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## **CHAPTER VII – FIRE REGULATIONS**

### **ARTICLE I – GENERAL REGULATIONS**

#### **SECTION 7-101: FIRE PREVENTION CODE**

The rules and regulations promulgated by the office of the state fire marshal relating to fire prevention are incorporated by reference into this code and made a part of this article as though spread at large herein, together with all subsequent amendments thereto. Three copies of the Fire Prevention Code shall be on file with the city clerk and shall be available for public inspection during office hours.

### **SECTION 7-102: FIRE CODE ENFORCEMENT**

It shall be the duty of all city officials to enforce the incorporated fire code provisions, and all infractions shall be reported immediately to the City Council.

### **SECTION 7-103: 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 inspector, as designated by the City Council, 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 city ordinances in regard to the possibility of fire hazard.

### **SECTION 7-104: VIOLATION NOTICE**

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 city ordinances, to correct the condition within five days of the date of receipt of such notice.

### **SECTION 7-105: POISONOUS OR FLAMMABLE GAS**

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 excess of 100 gallons or to add to, enlarge or replace any facility used for the storage of such gases must first get permission from the City Council. The Council shall require the name of the gas, the place of storage, and the amount of gas stored. If permission is granted, the City Council shall prescribe such rules, regulations and precautionary actions as may be deemed necessary. Permit requirements for the initial construction or location of storage facilities shall not apply to those facilities in existence on the effective date of this ordinance; provided, any such present use that is discontinued for a period of 60 days shall not be revived without a permit. (Ref. Neb. Rev. Stat. §17-549)

### **SECTION 7-106: SMOKING IN PUBLIC PLACES**

It shall be unlawful for any person to ignite a lighter, strike a match, or indulge in the smoking of tobacco on or in any building or structure at which any public meeting is held to which the general public is entitled to be present.

### **SECTION 7-107: HOMEMADE STOVE; PROHIBITED FUELS**

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

### **SECTION 7-108: BURNING PROHIBITED; EXCEPTIONS**

It shall be unlawful to start or build or cause to start or build or to maintain any fire on public or private property; provided, however, the provisions of this section shall not apply to the following:

1. For recreational purposes or for outdoor cooking of food for human consumption

on other than commercial premises and no nuisance or hazard is created.

2. For essential agricultural operations in the growing of crops if no nuisance or traffic hazard is created.

3. Fires set in the operation of smokeless flare stacks for the combustion of waste gases, provided emissions therefrom: (A) are not of a shade or density equal to or darker than that designated as No. 1 on the Ringlemann Chart or its equivalent; (B) 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 Ringlemann Chart or equivalent.

4. When a permit has been obtained from the city clerk for: (A) destroying dangerous materials or diseased trees; (B) training public or industrial fire fighting personnel; (C) land clearing on roads, or other construction activity.

### **SECTION 7-109: STOVES, FURNACES AND CHIMNEYS**

All furnaces, stoves and other heating devices shall be installed at a proper distance from combustible materials and portions of the building. Any combustible materials or portions of the building that are dangerously close to such heating devices shall be protected by non-combustible material. This section shall apply both to existing structures and those which may hereafter be erected.

### **SECTION 7-110: 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. The fire marshal or his/her designee may waive an open burning ban issued under this section for an area under his/her jurisdiction by issuing a permit to a person requesting permission to conduct open burning. Said permit shall be in writing on a form provided by and signed by the fire marshal.

2. The fire marshal or his/her designee may waive the open burning ban in his/her district when conditions are acceptable to him/her. Anyone burning in such district when the open burning ban has been waived must notify the marshal of his/her intention to burn.

