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## **CHAPTER 8 – FIRE REGULATIONS**

### **Article 1 – Fire Department**

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

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

B. The Fire Department is authorized to enter into an agreement with the appropriate Rural Fire District for the mutual aid and protection of the residents of both the village and the Rural Fire District. Such an agreement shall provide for mutual aid, protection, and a sharing of necessary expenses between the village and the Rural Fire District. The agreement so entered into shall be on file in the office of the village clerk for public inspection during office hours.  
(Neb. Rev. Stat. §§17-718, 35-501, 35-530)

#### **SECTION 8-102: MERGER**

A. The Fire Department may be merged with the Rural Fire Protection District. The proceedings for the merger may be initiated by the presentation to the county clerk of a petition, signed by 60% or more of the electors who are owners of any interest in real or personal property assessed for taxation in the territory to be merged and who are residing within the boundaries of such territory, stating the desires and purposes of such petitioners. The petition shall contain a description of the boundaries of the territory proposed to be merged and it shall be accompanied by a map or plat and a deposit for publication costs.

B. The county clerk shall examine the tax schedules in the office of the county assessor and determine and certify whether or not such petition complies with the requirements of this section and that the persons signing the petition appear to reside within the boundaries described by such petition. Thereafter, the county clerk shall forward such petition, map or plat, and certificate to the Board of Directors of the District and the Village Board affected by such merger.

C. Within 30 days after receiving the petition, map or plat, and certificate of the county clerk, in accordance with this section, the board of directors and Village Board shall transmit the petition, map or plat, and certificate to the County Board, accompa-

nied by a report in writing approving or disapproving the proposal contained in the petition or approving such proposal in part and disapproving it in part.

D. The county clerk shall designate a time and place for a hearing before a joint meeting of the County Boards of all counties in which the proposed district is to be situated and shall give notice of such hearing by publication two weeks in a newspaper of general circulation within the county, the last publication appearing at least seven days prior to said hearing. At the time and place so fixed, the County Board or Boards shall meet and said hearing shall be held respecting the merger or location of the boundaries of the district. Thereupon the County Board shall determine whether the proposed district is suited to the general fire protection policy of the county, determine the boundaries of the proposed district, whether as suggested in the petition or otherwise, and make a written order of such determination which shall describe the boundaries of the district and be filed in the office of the county clerk.

E. If the report of the board of directors and the Village Board required under this section disapproves the proposal, the petition shall be rejected. If the report is favorable to such proposal, either in whole or in part, the County Board shall promptly designate a time and place for a hearing upon the petition and shall give notice of the hearing by publication two weeks in a newspaper of general circulation within the county, the last publication appearing at least seven days prior to said hearing.

F. The County Board shall, at or shortly after the hearing, determine whether such territory should be merged and shall fix the boundaries of the territory to be merged. The determination of the County Board shall be set forth in a written order which shall describe the boundaries determined upon and shall be filed in the office of the county clerk. He or she shall then fix a time and place for a public meeting of all electors who are owners of any interest in real or personal property assessed for taxation in the district and who are residing within the boundaries. A board of directors shall be elected consisting of five residents of the district.

G. Such merged district shall operate under the same mill levy limit as the Rural Fire Protection District.

(Neb. Rev. Stat. §§35-506, 35-508, 35-509, 35-511, 35-530 through 35-536) (Ord. No. 255, 9/5/78)

### **SECTION 8-103: DUTIES OF DEPARTMENT**

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

### **SECTION 8-104: RESCUE SQUAD**

The Fire Department may also operate a rescue unit for the benefit of those within the Fire Protection District. They shall make rules and regulations for the proper and effective use of emergency rescue equipment and for the adequate training of per-

sonnel to operate such equipment, subject to the review of the Village Board. It shall be the duty of the official in charge of the Rescue Squad during the time of a rescue call to insure that every victim of mishap is aided or aided and transported to the emergency room of the nearest hospital. When available, rescue personnel shall respond to all fire calls. (Neb. Rev. Stat. §35-514.02)

### **SECTION 8-105: FIRE CHIEF**

A. The fire chief shall be elected by the members of the Fire Department. He shall manage the Fire Department and it shall be his duty to inform the Village Board when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the board, the fire chief shall cause the repair, improvement, or maintenance of the said equipment and shall personally supervise and approve of the same. It shall be the duty of the fire chief to come before the Village Board at the regular meeting in January each year to give a report of the general condition and the proposed additions or improvements recommended by him.

