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CHAPTER 8 – FIRE REGULATIONS

Article 1 – Fire Department

SECTION 8-101: OPERATION AND FUNDING

A. The Gretna Volunteer Fire Department has been organized as a nonprofit corporation under the laws of the State of Nebraska with its purposes being as follows:

1. To organize, establish, operate and maintain a wholly volunteer fire department and fire company, according to law as therefor provided, and subject to and under the authority of the City of Gretna.
2. To organize, establish, operate and maintain a wholly volunteer first aid, rescue, and emergency squad to provide emergency public first aid and rescue services, according to law as therefor provided, and subject to and under the authority of the City of Gretna.
3. To do everything necessary, proper, advisable or convenient for the accomplishment of the purposes hereinabove set forth, and to do all things incidental thereto or connected therewith which are not forbidden by the laws of the State of Nebraska or by the Articles of Incorporation.

B. The corporation shall have and exercise all powers granted nonprofit corporations by the laws of the State of Nebraska. Funding for the Department is governed by a mutual agreement between the City of Gretna, the Rural Fire District and the incorporated Fire Department. Expenses of the Department are split between the City of Gretna and the Rural Fire District based upon the terms of the aforesaid agreement.

SECTION 8-102: FIRE CHIEF

The fire chief shall manage the Fire Department and it shall be his/her duty to inform the City Council when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the Council, 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

Council at the regular meeting in January of each year to give an annual report of the general condition and the proposed additions or improvements recommended by him/her.

SECTION 8-103: MEMBERSHIP

A. The Fire Department shall consist of so many members as may be decided by the City Council. The members may organize themselves in any way they may decide, subject to the review of 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. The members of the Fire Department shall, during the time of a fire or great public danger, have and exercise the powers and duties of city law enforcement officers and shall have full power and authority to arrest all persons guilty of any violation of the municipal code or state laws.

C. Members of the Fire Department may hold meetings and engage in social activities with the approval of the City Council. The secretary shall, upon request, keep a record of all meetings and shall make a report to the City Council of all meetings and activities of the Fire Department.

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/her duties in an amount set by ordinance, on file at the office of the city clerk and available for public inspection during office hours.

E. The City 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 city or rural or suburban fire protection district, the policy shall be purchased only by the first city or district which he/she 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. (Neb. Rev. Stat. §35-108)

F. 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) (Am. by Ord. No. 310, 10/1/85; 843, 6/1/04)

SECTION 8-104: FIRES

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 8-105: INSPECTIONS

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 Fire Department officers, members, 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. 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 people 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)

SECTION 8-106: NOTICE OF VIOLATION

A. Upon a finding that the municipal code has been violated, the fire chief shall notify or cause to be notified the owner, occupant, or manager of the premises where a violation has occurred. Notice may be made personally or by delivering a copy to the premises and affixing it to the door of the main entrance. Whenever it may be necessary to serve such an order upon the owner, it may be served personally or by mailing a copy to the owner's last known post office address if the said owner is absent from the jurisdiction. Any such order shall be immediately complied with by the owner, occupant, or manager of the premises or building.

B. The owner, occupant, or manager may, within five days after such order by the fire chief or his/her agent, appeal the order with the City Council, requesting a review, and it shall be the duty of the Council to hear the same within not less than five days nor more than ten days from the time when the request was filed in writing with the city clerk. The City Council shall then affirm, modify, or rescind the said order as safety and justice may require and the decision shall then be final, subject only to any remedy which the aggrieved person may have at law or equity. The said order shall be modified or rescinded only where it is evident that reasonable safety exists and that conditions necessitate a variance due to the probable hardship in complying literally with the order of the fire chief. A copy of any decision so made shall be sent to the fire chief and the owner, occupant, or manager making the appeal.

SECTION 8-107: IMPERSONATING FIREMEN

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

SECTION 8-108: 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/she shall be deemed guilty of a misdemeanor.

SECTION 8-109: POWER OF ARREST

The fire chief or the assistant fire 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, other person hindering or resisting the firefighting effort, or any person who conducts himself/herself in a noisy or disorderly manner. The said officials shall be severally vested with the usual powers and authority of city law enforcement officers to command all persons to assist them in the performance of their duties.

