

FIRE REGULATIONS

CHAPTER 7

FIRE REGULATIONS

ARTICLE 1. FIRES

§7-101 FIRES; 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 Municipal Fireman 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 purposes of checking the progress of the same.

§7-102 FIRES; ASSISTANCE.

It shall be unlawful for any person during the time of a fire and for a period of thirty-six (36) hours after its extinguishments, to hinder, resist or refuse to obey the Municipal Fire Chief, or to act in a noisy or disorderly manner. The Fire Chief and Assistant Fire Chief shall have the power and authority during such time to arrest or command any such person to assist them in the performance of their official duties.

§7-103 FIRES; EQUIPMENT.

It shall be unlawful for any person except the Fire Chief and the members of the Municipal 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 Municipality.

§7-104 FIRES; INTERFERENCE.

It shall be unlawful for any person or persons to hinder or obstruct the Municipal Fire Chief or the members of the Fire Department in the performance of their duty.

§7-105 FIRES; OBSTRUCTION.

It shall be unlawful for any person to obstruct the use of a fire hydrant, or have or place any material within fifteen (15) feet of the said hydrant. Any vehicle or material found as an obstruction may be immediately removed by the Fire Chief

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or any member of the Fire Department, at the risk, cost, and expense of the owner or claimant.

§7-106 FIRES; 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.

§7-107 FIRES; TRAFFIC.

Every vehicle already stationary when the fire alarm shall have been sounded must remain so for a period of five (5) 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 five hundred (500) feet to any fire vehicle, or to any fire hydrant to which hose is connected. Nothing herein shall be construed to apply to vehicles carrying doctors, members of the Fire or Rescue Department, or emergency vehicles.

§7-108 FIRES; FALSE ALARM

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

§7-109 FIRES; 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.

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ARTICLE 2. FIRE PREVENTION

§7-201 FIRE PREVENTION; ENFORCEMENT.

It shall be the duty of all Municipal officials to enforce the fire prevention provisions and all infractions shall be immediately brought to the attention of the Fire Chief.

§7-202 FIRE PREVENTION; LAWFUL ENTRY

It shall be the duty of the owner, lessee, or occupant of any building or structure, except the interiors of private dwellings, to allow the Fire Chief to inspect, or cause to be inspected, as often as necessary the said structure for the purpose of ascertaining and enumerating all conditions therein that are likely to cause fire, or any other violations of the provisions of the Municipal ordinances affecting the hazard of fire.

§7-203 FIRE PREVENTION; FIRE LIMITS DEFINED.

ALL blocks within the Municipal Limits shall be and constitute the fire limits.

§7-204 FIRE PREVENTION; FIRE LIMITS MATERIALS.

Whenever any person, firm, or corporation shall desire to construct, erect, enlarge, or move a combustible building in the Municipal fire limits, or in any other manner perform work on such building that requires application for and issuance of a building permit, the application for such permit shall specify how the applicant will provide for fire prevention. The Governing Body may approve or disapprove the application on the basis of these specifications. A combustible building shall include any structure that is not enclosed with walls constructed wholly of stone, well-burned brick, terra cotta, concrete, metal, or other such materials.

§7-205 FIRE PREVENTION; STORAGE.

It shall be unlawful for any person, firm, or corporation to store or stack within the Municipal fire limits any materials that the State Fire Marshal has determined to be combustible. The storage or stacking of such materials shall constitute a nuisance and shall be abated by the appropriate procedures provided by law.

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§7-206 FIRE PREVENTION; REMOVAL REQUIRED.

In the event that any wooden or combustible building or structure, or any non-combustible building which stands within the Municipal Limits is damaged to the extent of fifty (50%) percent or more of its value, exclusive of the foundation, it shall not be repaired or rebuilt, but shall be taken down and removed. *(Ref. 17-550 RS Neb.)*

§7-207 FIRE PREVENTION; REPAIR REQUIRED.