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

C. The chief shall enforce all laws and ordinances covering the prevention of fires, the storage and use of explosives and flammable substances, the installation of fire alarm systems, the regulation of fire escapes, and the inspection of all premises requiring adequate fire escapes. The fire chief shall have the right to enter at all reasonable hours into buildings and upon all premises within his jurisdiction for the purpose of examining the same for fire hazards and related dangers. The chief shall immediately investigate the cause, origin, and circumstances of any fire arising within his jurisdiction.

D. The fire chief shall keep or cause to be kept a record of all meetings of the Fire Department, the attendance record of all members, a record of all fires, and shall make a full report of such records to the village clerk when requested by the Village Board not less than one time each year. The record of any fire shall include the cause, origin, circumstances, property involved, and whether criminal conduct may have been involved. In the event of sizable property damage, he shall include the information of whether such losses were covered by insurance and if so, in what amount. All records shall be kept on file in the office of the village clerk and available to the public during office hours.

(Neb. Rev. Stat. §§17-505, 35-102, 35-108, 81-506, 81-512) (Am. Ord. No. 208, 7/1/75)

### **SECTION 8-106: MEMBERSHIP**

A. The fire chief shall appoint no more than 25 members for each Fire Department company, subject to the review and approval of the Village Board. 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 board.

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

D. Members of the Fire Department shall be considered to be employees of the village for the purpose of providing them with workers' compensation and other benefits. The Village Board may compensate or reimburse any member of the Fire Department for expenses incurred in carrying out his or her duties in an amount set by resolution. The board shall purchase and maintain in force a policy of group term life insurance to age 65 covering the lives of all of the village's active volunteer fire personnel, except that when any such person serves more than one municipality or rural or suburban fire protection district, the policy shall be purchased only by the first entity or district which he or she serves. The policy shall provide a minimum death benefit of \$10,000.00 for death from any cause and shall, at the option of the insured, be convertible to a permanent form of life insurance at age 65. The coverage of such policy shall terminate as to any individual who ceases to be an active volunteer member of the Fire Department.

E. For purposes of Neb. Rev. Stat. §33-139.01, volunteer firemen testifying as witnesses in that capacity alone shall not be deemed employees of the village. (Neb. Rev. Stat. §§33-139.01, 35-101 through 35-103, 35-108) (Am. Ord. Nos. 210, 7/1/75; 260, 9/5/78; 429, 9/3/85; 712, 7/5/05)

#### **SECTION 8-107: EQUIPMENT**

A. It shall be unlawful for any person except the fire chief and the members of the Fire Department to molest, destroy, handle, or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the village.

B. Fire equipment may not be removed from the Fire Department without prior approval of department personnel. Village employees shall not be involved in the fire actions other than as firemen. Maintenance of the Fire Department building is the responsibility of the Village Board. The temperature control of the building shall be administered to insure that oxygen and other equipment are maintained at safe operating and administration temperatures. (Neb. Rev. Stat. §28-519)

#### **SECTION 8-108: COMMUNICATIONS EQUIPMENT**

No unauthorized person shall operate any radio or communications equipment of the Fire Department. All persons authorized to operate said equipment shall do so only

as authorized by the license granted to that particular piece of equipment and shall strictly comply with all of the rules and regulations established.