SECTION 8-110: 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 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/she deems it expedient or necessary. The officer making the investigation of fires occurring within the City shall immediately notify the state fire marshal and shall, within one week of the occurrence of the fire, furnish him/her with a written statement of all the facts relating to the cause and origin of the fire, and such further information as he/she may call for. (Neb. Rev. Stat. §81-506)

Article 2 – Fires

SECTION 8-201: PRESERVATION OF PROPERTY

The fire chief or any officer in charge of the Fire Department shall have the authority and power to cause the removal of property whenever it shall become necessary for the preservation of more valuable property, the protection of human life, or to prevent the spreading of fire to adjoining property. The fire chief may direct the city firefighters to remove any building, structure, or fence for the purpose of checking the progress of any fire. The fire chief shall have the authority to blow up, or cause to be blown up, with explosives any building or structure during the progress of a fire for the purpose of checking the progress of the same.

SECTION 8-202: DISORDERLY SPECTATOR

It shall be unlawful for any person during the time of a fire and for a period of 36 hours after its extinguishment to hinder, resist or refuse to obey the fire chief or to act in a noisy or disorderly manner. The fire chief and assistant chief shall have the power and authority during such time to arrest or command any such person to assist them in the performance of their official duties. (Neb. Rev. Stat. §28-908)

SECTION 8-203: EQUIPMENT

It shall be unlawful for any person except the fire chief and the members of the Fire Department to molest, destroy, handle or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the City. (Neb. Rev. Stat. §28-519)

SECTION 8-204: INTERFERENCE

It shall be unlawful for any person or persons to hinder or obstruct the fire chief or the members of the Fire Department in the performance of their duty. (Neb. Rev. Stat. §28-908)

SECTION 8-205: OBSTRUCTION

It shall be unlawful for any person to obstruct the use of a fire hydrant or have or place any material within 15 feet of the said hydrant. Any vehicle or material found as an obstruction may be immediately removed by the fire chief or any member of the Fire Department, at the risk, cost, and expense of the owner or claimant. (Neb. Rev. Stat. §39-672)

SECTION 8-206: REFUSAL TO ASSIST

It shall be unlawful for any person to refuse, after the command of the fire chief or assistant fire chief, to aid in extinguishing a fire or to assist in the removal and protection of property.

SECTION 8-207: 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. §60-6,680)

SECTION 8-208: TRAFFIC

Every vehicle already stationary when the fire alarm shall have been sounded must remain so for a period of five minutes after the sounding of the fire alarm. No vehicle, except by the specific direction of the fire chief or assistant fire chief, shall follow approach or park closer than 500 feet to any fire vehicle, or to any fire hydrant to which a hose is connected. Nothing herein shall be construed to apply to emergency vehicles or those carrying doctors or members of the Fire Department. (Neb. Rev. Stat. §60-6,680)

SECTION 8-209: FALSE ALARM

It shall be unlawful for any person to intentionally and without good and reasonable cause raise any false alarm of fire.

SECTION 8-210: PEDESTRIANS

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

Article 3 – Fire Prevention

SECTION 8-301: FIRE LIMITS DEFINED

The following-described territories under the zoning jurisdiction of the City shall be and constitute the fire limits:

A. Beginning at a point where the center line of McKenna Avenue intersects the center line of Wallace Street, then running west to a point where the center line of the alley between McKenna Avenue and Scott Street would run north and intersect the center line of Wallace Street, and then running south along the center line of said alley and across Angus Street to a point where the south boundary line of Lot 5, Block 2, in South Gretna, an addition to the City of Gretna would run west and intersect with the center line of said alley, and then running east along the south boundary line of said Lot 5, Block 2, in South Gretna, and across McKenna Avenue and continuing along the south boundary line of Lot 14, Block 1, in South Gretna in South Gretna to a point where the south boundary line of said Lot 14, Block 1, in South Gretna, would run east and intersect with the center line of the alley between McKenna Avenue and Aberdeen Street, and then running north along the center line of said alley to a point where the center line of said alley would run north and intersect the center line of Angus Street, and then running east to a point where the center line of Angus Street intersects the center line of Aberdeen Street, and then running north to a point where the center line of Aberdeen Street intersects the center line of Wallace Street and then running west to the point of beginning.

