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## **CHAPTER 8 – FIRE REGULATIONS**

### **Article 1 – Fires**

#### **SECTION 8-101: PRESERVATION OF PROPERTY**

Any official of the Fire Department shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the preservation of such property from fire, to prevent the spreading of fire, or to protect adjoining property. The said officials may direct the firemen to remove any building, structure, or fence for the purpose of checking the progress of any fire.

#### **SECTION 8-102: TRAFFIC**

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus have stopped in answer to a fire alarm. (Neb. Rev. Stat. §60-6,183)

#### **SECTION 8-103: 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 8-104: 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 8-105: 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 8-106: MANDATORY ASSISTANCE**

Any official of the Fire Department may command the assistance and services of any person present at a fire to help in extinguishing the fire or in the removal and protection of property. Any spectator who refuses, neglects, or fails to assist after a lawful order to do so shall be deemed guilty of a misdemeanor.

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

B. Disobeys the lawful orders given by any fireman while performing his duties;

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 8-108: 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)

### **SECTION 8-109: CEILINGS; SPRINKLER SYSTEMS**

A. It shall be unlawful to install a drop ceiling in a room or rooms of a commercial building within the city limits with a tin and/or metal ceiling covering without:

1. First removing the tin and/or metal ceiling covering before installation of the drop ceiling; and
2. Installing a fire sprinkler system.

B. All sprinkler systems installed shall comply with the state fire marshal codes, including:

1. Having a static flow test to determine water pressure;
2. Determining the minimum number of heads required with each head covering the square footage specified in the latest addition of the Factory Mutual System pocket guide for automatic sprinklers;
3. Installing a backflow device;

4. Placing the sprinkler heads below the suspended ceiling;
5. Installing sprinkler heads in basements when the building is being remodeled to the dollar amount of at least 50% of its assessed value; and
6. Having a pre-approved plan.



## **Article 2 – Fire Prevention**

### **SECTION 8-201: UNIFORM FIRE CODE STANDARDS; ADOPTED BY REFERENCE**

The city hereby adopts, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, certain codes and standards known as the Uniform Fire Code Standards, which makes reference to the National Fire Code published by Western Fire Chiefs' Association and the International Conference of Building Officials, being the current and whole editions thereof except such portions as are hereinafter deleted, modified or amended by this chapter. If requested, the village clerk shall provide a source for obtaining a copy of the said code. Such codes are hereby adopted and incorporated as fully as if set out at length herein and effective from the date on which this chapter will take effect. The provisions of these codes shall be controlling within city limits. (Neb. Rev. Stat. §§18-132, 19-902, 19-922, 81-502)

### **SECTION 8-202: CODE ENFORCEMENT**

A. It shall be the duty of all city officials to enforce the incorporated fire code provisions as provided in Section 8-201. All infractions shall be immediately brought to the attention of the fire chief.

B. Inspections under the Fire Code shall be accomplished principally by the zoning administrator and the fire chief. For special or unusual situations, the zoning administrator or the fire chief may recommend to the city the employment of special technical inspectors to improve the enforcement of the fire code(s).

### **SECTION 8-203: 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 City Council 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)

## **SECTION 8-204: 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 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)

## **SECTION 8-205: FIRE LIMITS; DEFINED**

The corporate limits of the city of David City, Nebraska, as they exist from time to time shall be and constitute the fire limits.

## **SECTION 8-206: FIRE LIMITS; BURNING REGULATIONS**

A. Within the prescribed fire limits, burning is allowed in incinerators that conform to the standards hereinafter set forth. An approved city permit must be issued for the incinerator prior to its use. Barrels, steel cans, and masonry boxes, whether covered or not, are not classified as incinerators. Boilers and wood burning stoves may be used as outside commercial incinerators only if they substantially meet the requirements hereinafter set forth specifically including the requirements of spark arresters and foundations. Inside incinerators shall be approved by an independent testing or rating agency and must conform to the codes adopted in Section 8-201.

B. Outside commercial incinerators for use in the fire limits shall, as a minimum, be constructed of steel plate not less than three-sixteenths of an inch in thickness. The base or burning area of the incinerator may not exceed 16 square feet in area. All joints and seams of the incinerator must be welded together except for access doors. There will be no more than two access doors for each incinerator. The base walls or burning area of the incinerator must have at least six but not more than ten ventilation holes in each wall of the incinerator base. The holes shall not be greater than 1 inch in diameter. The base or burning area of the incinerator must be covered with a chimney with an opening not to exceed 1 square foot in diameter. Chimneys shall be connected to the incinerator base or burning area as noted above. The terminating point of the chimney shall extend above the incinerator base or burning area the same distance as the height of the incinerator base or burning area. The chimney must terminate in a steel or substantially constructed spark arrester having mesh openings of not more than one-half inch in diameter or one-quarter inch mesh. Spark arresters must cover the entire chimney opening. An incinerator may have a hole not to exceed 9 square inches in the bottom of the incinerator base. Outside commercial incinerators must meet the location standards of Section 8-209 (Location of Containers). All incinerators must meet the standards of the Department of Environmental Quality.

