. Regulation of the maintenance of fire escapes.
- F. Regulation of the maintenance of automatic and other private fire alarm systems and fire extinguishing equipment.
- G. Control of the means and adequacy of fire exits in factories, schools, hotels, lodging houses, hospitals, churches, halls, theaters, and all other places in which numbers of persons work, meet, live or congregate.
- H. Educational fire prevention programs.
- I. Such other powers and duties as may be set forth by this code or as may be

established by the Village Board.

SECTION 8-312: FIRE PREVENTION BUREAU; INSPECTIONS

A. *Right to Enter for Inspection.* The inspector shall have the right and authority to enter any building, structure, or premises within the corporate limits of the village for the purpose of making inspections or investigations at all reasonable hours; provided that except in cases of emergency, the right and authority conferred by this section shall not apply to the entry of a private residence unless written notice is served on the occupant thereof. Such written notice shall contain a statement of the time that inspection will be made and shall also contain a statement of the purpose of such inspection or investigation.

B. *Scope of Inspection Authorized.* The inspection and examination authorized by this article shall be for the purpose of reporting and correcting the following fire hazards pertaining to buildings and their occupants:

1. Disrepair.
2. Age and dilapidated condition.
3. Faulty or unapproved construction.
4. Inadequate fire escapes or lack of means of egress.
5. Inadequate fire alarm protection.
6. Inadequate fire extinguishing equipment.
7. Materials and buildings especially susceptible to fire.
8. Conditions endangering other property or occupants.
9. Any other fire hazards dangerous to life or property.

SECTION 8-313: FIRE PREVENTION BUREAU; REQUIRED INSPECTIONS

It shall be the duty of the inspector, in addition to the inspections required below, to inspect as often as he shall find necessary to the enforcement of this article all buildings and premises in the village.

A. *Buildings and Premises.* The inspector shall inspect all buildings and premises not less than twice a year.

B. *Places of Public Assembly.* The inspector shall inspect all places of public assembly not less than once a month.

C. *Places Housing Dangerous Materials.* The inspector shall inspect, not less than four times a year, all hazardous manufacturing processes, storages or installations of gases, chemicals, oils, explosives, and flammable materials.

SECTION 8-314: FIRE PREVENTION BUREAU; VIOLATION; ORDER

Where any violation of this article or of any other laws or ordinances relating to fire

hazards are found by the inspector, he shall serve a written order to correct the violation upon the owner, operator, occupant or other person responsible for the violation.

A. *Method of Service.* The order required herein shall be served in one of the following ways:

1. By making personal delivery of the order to the person responsible.
2. By leaving the order with some person of suitable age and discretion upon the premises.
3. By affixing a copy of the order to the door at the entrance of the premises in violation.
4. By mailing a copy of the order to the last known address of the owner of the premises, by registered mail.
5. By publishing a copy of the order in a local paper once a week, for three successive weeks.

B. *Time for Compliance.* The order required herein shall set forth a time limit for compliance, dependent upon the hazard and danger created by the violation. In cases of extreme danger to persons or property, the inspector shall have the authority to require compliance immediately upon service of the order.

C. *Appeal from Order.* A person to whom an order hereunder is directed shall have the right, within 24 hours of the service of such order, to appeal to the Village Board, which shall review such order and file a decision thereon. Unless the order is revoked or modified it shall remain in full force and be obeyed by the person to whom directed. No person to whom an order is directed shall fail to comply with such order within ten days after an appeal shall have been determined.

D. *Failure to Comply.* Any person to whom an order is directed who shall fail to comply with such order within the specified time shall be liable to a penalty as hereinafter provided.

E. *Work Completed by Village.* When a person to whom an order is directed shall fail to comply within the specified time, the inspector shall have the authority to contract with others for the removal of such materials and charge the cost thereof to the person to whom the order is directed. The person removing material under a contract made hereunder shall be authorized to enter the premises and to remove such material. If the cost of removal is not paid within ten days after receipt of a statement therefor from the inspector, such cost shall be levied against the property upon which said fire hazard exists, as a special assessment. The levying of such assessment shall not affect the liability of the person to whom the order is directed to fine as herein provided.

SECTION 8-315: CONSTRUCTION OF CHIMNEYS

It is hereby declared unlawful for any person, firm or corporation within the corporate limits of the village to enter or cause to be entered any stovepipe into an outlet other than a brick chimney constructed with what is known as flue lining, well-burned clay or terra cotta pipe or other incombustible material; nor shall any person run a stovepipe through any partition, floor or roof except through a ventilator in said partition, floor or roof. All chimneys hereafter constructed shall be lined continuously on the inside with such materials as hereinbefore provided shall be made smooth on the inside from the bottom of the flue or from the throat of the fireplace, if the flue starts from the latter, and shall be carried up continuously to the extreme height of the flue. The ends of all lining pipes shall be made to fit close together; the pipe shall be built in as the flue or flues are carried up and shall extend at least 6 inches above the cap of the chimney. Each flue shall be enclosed on all sides with not less than 4 inches of solid brickwork properly banded together, and the brickwork between the lined flues on the inside of the chimney shall be 4 inches in thickness. All chimneys, flues and fireplaces shall be kept at all times clean and free from accumulation of soot, ashes and cinders, and in good and proper repair. (Neb. Rev. Stat. §17-549, 17-550)

SECTION 8-316: FIRES ON PAVEMENT, ETC.