B. Beginning at a point where the center line of Highway 6 intersects the center line of Highway 370, adjacent to and northeast of the city limits of the City of Gretna; thence running east along the center line of Highway 370 a distance of 320 feet more or less to a point where the east lot line of Lot 106, North Park subdivision, in Sarpy County, Nebraska, would, if extended north, intersect the said center line of Highway 370; thence running south and along the east lot lines of Lots 106 and 105 of said North Park subdivision to a point where the east lot line of said Lot 105 would, if extended south, intersect the center line of East Glenmore Drive; thence running west along the center line of East Glenmore Drive to the center line of Highway 6; thence running north along the center line of Highway 6 to a point where the north lot line of Lot 247, West Plains addition to the City would, if extended east, intersect the center line of Highway 6; thence running west along the north lot lines of Lots 247 and 248 of said West Plains addition to a point where the north lot line of said Lot 248 would, if extended west, intersect the center line of Apache Drive; thence running north along the center line of Apache Drive to the center line of the county road running east and west along the north of Village Square which is the north line of Section 36, Township 14 North, Range 10 East of 6th P.M., Sarpy County, Nebraska; thence running east along the center line of said county road to the intersection of Highways 370 and 6, the point of beginning.
(Neb. Rev. Stat. §17-550)

SECTION 8-302: FIRE LIMITS BUILDING PERMIT

Prior to the moving or construction of any building in the fire limits, application must be made to the official designated by the City Council. "Construction" shall include the enlarging or alteration of any building in the fire limits. Such application shall be furnished

by the said official and shall require such information as he/she deems necessary to determine whether or not to grant a building permit. (Neb. Rev. Stat. §17-550)

SECTION 8-303: FIRE LIMITS MATERIALS

Within the aforesaid fire limits, no structure shall be built, altered, moved, or enlarged unless such structure will be enclosed with walls constructed wholly of stone, well-burned brick, terra cotta, concrete, or other such materials as will satisfy the official designated by the City Council that the said structure will be reasonably fire resistant. (Neb. Rev. Stat. §17-550) (Am. by Ord. No. 413, 7/24/90)

SECTION 8-304: GREATER DAMAGE; 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 8-305: LESSER DAMAGE; 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)

SECTION 8-306: 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 official designated by the City Council to make such repairs, alterations, or to add to any building, stating on the application that the materials used will be those approved by the said official. 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 fire resistant and made of fire resistant materials. (Neb. Rev. Stat. §17-550) (Am. by Ord. No. 413, 7/24/90)

SECTION 8-307: IRONCLADS PROHIBITED

All buildings, sheds, and structures known as ironclads which are constructed of wood and covered with sheet iron or tin attached to the frame shall be considered and deemed to be constructed of combustible materials. (Neb. Rev. Stat. §17-550)

SECTION 8-308: FIRE ON PAVEMENT

It shall be unlawful for any person to set out a fire on the pavement, or near any curb,

now built or hereafter to be built, within the City. (Neb. Rev. Stat. §17-556)

SECTION 8-309: INSPECTIONS

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 official designated by the City Council to inspect or cause to be inspected as often as necessary the said structure for the purpose of ascertaining and enumerating all conditions therein that are likely to cause fire or any other violations of the provisions of the city ordinances affecting the hazard of fire. (Neb. Rev. Stat. §81-512)

SECTION 8-310: VIOLATION NOTICE

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

SECTION 8-311: 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/her designee may waive an open burning ban for an area under his/her jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit shall be in writing on a form provided by the state fire marshal and signed by the fire chief or his/her designee.

C. The fire chief or his/her designee may waive the open burning ban in his/her jurisdiction when conditions are acceptable to him/her. 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 chief may adopt and promulgate rules and regulations listing the conditions acceptable for issuing a permit to conduct open burning under subsection (B) of this section.

E. The Fire Department may charge a fee for each such permit issued. This fee 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) (Am. by Ord. Nos. 246, 10/19/82; 523, 3/6/95)

SECTION 8-312: FIRES REGULATED; OUTDOOR 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) (Ord. No. 245, 10/19/82; 940, 10/7/08)

SECTION 8-313: CIVIL DEFENSE IMPACT FEE

A. It is the intent of this section to provide for the collection of fees from certain property for future municipal civil defense requirements on all property within the zoning jurisdiction of the City when developed pursuant to the subdivision regulations of the City to defray costs of enlarging and extending the civil defense system serving such property upon annexation. The civil defense impact fee shall be in addition to other fees charged by the City pursuant to the subdivision and zoning regulations.

B. The fee required by this section shall be collected by the zoning administrator at the time that the final plat is granted, provided that credit shall be given for the amount of any prepayment, if any, for the property being subdivided.