In the event that a building within the Municipal Limits becomes damaged to the extent of less than fifty (50%) percent 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. *(Ref. 17-550 RS Neb.)*

§7-208 FIRE PREVENTION; REPAIR OR REMOVAL APPROVAL.

Whenever any building within the Municipal Limits is damaged, the owner, occupant, or lessee shall within (30) days submit to the Governing Body his or her proposed plans for repair or removal of the structure. Such plans shall require the approval of the Governing Body before work may commence on the damaged building. At any time after the damage occurs, the Governing Body may direct the owner, occupant, or lessee to take any safety precautions the Governing Body deems necessary for the protection of persons or property. Repair or removal of any damaged building shall commence within sixty (60) days after approval of the proposed plans.

§7-209 FIRE PREVENTION; OPEN BURNING BAN; WAIVER.

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

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- (3) The Municipal Fire Chief, or his or her designee, may waive the open burning ban in his or her jurisdiction when conditions are acceptable to the Chief or his or her designee. Anyone burning in such jurisdiction when the open burning ban has been waived shall notify the Fire Department of his or her intention to burn.
- (4) The Municipal Fire Chief may adopt and promulgate rules and regulations listing the conditions acceptable for issuing a permit to conduct open burning under subsection (2) of this section.
- (5) The Municipal Fire Department may charge a fee, not to exceed ten dollars (\$10.00) for each permit issued. The fee shall be remitted to the Governing Body 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 (2) of this section in the course of such state's or political subdivision's official duties. (*Ref. 81-520.01 RS Neb.*)

§7-210 FIRE PREVENTION; FIRES REGULATED.

Except as provided in Section 7-209 of this Chapter, it is unlawful to build fires unless the same is contained in a fireproof trash burner or incinerator with a metal fireproof screen of not more than one inch mesh and located at least twenty (20) feet from any building. The incinerator or chimney or such a structure shall be built in such a way as to not permit the escape of burning paper or other substances. Fires required by an industrial, commercial, governmental entity may be built in structures approved by the Fire Chief at times allowed by the Fire Chief if such fires are contained in a metal fireproof enclosure with the chimney or vent therefrom covered with a metal fireproof screen of not more than one inch mesh.

It shall be unlawful for any person, or industrial, commercial, governmental or institutional facility, or person within the Municipality or within one mile thereof to cause, permit, or allow any of the following:

- (1) Burning any garbage or salvage material.
- (2) Any burning which permits smoke from the fire to travel on to any street, road, or highway in such a way as to obscure the vision of any person operating a vehicle on that street, road, or highway.
- (3) No gasoline, diesel oil, heavy oil, solvents, or other flammable petroleum products shall be burned.
- (4) No treated wood of any kind including railroad ties, treated posts, utility poles, wood paneling and particleboard shall be burned.

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- (5) No plastic and items containing plastic of any kind shall be burned.
- (6) No rubber and asphalt products including rubber tires, roofing shingles, tarpaper, asphalt siding and sheeting, and items containing rubber or asphalt compounds shall be burned.
- (7) No other chemical material which produces highly toxic smoke or fumes which may endanger the public or fire fighters called in to extinguish the fire may be burned.

The following exception to building fires only in the fireproof enclosures above-described is allowed:

Fires set in structures such as grills and fireplaces for cooking and warmth.

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ARTICLE 3. FIREWORKS

§7-301 FIREWORKS; REGULATION; DEFINITION.

The words and phrases used in this Chapter, pertaining to fireworks, shall be construed as defined in Chapter 28 of the Revised Statutes of Nebraska, 1943, as now existing or hereafter amended. If not defined in the designated statute, the word or phrase shall have its common meaning. (*Ref. 28-1241 RS Neb.*)

§7-302 FIREWORKS; VIOLATIONS; PENALTIES.

Any person who shall violate any of the provisions of sections 7-301 through 7-308 shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

§7-303 FIREWORKS; UNLAWFUL ACTS; ENUMERATED.