**SECTION 8-109: IMPERSONATING FIREMAN**

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 in this section 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)



## **Article 2 – Fires**

### **SECTION 8-201: PRESERVATION OF PROPERTY**

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

### **SECTION 8-202: TRAFFIC**

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

### **SECTION 8-203: PEDESTRIANS**

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

### **SECTION 8-204: DRIVING OVER HOSE**

It shall be unlawful for any person, without the consent of the fire chief or assistant fire chief, to drive any vehicle over unprotected hose of the Fire Department. (Neb. Rev. Stat. §60-6,184)

### **SECTION 8-205: FALSE ALARM**

It shall be unlawful for any person to raise any false alarm of fire intentionally and without good and reasonable cause. (Neb. Rev. Stat. §§28-907, 35-520)

### **SECTION 8-206: MANDATORY ASSISTANCE**

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

### **SECTION 8-207: INTERFERENCE**

It shall be unlawful for any person or persons to hinder or obstruct the fire chief or the members of the Fire Department in the performance of their duties. A person com-

mits the offense of interfering with a fireman if at any time and place where any fireman is discharging or attempting to discharge any official duties he or she willfully:

A. Resists or interferes with the lawful efforts of any fireman in the discharge or attempt to discharge an official duty; or

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

C. Engages in any disorderly conduct which delays or prevents a fire from being extinguished within a reasonable time; or

D. Forbids or prevents others from assisting or extinguishing a fire or exhorts another person, as to whom he or she has no legal right or obligation to protect or control, not to assist in extinguishing a fire.

(Neb. Rev. Stat. §28-908)

### **SECTION 8-208: FIRE INVESTIGATION**

It shall be the duty of the Fire Department to investigate or cause to be investigated the cause, origin, and circumstances of every fire occurring in the village 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. The officer making the investigation of fires occurring within the village shall immediately notify the state fire marshal and shall, within one week of the occurrence of the fire, furnish him or her with a written statement of all the facts relating to the cause and origin of the fire, and such further information as may be called for. Such investigation shall be in compliance with the rules and regulations of the state fire marshal. (Neb. Rev. Stat. §81-506)

### **SECTION 8-209: DISTANT FIRES**

Upon the permission of the village chairman or fire chief or pursuant to any agreement with a rural fire district for mutual aid and protection, such fire equipment of the village as may be designated by the Village Board as rural equipment may be used beyond the corporate limits to extinguish a reported fire. The firemen of the village shall be considered as acting in the performance and within the scope of their duties in fighting fires or saving property or life outside the corporate limits of the village when directed to do so by the village chairman, fire chief, or some person authorized to act for such chief and in so doing, may use such fire equipment of the village as may be designated by the Village Board.

## Article 3 – Fire Prevention

### SECTION 8-301: FIRE CODE

All of the provisions of the most current edition of the Fire Code, as published by the National Fire Protection Association and recommended by the American Insurance Association, and the rules and regulations of the state fire marshal are hereby adopted by reference as part of this chapter. One copy of each, together with all revisions of and amendments thereto, shall be available in the office of the village clerk for public inspection during office hours. In the event that any of the provisions of said regulations are in conflict with any of the provisions of the municipal code, the provisions of the municipal code shall prevail. (Neb. Rev. Stat. §§18-132, 19-902, 19-922, 81-502) (Am. Ord. No. 408, 9/4/84)

### SECTION 8-302: LIFE SAFETY CODE

Incorporated by reference into this municipal code are the standards recommended by the National Fire Protection Association known as the Life Safety Code, 2015 edition and all subsequent amendments. This code shall have the same force and effect as if set out verbatim herein. One copy of the Life Safety Code shall be on file with the village clerk, available for public inspection during office hours. (Neb. Rev. Stat. §§18-132, 19-902, 81-502) (Am. Ord. No. 408, 9/4/84)

### SECTION 8-303: CODE ENFORCEMENT

It shall be the duty of all village officials to enforce the incorporated fire code provisions as provided in Sections 8-301 and 8-302, and all infractions shall be immediately brought to the attention of the fire chief.