(Neb. Rev. Stat. §§17-549, 17-556)

## **SECTION 8-207: FIRE LIMITS; BURNING AND FIRES PROHIBITED; EXCEPTION AND REGULATIONS**

All open burning and open fires in the city are prohibited except in barbecues, outdoor fireplaces or with written permission from the fire chief for a particular event. Approved containers that have the permit hereinafter required, continue to meet the specifications for the same hereinafter provided in this chapter, continue to be renewed as hereinafter provided, are not revoked, and are in existence on or before September 1, 2007 may be used for burning of materials that do not give off toxic gases or fumes, offensive or foul odors, or dirty or oily smoke. Permitted materials to be burned include paper without ink, cardboard, wood, etc. Prohibited materials include feathers, meat, tires, oil or other noxious material including household garbage or newspapers. City residents must pay a yearly application fee and file a yearly burn barrel permit at the office of the city clerk. The said fee shall be as set by resolution of the City Council and kept on file in the office of the city clerk. The burn barrel permits are non-transferable. All open burning containers must first be inspected and approved by the city law enforcement

official or representative before they can be used. A first offense will result in a permanent revocation of the burn permit. (Neb. Rev. Stat. §§17-549, 17-556.) (Ord. No. 1058, 9/12/07)

### **SECTION 8-208: DESIGN OF CONTAINERS FOR AREAS OTHER THAN THE FIRE LIMITS**

For areas other than the fire limits, steel containers as hereinafter defined shall be used. Steel containers for burning in areas other than the fire limits are defined as follows:

A. A steel container used for burning must have a volume of at least 30 gallons and not more than 60 gallons;

B. The container must be held above the ground at least 4 to 6 inches by steel, concrete or masonry material in a stable, plumb manner;

C. The container must have at least six but not more than ten holes in the walls, the diameter of which shall be no more than 1 inch, all located in the lowest 10% of the sidewalls;

D. There must be a woven or punched metal cover over the top of the container with openings not more than one-half inch by one-half inch;

E. The cover must be larger in area than the top of the container and must be secured to the container by chains, hinges, or another suitable device; and

F. The cover must be visible for inspection to ensure compliance with the provisions herein.

(Neb. Rev. Stat. §§17-549, 17-556)

### **SECTION 8-209: LOCATION OF CONTAINERS**

Containers used for burning must be placed on the property where the user resides and may not be located in a public alley, street, or right of way. Every container shall be placed on a steel, concrete, or masonry support 4 to 6 inches high in a plumb manner and on a site where all vegetation and/or combustible material is removed in all directions for a distance of 4 feet measured from the edge of the container; at least 10 feet from any building, garage or shed; at least 6 feet distant from any utility pole, ground-level transformer or telephone pedestal; a distance of 20 feet, measured at the closest point, away from any overhead utility wires or cables; a distance of at least 20 feet from the branches of any tree; and, in general, in a manner so as to provide protection to other properties. (Neb. Rev. Stat. §§17-549, 17-556)



## **Article 3 – Hazardous Materials**

### **SECTION 8-301: PERMIT**

Hazardous materials may be stored within the Commercial and Industrial Zones referred to in Sections 8-304 and 8-305; provided, all such materials shall be identified as to kind, purpose, amount, location and other data concerning the materials in an application to store hazardous material which shall be made annually on August 1 or upon the date the hazardous materials are initially placed in the city. The application shall be made to the fire chief or zoning administrator by the person in control of the hazardous materials. The application shall be made in duplicate to the fire chief and zoning administrator on forms supplied by the city and kept on file in the Fire Department. (Neb. Rev. Stat. §17-137)

### **SECTION 8-302: EXPLOSIVES; BULLETS**

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

### **SECTION 8-303: EXPLOSIVES; BLASTING PERMITS**

Any person wishing to discharge high explosives within the city must secure a permit from the City Council and shall discharge such explosives in conformance with 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 8-304: FLAMMABLE OR COMBUSTIBLE LIQUIDS; STORAGE PROHIBITED**