Except as provided in section 7-307, it shall be unlawful for any person to possess, sell, offer for sale, bring into the Municipality, or discharge, explode, or use any pyrotechnics, commonly known as fireworks, other than permissible fireworks, except that this section shall not be construed to prohibit the transport of fireworks through the Municipality. It shall be unlawful for any retailer to sell fireworks to any person under the age of sixteen (16) years, and no person under the age of sixteen (16) shall discharge, explode, or use any fireworks except under the supervision of a person sixteen (16) years of age or older.

§7-304 PERMISSIBLE FIREWORKS: SUBMISSION OF SAMPLES TO DETERMINE SAFETY; DUTIES OF STATE FIRE MARSHAL.

Before any permissible fireworks may be sold, held for sale, or offered for sale at retail in the Municipality, they shall first be submitted to the State Fire Marshal for examination as provided in Neb. Rev. Stat. §§ 28-1241 through 28-1252, or the successor law, to determine their compliance with state law and their safety for general use.

§7-305 FIREWORKS; SALE AND USE OF BOTTLE ROCKETS, SKYROCKETS AND LIKE DEVICES PROHIBITED; UNLAWFUL ACTS

(Repealed Effective October 20, 2010, Ordinance No. 2010-6)

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§ 7-306 PERMISSABLE FIREWORKS; SALE AND USE ONLY FROM JUNE 25 THROUGH AND INCLUDING JULY 4 AND FROM DECEMBER 29 THROUGH AND INCLUDING DECEMBER 31; HOURS OF SALE AND USE RESTRICTED

Permissible fireworks may be sold at retail, offered for sale at retail outlets, discharged, exploded, or used within the Municipality only from June 25th through July 4th of each year and from December 29 through and including December 31; provided, it shall be unlawful to sell or discharge, explode, or use permissible fireworks on said dates before eight (8:00) o'clock a.m. and after ten (10:00) o'clock p.m. On July 3rd and July 4th permissible fireworks may be lawfully sold or discharged, exploded, or used between the hours of eight (8:00) o'clock a.m. and eleven fifty-nine (11:59) p.m. On December 29 through December 31 fireworks may be lawfully sold between the hours of eight (8:00) o'clock a.m. and eleven (11:00) o'clock p.m.

(Effective July 3, 2018, Ordinance No. 2018-07)

§7-307 FIREWORKS: WHEN PROHIBITION NOT APPLICABLE

- A. Any fireworks for purpose of public exhibitions or displays purchased from a distributor licensed under the state law or the holder of a display license issued by the State Fire Marshal as provided by state law.
- B. Any public exhibition or display under the auspices of any governmental subdivision of the state; and
- C. Toy cap pistols or toy caps, each of which does not contain more than twenty-five hundredths (.25) of a gram of explosive material.

§7-308 FIREWORKS; UNLAWFUL DISCHARGING, FIRING, LAUNCHING, OR THROWING PROHIBITED.

It shall be unlawful for any person to discharge, fire, launch, or throw any fireworks or any object which explodes upon contact with another object:

- A. From or onto any motor vehicle;
- B. Onto any street, highway, or sidewalk;
- C. At or near any person;
- D. Into or upon any building;
- E. Into or at any group of persons; or
- F. Into or upon the premises of another person.

For the purposes of this section, person shall mean any natural person or any private or public firm, partnership, or corporation. It shall further be unlawful for any person to discharge, fire, launch, or throw any fireworks from, to or on any property without the express permission of the owner of said property.

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§7-309 PERMISSIBLE FIREWORKS; RETAIL SALE; LICENSE REQUIRED; FEE

A. It shall be unlawful for any person to sell, hold for sale, or offer for sale at retail, any permissible fireworks in the Municipality unless such person has first obtained a license from the Municipality as a retailer.

B. LIMITED ISSUANCE. Because of limited law enforcement resources and/or a limited fire suppression capacity may exist with the Municipality, the Governing Body may regulate or limit the number of sales permits that are allowed or hours/days of lawful sales, discharge, explosion, or usage that shall be allowed. As a result, the number of sales permits and the hours/days of lawful sales, discharge, explosion or usage may be changed by the Governing Body by resolution.