Under no circumstances shall any person set out any fire on any pavement or near any sidewalk, gutter, driveway, or curb now built or hereafter to be built within the corporate limits of the village.

SECTION 8-317: EXITS; CHAIRS IN AISLES

It shall hereafter be unlawful for any person, firm, association or corporation, or their agents who have control or use of any hall, church or other building resorted to by the people of the village for worship, amusement or for public assemblages to fail to provide such hall, church or other building with suitable, ample and sufficient means of exit and entrance. No chairs or seats of any description shall be placed or allowed to remain in the aisle or aisles of said buildings during the time when any meeting, gathering or entertainment is in progress.

SECTION 8-318: OPEN BURNING BAN; WAIVER; PERMIT

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

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

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

D. The Fire Department may set and charge a fee not exceeding \$10.00 for each such permit issued. Such fees shall be remitted to the Village Board for inclusion in the general funds allocated to the Fire Department. Such funds shall not reduce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (B) of this section in the course of such state's or political subdivision's official duties.

(Neb. Rev. Stat. §81-520.01) (Ord. No. 16-507, 7/11/16)

SECTION 8-319: BURN BARRELS PROHIBITED

Burn barrels, with or without covers, are absolutely prohibited in the corporate limits of the village. (Ord. No. 99-381, 12/13/99)

SECTION 8-320: OUTDOOR FIRE PITS AND FIREPLACES

A. The following definitions shall apply in this section:

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

B. All outdoor fireplaces shall meet the following requirements:

1. *Clearances.* A minimum ten-foot clearance shall be maintained between the outdoor fireplace and combustible structure or materials such as walls, roofs, fences, decks, wood piles, and other combustible material.
2. *Construction.* Outdoor fireplaces shall be constructed of concrete or approved non-combustible materials. Not permitted are drums, barrels,

half-barrels, or similarly constructed devices.

3. *Size.* The fuel area for a fire pit shall not be larger than 3 feet in diameter and not more than 3 feet in height.
4. *Location.* An outdoor fireplace shall be placed on a stable non-combustible surface such as a concrete pad and only at grade level and shall not be located on a combustible balcony or deck nor under any combustible balcony or any overhanging portion of a structure.
5. *Type of Materials Being Burnt.* Materials allowed by this section shall be limited to untreated wood or approved fireplace starter logs. Petroleum products, rubbish, grass, leaves, cardboard, plastics, rubber, or any material that may flow out of the containment or cause excessive heat, smoke, or offensive smell shall not be permitted.
6. *Amount of Materials Being Burnt.* Users must (a) limit the amount of material being burnt to ensure the flames are confined inside the fuel area of the outdoor fireplace and the flames do not extend above the pit or into the chimney and (b) follow the manufacturer's recommendation on the maximum amount of fuel to be used at one time with the spark guard in place.
7. *Supervision.* Every outdoor fireplace shall be under constant supervision by at least one responsible person age 18 or older from the ignition of the fire until the fire is completely extinguished and embers are cooled so as to prohibit the fire from rekindling.
8. *Provisions for Protection.* A garden hose connected to a water supply or other approved fire extinguishing equipment shall be readily available for use.
9. *Weather Conditions.* Outdoor fireplaces shall not be operated when weather conditions are extremely dry.
10. *Hazard.* Outdoor fireplaces shall be completely extinguished and/or not be operated when breezes or winds are blowing which will cause smoke, embers, or other burning materials to be carried toward any building or other combustible materials. The fire chief or an authorized representative shall have the authority to require that use of the outdoor fireplace be immediately discontinued if such use is determined to constitute a hazardous condition to occupants of surrounding property.
11. *Nuisance to Neighbors.* Smoke from any outdoor fireplace shall not create a nuisance for neighboring property owners. The fire shall be extinguished immediately upon the complaint of any neighboring property

owner of any smoke nuisance.