### SECTION 8-304: OPEN BURNING BAN; WAIVER; PERMIT

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

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

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

D. The Fire Department may set and charge a fee not exceeding \$10.00 for

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

(Neb. Rev. Stat. §81-520.01) (Ord. Nos. 295, 9/2/80; 349, 9/7/82)

### **SECTION 8-305: OUTDOOR FIRE PITS AND FIREPLACES**

“Outdoor fireplaces” shall include fire pits, portable fire pits, and chimineas. These residential outdoor fireplaces use wood as a fuel and are used for containing recreational fires located at a private residence for the purpose of outdoor cooking and personal enjoyment. Outdoor fireplaces do not include barbeque grills that use propane or charcoal as a fuel and are used primarily for outdoor cooking.

“Portable fire pits” are defined as being commercially designed and intended to confine and control outdoor wood fires.

“Chimineas” are defined as outdoor patio fireplaces, usually made from clay, intended to confine and control outdoor wood fires.

“Fire pits” are usually constructed of steel, concrete and/or stone, constructed above ground with a 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. 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 3 feet in diameter and not more than 3 feet in height.

D. *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.

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 the spark guard in place.

G. *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.

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. *Weather Conditions.* Outdoor fireplaces shall not be operated when weather conditions are extremely dry.

J. *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.

K. *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.

L. *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 8-306: INSPECTIONS; VIOLATION NOTICE**

A. It shall be the duty of the fire chief, when directed to do so by the Village Board, to inspect or cause to be inspected by a Fire Department officer, member, or some other official as often as may be necessary all buildings, premises, and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to create a fire hazard. It shall be the duty of the owner, lessee, or occupant of any building or structure, except the interiors of private dwellings, to allow the fire inspector to inspect the structure for purposes of ascertaining and enumerating all conditions therein that are likely to

cause fire or any other violations of the provisions of the village ordinances affecting the hazard of fire.

B. The inspection shall be of the storage, sale, and use of flammable liquids, combustibles, and explosives; electric wiring and heating; and the means and adequacy of exits in case of fire in schools, churches, hotels, halls, theaters, factories, hospitals, and all other buildings in which numbers of persons congregate from time to time for any purpose, whether publicly or privately owned; the design, construction, location, installation, and operation of equipment for storing, handling, and utilizing of liquefied petroleum gases, specifying the odorization of said gases and the degree thereof; and chemicals, prozylin plastics, nitrocellulose films, or any other hazardous material that may now or hereafter exist.

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

(Neb. Rev. Stat. §81-512)

#### **SECTION 8-307: FIRE ON PAVEMENT**

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

#### **SECTION 8-308: PROHIBITED FUELS**

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

## **Article 4 – Explosives; Poisonous and Flammable Gases**

### **SECTION 8-401: EXPLOSIVES; STORAGE; REGISTRATION**

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

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

(Neb. Rev. Stat. §§17-549, 17-556, 28-1213, 28-1229, 28-1233) (Am. Ord. No. 550, 12/6/94)

### **SECTION 8-402: EXPLOSIVES; BULLETS**

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

### **SECTION 8-403: EXPLOSIVES; BLASTING PERMITS**

Any person wishing to discharge high explosives within the village must secure a permit from the Village Board 24 hours prior to such discharge 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. §§17-549, 17-556, 28-1213, 28-1229, 28-1233) (Am. Ord. No. 551, 12/6/94)

### **SECTION 8-404: POISONOUS OR FLAMMABLE GASES**

Any person, firm, or corporation desiring to store or keep in the village any form of poisonous or flammable gas or liquefied petroleum gas in excess of 100 gallons or to add to, enlarge, or replace any facility used for the storage of such gases must first get a permit from the Village Board, which shall require the name of the gas, the place of storage, and the amount of gas stored. If permission is granted, the board shall prescribe such rules, regulations, and precautionary actions as it may deem

necessary. (Neb. Rev. Stat. §17-549)

**SECTION 8-405: PETROLEUM GAS**

Any person desiring to store or keep in his or her possession liquefied petroleum gas shall place the containers outside of buildings on nonflammable docks or platforms and no such container shall at any time be stored within a building of any kind. (Neb. Rev. Stat. §17-549)

## Article 5 – Fireworks

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

The use, sale, offer for sale, and possession of permissible fireworks in the village as defined by Neb. Rev. Stat. §28-1241 shall be governed and regulated by Neb. Rev. Stat. §§28-1241 to 28-1252, including any and all amendments thereto, together with any rules and regulations adopted by the state fire marshal for the enforcement of said sections.