Each license granted shall be for one (1) specific location identified by an address or suitable area description on the application. Licensees shall remove any portable stand from its temporary location. **SUCH WORK TO BE COMPLETED NO LATER THAN THE THIRD DAY FOLLOWING THE CONCLUSION OF SALES** or their damage bond shall be forfeited.

(1) APPLICATION GUIDELINES.

Licenses for the sale of retail fireworks shall be issued on an annual basis only after January 1 and on or before April 1 of the year in which the retail sales are to occur, for June-July sales, and on or before October 15 for December sales, except, for December sales applications in the year 2010, said applications must be received on or before November 1, 2010. If either April 1st or October 15th occurs on a weekend or holiday, the license applications must be received no later than the last scheduled working day prior to April 1 or October 15, whichever applies. No person, association, partnership, limited liability company, or corporation may receive or have a beneficial interest in more than one (1) license for the June-July sales in one year or the December sales in one year (one permit for each season per person or entity is permitted.) Applications must be received in complete compliance with all the regulations set forth in this ordinance. The applications shall then be considered on their own merits in the order in which they were received in their completed form provided that all regulations were fully complied with. If the application is incomplete on the date which it was received, it shall be returned to the applicant by certified mail and will be reconsidered for granting a license on the date on which it is returned in full compliance of all ordinance regulations.

(2) LICENSE APPLICATION FEES. Each application for a permit shall be accompanied by an appropriate permit fee; a retailer's license, and five hundred dollars, \$500.00 for the June-July period and \$ 150.00 for the December period.

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(3) LICENSE SITE DAMAGED BOND. Before the issuance of a retailer's license, each applicant shall execute a consent form agreeing to abide by all regulations imposed by the Municipality pertaining to the sale of permissible fireworks. The applicant shall furnish the Municipality a cash bond in the amount of five hundred dollars, \$500.00 for the June-July period and \$500.00 for the December period; conditioned that the permit applicant will abide by the regulations of the Municipality, and that the licensee shall clean in and around any stand where the fireworks were sold and remove any portable stand from its temporary location, such work to be completed no later than three days following the conclusion of sales for that application.

(4) BOND RETURN OR FORFEITURE. The Damage Bond, provided in this section, shall be returned to the licensee provided that the site has been properly cleaned and dismantled, after certification by a Municipal designate that all conditions have been properly met. In the event that the trash, debris, and portable stand, have not been properly handled in accordance with this section, the cash bond shall be forfeited to the Municipality in its entirety with the proceeds used by the Municipality to properly clean the area and remove the portable stand.

(5) LICENSE ISSUANCE. A fireworks license shall be issued under the provisions of this section upon the condition that the applicant has provided an acceptable location for the fireworks stand or business.

(6) INSPECTION OF FIREWORKS STAND. The fireworks license may be obtained at the Municipal office of the Municipal Clerk and the license shall NOT be issued until the location site and stand has been inspected by a Municipal designee who has determined that such portable stand or business has conformed to all the Municipal regulations, building codes, and land use regulations.

(7) DUTY OF LICENSEE. The fireworks licensee shall request that a Municipal designee to make the inspection required by this section not later than June 24 of the calendar year of the application request (for June-July sales) and not later than December 27 of the calendar year of the application request (for December sales), and such inspection shall be made by the Municipal designee within twenty-four (24) hours of that request. In the event that the inspection reveals any violations, the fireworks license cannot be picked up from the Municipal Clerk until the violation has been corrected.

(8) DISPLAYING LICENSE IN STAND. The fireworks license must be displayed at all times within the fireworks stand or business location. Failure to properly display the license in the open will be considered an ordinance violation and may lead to the revocation of the permit.

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(9) LENGTH OF LICENSE. The fireworks license shall be valid for only the period for which it was issued in that calendar year.

(10) AGE RESTRICTIONS. Any person who is actually selling, receiving the money for the sale of, or offering for sale any fireworks in the Municipality shall be at least sixteen (16) years of age and no licensee shall allow or permit any person to sell, receive money for the sale of, or offer to sell any fireworks who is not sixteen (16) years of age.

