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# CHAPTER 7 – FIRE REGULATIONS

## Article 1 – Fire Department

### SECTION 7-101: OPERATION AND FUNDING

A. The City operates the City Fire Department and Rescue Squad through the fire chief and firemen. The City Council, for the purpose of defraying the cost of the management, maintenance, and improving the Fire Department, may each year levy a tax not exceeding the maximum limits prescribed by state law on the actual valuation of all real estate and personal property within the City 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 city treasurer. Said monies so levied and collected shall be set aside in the city budget as the Fire Department budget and the ambulance budget.

B. In addition, the Fire Department is authorized to enter into agreement with the appropriate Rural Fire District for the mutual aid and protection of the residents of both the City and the Fire District. The agreement so entered into shall be on file in the office of the city clerk for public inspection during office hours. The fire chief shall manage the Fire Department and it shall be his 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. (Neb. Rev. Stat. §17-147, 17-718, 17-953) (Am. by Ord. No. 743, 12/1/87)

### SECTION 7-102: FIRE CHIEF

The fire chief shall manage the Fire Department and it shall be his 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 City 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 City Council at the regular meeting in January of each year to give an annual report to the Council of the general condition and the proposed additions or improvements recommended by him.

### SECTION 7-103: 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 City Council. All vacancies shall be filled in this manner.

B. Said members shall be considered to be employees of the City for the purpose of providing them with workers' compensation and other benefits. Each member shall be entitled to a term life insurance policy in the amount of at least \$10,000.00 dollars for death from any cause to age 65 and such policy shall, at the option of the individual fireman, be convertible to a permanent form of life insurance at age 65; provided that the firemen covered are actively and faithfully performing the duties of their positions.

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

D. The City Council may, for services rendered, compensate or reward any

member or members of the Fire Department in an amount set by resolution. All firemen 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 Council.

E. The members shall, during the time of a fire or great public danger, have and exercise the powers and duties of police officers and shall have full power and authority to arrest all persons guilty of any violation of the municipal code or state laws.

F. Volunteer firemen and Rescue Squad members testifying as witnesses in connection with their officially assigned duties in that capacity alone shall not be deemed employees of the State of Nebraska or of the City.

(Neb. Rev. Stat. §33-139.01, 35-101 through 35-103, 35-108) (Am. by Ord. Nos. 685, 12/3/85; 1258, 10/4/04)

#### **SECTION 7-104: RECORDS**

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, and a record of all fires and shall make a full report of such records to the city clerk during the last week in April each year. The record of any fire shall include the cause, origin, circumstances, property involved, and whether criminal conduct may have been involved. In the event of sizable property damage, he shall include the information of whether such losses were covered by insurance and if so, in what amounts. All records shall be available to the public at any reasonable time.

#### **SECTION 7-105: 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 7-106: 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, erection, or fence for the purpose of checking the progress of any fire and the official in charge of the firefighting effort shall have the power to blow up or cause to be blown up with powder or otherwise any building or erection during the progress of a fire for the purpose of extinguishing or checking the same.

#### **SECTION 7-107: HOSE TESTED**

All fire hose shall be pressure tested at least once each year.

#### **SECTION 7-108: 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 condition 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, theatres, 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. (Neb. Rev. Stat. §81-512)

### **SECTION 7-109: NOTICE OF VIOLATION**

Upon the 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, such order 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. The owner, occupant or manager may, within five days after such order by the fire chief or his 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 both the fire chief and the owner, occupant or manager making the appeal.

### **SECTION 7-110: 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 or other person hindering or resisting the firefighting effort or any person who conducts himself in a noisy or disorderly manner. The said officials shall be severally vested with the usual powers and authority of city police officers to command all persons to assist them in the performance of their duties.