C. The civil defense impact fee shall be set by ordinance of the City Council and filed in the office of the city clerk, where it is available for public inspection during office hours. The initial civil defense impact fee shall be \$50.00 per acre.

(Ord. No. 964, 10/20/09)

Article 4 – Explosive Materials

SECTION 8-401: STORAGE; REGISTRATION

Any person desiring to store or keep for any period of time explosive materials as defined in Neb. Rev. Stat. §28-1213 or any form of poisonous or flammable gases or liquefied petroleum gases within the City shall register such information with the city clerk 24 hours prior to such storage, in addition to notifying the Fire Department pursuant to Neb. Rev. Stat. §28-1233(3). The transfer of such explosives or gases to another person within the City shall require the person receiving such explosives or gases to register the transfer and the new location of the explosives and gases with the city clerk. The transfer of explosive materials and gases to a new location by the owner shall require registration of the new location with the city clerk. This section shall not apply to the storage of five gallons or less of gasoline. (Neb. Rev. Stat. §17-549, 17-556, 28-1229, 28-1233) (Am. by Ord. No. 502, 5/17/94)

SECTION 8-402: STORAGE; REQUIREMENTS

All explosive materials shall be stored in a proper receptacle made of cement, metal, or stone and be closed at all times, except when in actual use. Such receptacles shall not be located in any room where there are flames or flammable materials. The area surrounding storage facilities shall be kept clear of rubbish, brush, dry grass, or trees 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, 28-1229, 28-1233) (Ord. No. 500, 5/17/94)

SECTION 8-403: BLASTING PERMITS

In addition to notifying the Fire Department pursuant to Neb. Rev. Stat. §28-1233(3), any person desiring to discharge explosive materials, as defined in Neb. Rev. Stat. §28-1213(3), within the City shall secure a permit from the City Council 24 hours prior to such discharge and shall discharge such explosive materials in conformance with the conditions specified in the permit. 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. §17-549, 17-556, 28-1229, 28-1233) (Am. by Ord. No. 501, 5/17/94)

Article 5 – Fireworks

SECTION 8-501: 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 common or special fireworks set forth by the United States Department of Transportation in Title 49, Code of Federal Regulations. (Neb. Rev. Stat. §28-1241)

SECTION 8-502: PERMITTED FIREWORKS

A. It shall be unlawful for any person to ignite or cause to be exploded fireworks

or firecrackers of any description whatsoever, except sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star- and comet-type color aerial shells without explosive charges for the purpose of making a noise, color wheels, lady fingers, not exceeding seven-eighths inch in length or one-eighth inch in diameter, and which do not contain more than 50 milligrams each in weight of explosive material.

B. The provisions of this section shall not apply to any fireworks to be used for purpose of public exhibitions or display under authorization of the City Council or to fireworks furnished for agricultural purposes pursuant to written authorization from the state fire marshal.

(Neb. Rev. Stat. §17-556, 28-1241, 28-1244, 28-1245) (Am. by Ord. No. 367, 9/06/88)

SECTION 8-503: THROWING FIRECRACKERS

It shall be unlawful for any person to throw any firecracker or any object which explodes upon contact with another object from or into a motor vehicle; onto any street, highway, or sidewalk; at or near any person; into any building; or into or at any group of persons.

(Neb. Rev. Stat. §17-556, 28-1242)

SECTION 8-504: RETAIL SALES; PERMITS/LICENSES; VIOLATION

A. *Permissible Fireworks Designated.* "Permissible fireworks" shall mean only sparklers, various fountains, spray fountains, torches, color fire cones, star- and comet-type color aerial shells without explosives charge for the purpose of making a noise, lady fingers, total pyrotechnic composition not to exceed one-half grain each in weight, color wheels and any other fireworks approved under the provisions of Neb. Rev. Stat. §28-1247.

B. *Fireworks Restricted.* The use of any fireworks increases the risk of danger to the public health and safety. The City, however, recognizes the historic role of fireworks as a means of celebration within the United States and Nebraska and therefore allows the use of permissible fireworks upon compliance with these provisions, which are enacted to provide for the public health and safety. No person shall possess, sell, offer for sale, bring into the zoning jurisdiction of the City or discharge any pyrotechnics commonly known as "fireworks" other than permissible fireworks. Permissible fireworks may not be discharged except from June 25 through July 5 and December 29 through January 1 and only during the hours of 8:00 a.m. through 10:00 p.m., except that on July 4 and December 31, permissible fireworks may be discharged from 8:00 a.m. through 12:00 midnight. The City Council may approve a fireworks display permit for special events, which permit shall specify the place, hours of display, fire protection requirements and public liability insurance limits. In no event shall the possession, consumption, sale or use of alcoholic beverages be permitted on the premises designated for a special fireworks display.