### SECTION 8-502: DEFINITIONS

A. “Distributor” means any person engaged in the business of making sales of fireworks at wholesale in this state to any person engaged in the business of making sales or fireworks either as a jobber or as a retailer or both.

B. “Fireworks” means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and which meets the definition of consumer or special fireworks set forth by the United States Department of Transportation in Title 49 of the Code of Federal Regulations.

C. “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.

D. “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.

E. "Display fireworks" means those materials manufactured exclusively for use in public exhibitions or displays of fireworks designed to produce visible or audible effects by combustion, deflagration or detonation. "Display fireworks" includes but is not limited to firecrackers containing more than 130 milligrams of explosive composition, aerial shells containing more than 40 grams of explosive composition and other display pieces which exceed the limits for classification as consumer fireworks.

1. Class B explosives as classified by the United States Department of Transportation shall be considered display fireworks.
2. Display fireworks shall be considered an explosive as defined in Neb. Rev. Stat. §28-1213 and shall be subject to Neb. Rev. Stat. §§28-1213 to 28-1239, except that display fireworks may be purchased, received and discharged by the holder of an approved display permit issued pursuant to Neb. Rev. Stat. §28-1239.01.

F. "Jobber" means any person engaged in the business of making sales of fireworks at wholesale to any other person engaged in the business of making sales at retail.

G. "Retailer" means any person engaged in the business of making sales of fireworks at retail to consumers or to persons other than distributors or jobbers.

H. "Sale" includes barter, exchange or gift or offer therefor and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee.

(Neb. Rev. Stat. §§17-556, 28-1241) (Ord. No. 485, 1/5/88)

**SECTION 8-503: SALE; LICENSE; FEES**

A. It shall be unlawful for any person or persons to sell fireworks of any description whatsoever, except that consumer fireworks as previously defined herein may be sold at retail at all times; provided, fireworks may be sold only between June 24 and July 5 and between December 28 and January 1; provided, fireworks of any description are permissible for purposes of public exhibitions or displays as authorized by the Village Board; and further provided, each vendor shall secure a license prior to such sales.

B. Application shall be filed with the village clerk upon a form supplied by the village, requesting such information and documents as the board may deem necessary as to whether or not to grant said license. Upon the determination to grant the license, the Village Board shall direct the village clerk to collect the appropriate fee and issue said license. Such fee shall be as set by resolution of the board and placed on file in the office of the village clerk. Any license so issued may be revoked at any time by the Village Board upon proper notice and hearing, if one is requested by the licensee.

(Neb. Rev. Stat. §§17-556, 28-1246, 28-1249)

**SECTION 8-504: UNLAWFUL ACTS; EXCEPTIONS**

A. Except as provided in subsection (B), 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 8-502.

B. Subsection (A) shall not apply to:

1. Any display fireworks purchased from a licensed distributor; or
2. Any display fireworks purchased by the holder of a display permit issued pursuant to Neb. Rev. Stat. §28-1239.01; or
3. 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 8-505: UNLAWFUL THROWING OF FIREWORKS**

A person commits the offense of unlawful throwing of fireworks if he or she throws any firework or any object which explodes upon contact with another object:

- A. From or into a motor vehicle;
- B. Onto any street, highway, or sidewalk;
- C. At or near any person;
- D. Into any building; or
- E. Into or at any group of persons.

(Neb. Rev. Stat. §§17-556, 28-1242)



## **Article 6 – Penal Provision**

### **SECTION 8-601: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (Am. Ord. Nos. 652, 9/2/03; 663, 9/2/03)