### **SECTION 7-111: 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 deems it expedient or necessary. The officer making the investigation of fires occurring within the City shall immediately notify the fire marshal and shall, within one week of the occurrence of the fire, furnish him with a written statement of all the facts relating to the cause and origin of the fire and such further information as he may call for. (Neb. Rev. Stat. §81-506)

### **SECTION 7-112: 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 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. (Neb. Rev. Stat. §28-908)

## **SECTION 7-113: 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 7-114: 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 7-115: 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. §39-682)

## **SECTION 7-116: FALSE ALARM**

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

## **SECTION 7-117: EMERGENCY VEHICLES**

A. The driver of any vehicle other than one on official business shall not follow any fire apparatus, ambulance or other emergency vehicles in response to a fire or rescue or medical emergency alarm.

B. It shall be unlawful to drive into or park a vehicle or walk within two city blocks of where fire or emergency vehicles have stopped in answer to a fire or ambulance alarm.

(Ord. No. 865, 2/4/92)

## **Article 2 – Fire Prevention**

### **SECTION 7-201: FIRE PREVENTION CODE**

Incorporated by reference into this code are the standards recommended by the American Insurance Association, Engineering and Safety Department, known as the Fire Prevention Code, 1970 Edition, and all subsequent amendments. This code shall have the same force and effect as if set out verbatim herein. One copy of the Fire Prevention Code shall be on file with the city clerk and available for public inspection during office hours. (Neb. Rev. Stat. §18-132, 19-902, 19-922, 81-502)

### **SECTION 7-202: FIRE CODE ENFORCEMENT**

It shall be the duty of all city officials to enforce the incorporated fire code provisions. All infractions shall be immediately brought to the attention of the fire chief.

### **SECTION 7-203: 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 city ordinances affecting the hazard of fire. (Neb. Rev. Stat. §81-512)

#### **SECTION 7-204: 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 provision of the city ordinances to correct the unlawful condition within 20 days from the date of receipt of such notice.

#### **SECTION 7-205: FIRE LIMITS; DEFINED**

The following described territory in the City shall be and constitute the fire limits:

All of Blocks 15, 16, 21, and 22, all in the Original Town of O'Neill, Nebraska.

(Neb. Rev. Stat. §17-550)

#### **SECTION 7-206: FIRE LIMITS; BUILDING PERMIT**

Prior to the moving or construction of any building in the fire limits, application must be made to the City Council. Construction shall include the enlarging or alteration of any building in the fire limits. Such application shall be furnished by the city clerk and shall require such information as the Council deems necessary to determine whether or not to grant a building permit. (Neb. Rev. Stat. §17-550)

#### **SECTION 7-207: 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 noncombustible materials as will satisfy the City Council that the said structure will be reasonably fireproof. (Neb. Rev. Stat. §17-550)

#### **SECTION 7-208: FIRE LIMITS; 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 city clerk to make such repairs, alterations, or to add to any building. He or she shall state on the application that the material used will be non-combustible and approved by the City Council. Repairs in the form of patching and other minor repairs shall not require a permit. In the event that the repair, 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 fireproof and made of non-combustible materials. (Neb. Rev. Stat. §17-550)

#### **SECTION 7-209: FIRE LIMITS; 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. Any future construction of an iron-clad building shall hereafter be prohibited. (Neb. Rev. Stat. §17-550)

#### **SECTION 7-210: FIRE LIMITS; 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 7-211: FIRE LIMITS; LUMBERYARDS**

It shall be unlawful for any person to locate, establish or maintain any lumberyard or place for the piling, storing, keeping or selling of any lumber or to keep any lime, lath, shingles, hay, straw, or other combustible materials on any lot or parcel of ground within said fire limits unless the same is securely kept in a building constructed of brick, stone, concrete, or other noncombustible material; provided, the foregoing shall not apply to lumberyards now built and in use. (Neb. Rev. Stat. §17-549)

### **SECTION 7-212: STREET FIRES PROHIBITED**

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 7-213: OPEN FIRES PROHIBITED**

It shall be unlawful for any person to set out, cause, or allow any open fires within the city limits; provided, open fires will be allowed for the following purposes:

A. For recreational purposes or for outdoor cooking of food for human consumption on other than commercial premises and no nuisance or hazard is created;

B. For essentially agricultural operations in the growing of crops if no nuisance or traffic hazard is created;

C. Fires set in the operation of smokeless flare stacks for the combustion of waste gases, provided emissions therefrom:

1. Are not of a shade or density equal to or darker than that designated as No. 1 on the Ringelmann chart or equivalent.
2. Are not of such opacity as to obscure an observer's view to a degree equal to or greater than that designated as No. 1 on the Ringelmann chart or equivalent.