C. *Sale Restricted.* Permissible fireworks may be sold at retail within the City limits only between 12:01 a.m. on June 25 to 11:59 p.m. on July 4 and between 12:01 a.m. on December 29 to 11:59 p.m. on December 31 of each year.

D. *Stand Location.* In addition to all other requirements and regulations of the City, all fireworks stands or places of sale of fireworks shall be located and set back at least 25 feet from the nearest right-of-way line of any public right-of-way and be sepa-

rated from any permanent structure by a minimum of 50 feet. Any temporary structure or any structure that does not have a water sprinkling system installed and to which pedestrian traffic is allowed shall have a minimum of two exits which shall be located directly opposite each other. Every entrance shall also be utilized as an exit. A "permanent structure" does not include a tent or temporary fireworks stand.

E. *Proximity to Certain Business or Activities.* Stands and areas where fireworks are to be sold shall be located at least 150 feet from any gasoline or liquid propane gas dispensing station or repair shop using flammable materials or any other establishment selling fireworks. Such distance shall be measured from the closest point where gasoline, liquid propane gas or combustible materials is dispensed or stored above ground or to the closest point where other fireworks are sold or stored. Stands and areas where fireworks are to be sold shall be located at least 50 feet from any child care center, school (any governmental or privately supported place or institution of education or physical instruction) or playground associated with any day-care center or school. Such distance shall be measured from the closest point where fireworks are sold or stored to the closest point of the day care center, school or playground. Fireworks shall not be sold in an area zoned residential or in any zoning district which does not permit retail sales. Each applicant shall provide a plot plan drawn to scale in a manner acceptable to the zoning administrator or his/her designee, showing address and location of the stand, setback from street, right-of-way, distance to nearest building or structure placement of fire extinguishers all entrances and exits, dock storage areas, pedestrian traffic flow and nature of occupants of nearest building.

F. *Screening.* All stands and places for sale of fireworks shall screen all supplies sold and stored so as to prevent other fireworks being tossed or thrown into such supplies.

G. *Fire Extinguisher.* A minimum of one 20A/10BC fire extinguisher must be kept in each firework stand at all times in a visible and accessible location. At least one fire extinguisher rated 20A/110BC shall be located at each entrance or exit of any permanent structure from which permissible fireworks are sold. A combination of fire extinguishers of different ratings and sizes may be substituted for the extinguisher(s) required by this section as approved by the state fire marshal or his designated representative.

H. *License Required.* No person shall sell, hold for sale or offer for sale any fireworks in the City except such persons who sell, hold or offer for sale through an organization which has first obtained a license as a retailer. Such license is valid for one fireworks season only and the issuance of a license for any particular restricted selling season does not create any expectation of or property interest in the issuance of a license for another restricted selling season except as may be provided by this chapter.

I. *Number of Retailer's Licenses Limited.*

1. Licenses for the retail sale of fireworks shall be limited to six in number for a restricted selling season, this number being the maximum number of licenses that may normally be safely regulated by the city agencies.
2. In no event will the number of licenses issued be greater than six, and

nothing in this chapter shall be construed as mandating the issuance of any particular number of licenses.

3. Only non-profit organizations shall be eligible for retail fireworks sales licenses.
4. Relevant to the June 25 to July 4 restricted selling season, the City Council, upon considering fireworks sales applications, shall give first priority to any non-profit organization which has had a fireworks sales permit approved by the City Council continuously for the past five calendar years; the Council shall give second priority to local charitable, community or civic operations that operate on a non-profit basis within the City. Relevant to the December 29 to December 31 restricted selling season, the City Council, upon considering fireworks sales applications, shall approve licenses based on City Council choice.
5. In the event that the rigid application of these priority rules would result in an excessive number of licenses, the City Council may consider the nature of length and service to the City of the charitable organization and any other evidence which shall properly be presented.
6. No organization or individual may receive more than one license during any one selling season as defined in (C) *Sales Restricted*.
7. Each license granted shall be for one specific location identified by address or suitable area description on the application.
8. Licenses shall be considered personal to the applicant and shall not be assignable or transferable in any manner.
9. The issuance of a license for any particular season does not create any expectation of or property interest in the issuance of a license for another season except as may be provided by this chapter.