12. *Maintenance.* The owner is responsible to ensure proper maintenance and care is accomplished in accordance with manufacturer's instructions. At a minimum, the outdoor fireplace will be checked regularly for the appearance of cracks and other physical deterioration or loose parts.
(Neb. Rev. Stat. §§17-549, 17-556, 81-520.01)

Article 4 – Hazardous Materials

SECTION 8-401: EXPLOSIVES; STORAGE; REGISTRATION

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

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

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

SECTION 8-402: EXPLOSIVES; BULLETS

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

SECTION 8-403: EXPLOSIVES; BLASTING PERMITS

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

SECTION 8-404: POISONOUS OR FLAMMABLE GASES

Any person, firm, or corporation desiring to store or keep in the village 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 Village Board, which shall require the name of the gas, the place of storage, and the amount of gas stored. If permission is granted, the board shall prescribe such rules, regulations, and precautionary actions as it may deem necessary. (Neb. Rev. Stat. §17-549)

Article 5 – Fireworks

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

The use, sale, offer for sale, and possession of permissible fireworks in the village 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: DEFINITIONS

A. “Consumer fireworks” means any of the following devices that (i) meet the requirements set forth in 16 C.F.R. Parts 1500 and 1507, as such regulations existed on January 1, 2010, and (ii) are tested and approved by a nationally recognized testing facility or by the state fire marshal:

1. 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., as such regulations existed on January 1, 2010;
2. Any small device designed to produce audible effects such as a whistling device;
3. Any ground device or firecracker containing 50 milligrams or less of explosive composition; or
4. Any aerial device containing 130 milligrams or less of explosive composition.

Class C explosives as classified by the United States Department of Transportation shall be considered consumer fireworks.

B. “Consumer fireworks” does not include:

1. Rockets that are mounted on a stick or wire and project into the air when ignited, with or without report;
2. Wire sparklers;
3. Nighttime parachutes;
4. Fireworks that are shot into the air and after coming to the ground cause automatic ignition due to sufficient temperature;

5. Firecrackers that contain more than 50 milligrams of explosive composition; and
6. Fireworks that have been tested by the state fire marshal as a response to complaints and have been deemed to be unsafe.

(Neb. Rev. Stat. §§17-556, 28-1241)

SECTION 8-503: REGULATIONS; EXCEPTIONS

A. *Manufacture, Sale, Etc.* It shall be unlawful, except as hereinafter provided, for any person to manufacture, display, sell or offer for sale, give away, keep, store, use, start, discharge, set off, ignite or explode, or cause to be exploded within the village any consumer fireworks as defined in Section 8-502 or any other device for the exploding of the articles specified in said section; provided, the aforesaid fireworks may be ignited or exploded outside of the fire limits of the village beginning on June 24 and ending on July 5 between the hours of 8:00 a.m. and 12:00 midnight each year.

B. *Limited Sales.* Upon obtaining a license from the state fire marshal and upon paying the occupation tax set forth in this code, any person may display, sell or offer for sale any of the aforesaid fireworks during a period beginning on June 24 and ending on July 5 each year, providing said person keeps, stores, displays, sells and offers for sale said articles in a fireproof building located within the angle parking area of the village.

C. *Article in Transit.* Nothing herein shall apply to the possession of pyrotechnics which are in transportation to points outside of the village nor shall it apply to the possession or transportation of such pyrotechnics held by wholesale dealers for sale and shipment in unbroken packages to points or places outside the village, if the same be stored, shipped and transported in accordance with the rules and requirements established by the Bureau of Fire Prevention of the village.

D. *Independence Day.* The foregoing prohibitions shall not apply to pyrotechnic displays on Independence Day or at other public celebrations or festival occasions within any of the parks in the village, if such display can be given from a place or point within said park fenced or roped off so that any member of the public in said park cannot approach within 100 feet of the pyrotechnics used or within 100 feet of the point where said pyrotechnics are ignited or set off. No person shall be allowed within such enclosure except persons who are actually engaged in and authorized to handle the giving or putting on of such pyrotechnic displays. No such displays shall be given, even in compliance herewith, unless the person or persons sponsoring such display shall have first applied to and secured a permit in writing from the Village Board to do so; and each application shall first be approved by the fire chief in writing before being granted, and if granted, said permit shall provide, among other things, that said display shall be under the direct supervision and control of said chief with regard to all details affecting the fire and safety hazards.

E. *Exceptions.* Nothing herein shall apply to the sale, storage, or use of railroad

track torpedoes or other signaling devices used by railroads nor to the sale, storage or use of flashlight composition by photographers or dealers in photographic supplies. (Neb. Rev. Stat. §§17-549, 17-556, 28-1246, 28-1249) (Am. Ord. Nos. 95-304, 8/14/95; 99-382, 11/8/99)

SECTION 8-504: UNLAWFUL THROWING OF FIREWORKS

A person commits the offense of unlawful throwing of fireworks if he or she throws any firework or any object 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. Into any building; or
- E. Into or at any group of persons.

(Neb. Rev. Stat. §§17-556, 28-1242)

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.