D. When a permit has been obtained from the city clerk:

1. For destroying dangerous materials or diseased trees;
2. For training public or industrial fire fighting personnel;
3. For land clearing on roads or other construction activity.

(Am. by Ord. No. 432-A, 5/6/75)

### **SECTION 7-214: 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 of the Fire Department or his designee may waive an open burning ban under subsection (A) of this section for an area under his jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit issued to a person desiring to conduct open burning shall be in writing on a form provided by the state fire marshal and signed by the fire chief or his designee.

C. The fire chief or his designee may waive the open burning ban in his jurisdiction when conditions are acceptable to the chief or his 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.

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, not to exceed \$10.00, for each such permit issued. This fee shall be remitted to the City Council for inclusion in the general funds allocated to the Department. Such funds shall not reduce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (B) of this section in the course of such state's or political subdivision's official duties.

(Neb. Rev. Stat. §81-520.01) (Ord. No. 552, 11/6/80) (Am. by Ord. Nos. 631, 3/15/83; 977, 3/21/95)

## **SECTION 7-215: POISONOUS AND FLAMMABLE GASES**

A. Any person, firm or corporation desiring to store or keep in the City any form of poisonous or flammable gas or liquefied petroleum gas in an amount over ten gallons for any period of time or add to, enlarge or replace any facility used for the storage of such gases must first get permission from the fire chief in accordance with federal, state and local regulations as may be enacted from time to time. The applicant shall provide the name of the gas, place of storage, amount of gas stored and other information as may be required by the fire chief.

B. For any application where permission is granted, the City Council may prescribe such rules, regulations and precautionary actions as it may deem necessary. Permit requirement for the initial construction or location of storage facilities shall not apply to those facilities in existence on the effective date of this section; provided, any such present use that is discontinued for a period of 60 days shall not be revived without a permit.

(Neb. Rev. Stat. §17-549) (Am. by Ord. No. 1068, 9/2/97)

## **SECTION 7-216: BURNING OF TRASH, LEAVES, ETC. PROHIBITED**

It shall be unlawful to build or set out fires within the City of O'Neill, regardless of whether the fires are in fireproof trash burners or incinerators or not, except Commercial Industrial Incinerators, listed by a recognized independent testing laboratory and with a permit issued by the local fire chief. It shall be unlawful for any person to set fire to, burn, or cause to be burned any garbage, trash, refuse, animal matter, vegetable matter, straw, hay, leaves, brush, or any other item or matter. It shall be unlawful to do any such burning in the streets, alleys or lands of the City. Any person or firm violating this burning ban shall be prosecuted under state laws.

# **Article 3 – Explosives**

## **SECTION 7-301: STORAGE**

A. Any person desiring to store or keep explosive materials for any period of time shall notify the Fire Department and register such information with the city clerk 24 hours prior to such storage. The transfer of explosive materials to a new location by the owner shall require registration of the new location with the city clerk. The transfer of explosive materials to another person within the City shall require the person receiving the explosive materials to register the transfer and the new location of the materials with



the city clerk.

B. All explosive materials shall be stored in proper receptacles made of concrete, 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.

#### **SECTION 7-302: BULLETS**

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

#### **SECTION 7-303: BLASTING PERMITS**

Any person wishing to discharge high explosives within the City must secure a permit from the City Council and shall discharge such explosives in conformance with its direction and under its supervision. In no case shall any person perform blasting operations unless operating under the direct supervision of a person in possession of a valid user's permit issued by the Nebraska State Patrol. (Neb. Rev. Stat. §17-556, 28-1229) (Ord. No. 796, 12/5/89)

### **Article 4 – Fireworks**

#### **SECTION 7-401: REGULATION OF USE, SALE, POSSESSION**

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

### **Article 5 – Penal Provisions**

#### **SECTION 7-501: VIOLATION; PENALTY**

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