(11) VIOLATIONS. Any person or applicant who violates any of the provisions within this ordinance shall be deemed guilty of a misdemeanor and in this addition to any fines, the fireworks license shall be subject to revocation if the violations are upheld by the Governing Body. Upon complaint of a violation being filed with the Municipal Clerk, the Municipal Clerk shall notify the fireworks licensee in writing of the said violation and shall order a hearing before the Governing Body to show cause as to why the said permit shall not be revoked.

The hearing shall not be more than seven (7) days after the filing of the complaint. The Governing Body shall conduct a special hearing for the purposes of determining whether such license shall be revoked. The licensee shall appear in person or by his/her attorney and upon revocation of the license, no refund of any portion of the application for license fee shall be made to the licensee and he/she shall immediately close his/her retail fireworks stand that such license was granted for. *(Effective October 20, 2010, Ordinance No. 2010-6)*

§7-310 FIREWORKS REGULATION: FEES RECEIVED; DEPOSIT IN GENERAL FUND

The funds received under the provisions of this Chapter, other than penalty fees, shall be deposited in the General Fund of the Municipality.

§7-311 FIREWORKS: LOCATION OF STAND GENERALLY.

A. In addition to all other requirements and regulations of the Municipality, all firework stands, booths or other places of sale of fireworks shall be located and set back at least twenty-five feet (25') from the nearest right-of-way line of a public right-of-way, and be separated from any permanent building structure by a minimum of fifteen feet (15'). In the case a permanent structure is used, said structure must be separated from another permanent building structure by the same distance.

Fireworks shall be sold from within:

1) a temporary building structure, utilizing a booth or stand allowing for walkup sales,

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- 2) a temporary building structure which allows patrons to enter the structure,
- 3) a tent: provided, however, no structure or tent used for the sale of fireworks shall exceed a maximum floor space of 1250 square feet, or
- 4) a permanent structure, provided that said structure meets all regulations, statutes and other requirements enforced by the State Fire Marshall.

In addition, structures or tents used for the sale of fireworks must have a minimum of 2 entryways, and be as remote from the other entryways as is practicable given the size and design of the structure or tent. Tents used for the sale of fireworks shall be flame retardant and a retailer using such shall keep proof at the sales location that the tent is flame retardant. Each applicant shall provide a plot plan showing location of the stand, address, setback from street right-of-way, distance to nearest building or structure and occupancy of nearest building. Stands, regardless of type, shall only be permitted in a zoning district which specifically permits such stands.

B. Proximity To Certain Businesses. Stands and areas where fireworks are to be sold shall be located at least seventy-five feet (75') from any gasoline service station or automotive repair shop using flammable materials. Such distance shall be measured from the closest point where fireworks are sold or stored, to the closest point where gasoline or combustible material is dispensed or stored above ground.

C. Screening. All windows, entryways and other openings on any building structure or tent from which fireworks are sold shall be covered by a screen, with squares or openings in the screen not more than one-fourth inch (1/4") across; provided, a fireworks stand or booth that allows for walkup sales may have up to one foot of the space immediately about the sales counter area unscreened for the transaction of business.

D. Fire Extinguisher. A minimum ten (10) pound Class A fire extinguisher must be kept in each fireworks stand at all times.

E. Compliance With State Laws. In addition to all requirements and regulations of the Municipality, all sellers of fireworks shall comply with all laws, regulations and rules of the State of Nebraska dealing with the sale and distribution of fireworks. (*Effective Date December 1, 2010, Ordinance No. 2010-10*)

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ARTICLE 4. PENAL PROVISIONS

§7-401 VIOLATION; PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00) for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

§7-402 ABATEMENT OF NUISANCE.

Whenever a nuisance exists as defined in this Chapter, the Municipality may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law.

Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as part of the judgment in the case. (*Ref. 18-1720, 18-1722 RS Neb.*)