The storage of flammable or combustible liquids in outside aboveground tanks of any size is prohibited within the residential, public, semi-public and park areas. No areas are zoned to permit the storage of explosives or blasting agents except as regulated in Section 77.106(b) of the Uniform Fire Code. (Neb. Rev. Stat. §17-137)

### **SECTION 8-305: LIQUEFIED PETROLEUM RESTRICTED**

In the zones where storage of liquefied petroleum is permitted, the provision of the Uniform Fire Code shall govern. Liquefied petroleum may be stored in areas that are zoned Industrial and Downtown Commercial. (Neb. Rev. Stat. §17-137)



## 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: 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, except that silver and gold sparklers are deemed to be consumer fireworks until January 1, 2014;
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. §28-1241)

### **SECTION 8-403: SALE**

Permissible fireworks may be sold at retail or offered for sale at retail within the city only between 12:01 a.m. on June 25 and ending at 11:59 p.m. on July 4 of each calendar year.

### **SECTION 8-404: USE, HOURS RESTRICTED**

It shall be unlawful to discharge, explode or use permissible fireworks before 10:00 a.m. and after 11:00 p.m. with the following exceptions:

A. Permissible fireworks may be lawfully discharged, exploded or used between the hours of 8:00 a.m. on July 4 and 1:00 a.m. on July 5.

B. Permissible fireworks may be lawfully discharged, exploded or used between the hours of 8:00 a.m. on December 31 and 1:00 a.m. on January 1.

### **SECTION 8-405: DISPLAY; PERMIT; LOCATION**

A. Application for a permit for the public display of fireworks is hereby required by the city and shall be made at the office of the city clerk at least 30 days prior to the public display. The City Council may grant a permit for the public display of fireworks by religious, educational, fraternal or civic organizations, fair associations, amusement parks or other organizations or groups. After the permit is granted, sales, possession, use and distribution of fireworks for such public display shall be lawful for that purpose only.

B. All applications for permits to operate a public display of fireworks shall be in writing and shall set forth the following:

1. The name of the organization or person(s) sponsoring the display, together with the name, age and qualifications of persons actually in charge of firing the display;
2. The date and time the display is to be held;
3. The exact location planned for the display; and
4. The manner and place of storage of fireworks prior to the display.

C. The actual point at which the fireworks are to be fired shall be at least 200



feet from the nearest permanent building, public highway or railroad, and 50 feet from any telephone or electric power pole or line, tree or other overhead obstruction.

#### **SECTION 8-406: VENDOR PERMIT; APPLICATION**

A. Application for a vendor permit is hereby required by the city and shall be made at the office of the city clerk by June 5 of each year in which the permit, if issued, shall be valid. The city clerk will provide the application form.

B. At any regular City Council meeting prior to June 24 each year, the council shall hold a hearing or hearings on the applications for vendor permits. The city clerk shall, at the time of accepting the application(s) for vendor permits, give such applicant(s) notice of the date and time of the hearing(s). Applicants are expected to appear at the appointed hearing either in person or by a representative.

C. At the time of application, the applicant shall furnish the city with the name, address and phone number of the fireworks stand manager. The person designated as manager must be at least 21 years of age. It shall be incumbent upon the applicant to keep this list current so that the names of the employees having management responsibilities will always be on file in the office of the city clerk.

D. Each applicant shall provide a plat plan showing the location of the fireworks stand, address, setbacks from right(s) of way, distances to nearest buildings or structures, and the occupancy of the nearest building.

E. Any permit issued by the City Council may be revoked at any time by the council upon proper notice and hearing, if one shall be requested by the permit holder.

#### **SECTION 8-407: PERMIT FEES**

Each permit application shall be accompanied by a nonrefundable application fee in such sum as set by resolution by the City Council and kept on file at the office of the city clerk.

#### **SECTION 8-408: UNLAWFUL ACTS; EXCEPTIONS**

It shall be unlawful for any person to possess, sell, offer for sale, or discharge any fireworks other than consumer fireworks, as defined in Section 8-402. This subsection shall not apply to:

A. Any display fireworks purchased from a licensed distributor; or

B. Any display fireworks purchased by the holder of a display permit issued pursuant to Neb. Rev. Stat. §28-1239.01; or

C. Toy cap pistols or toy caps, each of which does not contain more than .25 of

a grain of explosive material.  
(Neb. Rev. Stat. §§17-556, 28-1244, 28-1245)

### **SECTION 8-409: 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)

### **SECTION 8-410: ENFORCEMENT**

The Butler County sheriff or designee shall be charged with the duty of enforcing all the provisions, terms and regulations of this article.

## **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. 1119, 1/13/10)