J. Application Contents.

1. Application for a license required under the provisions of this chapter shall be made in the office of the zoning administrator (a) for the selling season June 25 to July 4, between January 1 and February 28 of the year in which the license, if issued, would be valid and (b) for selling season December 29 to December 31, between July 15 and September 30 of the year in which the license, if issued, would be valid.
2. At the second regular council meeting in March and October of each year, the City Council will hold public hearings on the applications for licenses. The zoning administrator will, at the time of accepting any application for a license, give notice of the date and time of the hearing. Applicants are expected to appear at the hearing either in person or by representative.
3. At the time of an application, the applicant shall furnish to the City the

name and address of the fireworks stand manager. The person designated as manager must be at least 21 years of age.

4. The applicant must furnish a copy of its nonprofit tax status letter issued by the Internal Revenue Service and a list of the office holders and directors of said nonprofit organization.

K. Fees, Accounting Procedures and Sales Tax. City sales tax is applicable to all sales in the corporate limits. Commencing in 2008, a non-refundable fee of \$1,000 for the June 25 to July 4 selling season and a non-refundable fee of \$300 for the December 29 to December 31 selling season shall accompany all applications for a license.

L. Consent for Bond Required. Before the issuance of any retailer a fireworks license, the applicant shall execute a consent form agreeing to abide by any regulations imposed by the City pertaining to the sale of fireworks and shall furnish to the City a cash bond in the amount of \$1,000, conditioned that the licensee shall abide by any and all regulations proposed by the City pertaining to the sale of fireworks and that the licensee shall clean the area in and around any stand where fireworks were sold and remove any portable stand from its temporary location, such work to be done within 10 days from expiration of license.

M. Forfeiture. Cash bonds as provided in subsection (L) shall be returned to the licensee when the city inspector shall have certified that the conditions of the bond have been satisfied. In the event that any portable stand is not removed from its temporary location within the allotted time or the sale area is not cleaned and the debris and trash not removed therefrom, then the cash bond shall be forfeited and the proceeds used by the City to clean the area and remove the stand.

N. Retailer's Place of Business. A retailer's license issued under the provisions of this chapter shall be conditioned upon the licensee providing an acceptable fireworks stand or place of business.

O. Inspection Required. The license may be obtained at the office of the zoning administrator only after an inspection of the fireworks stand or place of sale by the city inspector to determine if such stand or place of sale conforms to all city standards, building codes, electrical codes, fire safety codes and land use regulations.

P. Duty of Licensee. The applicant for a license required by the provisions of this chapter shall request the City to make such inspection no later than June 23 or December 26 of each calendar year, and such inspection shall be made by the City within 24 hours after the request.

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

R. Duration. Retail sale licenses issued under the provisions of this chapter shall be valid only for the period from 12:01 a.m. June 25 to 11:59 p.m. on July 4 or from 12:01 a.m. December 29 to 11:59 p.m. on December 31, as noted on license.

S. Age of Retailers. Any persons actually selling or offering for sale any fireworks

in the City shall be at least 16 years of age.

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

U. *Address of Stand; Name of Licensee; Manager and Telephone Number of Licensee.* Address of stand, names of licensee and manager and telephone number of licensee shall be displayed on a sign with lettering not less than 2½ inches high. The sign shall be firmly attached to the stand so said sign is clearly visible from the fronting street.

V. *Violations and Penalties; Revocations.*

1. Any person or any licensee who violates the provisions of this article relating to permissible dates or hours of discharge of fireworks shall be deemed guilty of a Class III misdemeanor. Any person or any licensee who violates any of the provisions of this article, except those relating to permitted hours or dates of discharge, shall be deemed guilty of a Class II misdemeanor and, in addition to any fine, any person who is licensed shall be subject to revocation of license.
2. Upon a complaint for revocation of license being filed with the zoning administrator, he/she shall notify the licensee in writing and shall order a hearing before the City Council to show cause why said license should not be revoked. The hearing shall not be less than two days after the filing of the complaint. The Council shall conduct a special hearing for purposes of determining whether such license shall be revoked. The licensee shall appear in person or by his/her/its attorney, and upon revocation no refund of any portion of the licensee fee shall be made to the licensee, who shall immediately cease all business under such license.

(Ord. Nos. 691, 11/16/9; 868, 2/1/05; 924, 2/5/07; 992, 11/2/10)

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.