(Ref. Neb. Rev. Stat. §81-520.01)

### **SECTION 7-111: PERMITTED REPAIRS; APPLICATION, PERMIT**

It shall be unlawful for any person to repair, alter or add to any building where the repair is less than 50% of the building unless the said person shall first submit an application to the city administrator to make such repairs, alterations or to add to any building and shall state on the application that the material used will be non-combustible and approved by the building inspector. Repairs in the form of patching and other minor repairs shall not require a permit. (Ref. Neb. Rev. Stat. §17-550)

### **SECTION 7-112: REMOVAL REQUIRED**

In the event that any wooden or combustible building or structure, or any non-combustible building 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 15 days from the date of such fire or other casualty. (Ref. Neb. Rev. Stat. §17-550)

### **SECTION 7-113: REMOVAL OR REPAIR REQUIRED**

In the event that a building 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.

#### **SECTION 7-114: LUMBER YARDS**

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

### **ARTICLE II – EXPLOSIVE MATERIAL**

#### **SECTION 7-201: STORAGE**

Dynamite and other explosives shall be stored in a proper receptacle made of concrete, metal or stone, which shall be closed at all times except when actually in use. Such receptacle shall not be located in any room where there is a flame or flammable materials.

#### **SECTION 7-202: BULLETS**

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

#### **SECTION 7-203: BLASTING PERMITS**

Any person wishing to discharge high explosives must first secure a permit from the City Council and shall discharge such explosives in conformance with such directives and precautions as may be prescribed under the direction and supervision of the Council. 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. (Ref. Neb. Rev. Stat. §17-556)

#### **SECTION 7-204: REGISTRATION**

Any person keeping or storing dynamite, nitroglycerin, gun powder or other high explosives in any quantity shall register such information as the City Council may require with the city clerk, who shall forward such information to the local fire official.

### **ARTICLE III – FIREWORKS**

#### **SECTION 7-301: PURPOSE**

The sale of any fireworks increases the risk of danger to public health and safety. The City, however, recognizes the historic role of fireworks as a means of celebration within the United States and the State of Nebraska and therefore allows the sale of consumer fireworks upon compliance with the following regulations, which are enacted to protect public health and safety. (Ord. No. 600, 12/28/09) (Am. by Ord. No. 617, 2/8/11)

#### **SECTION 7-302: DEFINITIONS**

For the purposes of this article, the following definitions shall apply:

1. "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 consumer or special fireworks set forth by the United States Department of Transportation in Title 49 of the Code of Federal Regulations.

2. "Consumer fireworks" shall mean consumer fireworks as defined by Neb. Rev. Stat. §28-1241, as amended.

3. "Community betterment" shall mean that which generally betters or enhances the community of the City, such as:

- A. The acquisition, improvement and maintenance of parks and recreational facilities, public equipment and other items for community use and enjoyment or to be used by the City in service to the community;
- B. The recruitment and attraction of new businesses and jobs to the city community;
- C. Athletic programs for the community; and
- D. Other acquisitions, services or programs of general benefit to the city community.

4. "Net proceeds" shall mean gross sales less the cost of fireworks, application and permit fees, rental or lease expense, advertising and similar costs of operation of the fireworks stand. Volunteer salespersons shall be used and any remuneration paid or given to persons performing services in connection with the sale of fireworks shall not be deemed a cost of operation.

5. "Fireworks season" shall mean, cumulatively, the periods during which consumer fireworks may be sold at retail during any given year, namely June 24 through July 5 inclusive.

6. "Contractor" shall mean a corporation, organization or individual having a valid license or permit from the State of Nebraska for the retail sale of consumer fireworks which has a contract with a not-for-profit corporation or organization to sell consumer fireworks within the City and which not-for-profit corporation or organization shall use the net proceeds from the sale of such consumer fireworks for community betterment in the City.

(Ord. No. 600, 12/28/09) (Am. by Ord. Nos. 617, 2/8/11; 620, 4/12/11)

### **SECTION 7-303: FIREWORKS SALES PERMIT REQUIRED**

1. It shall be unlawful for any person or entity to sell, offer for sale, or hold for sale any fireworks in the City unless and until such person or entity shall have first obtained a permit therefor from the City Council and shall have complied with this article in all respects. Such a permit shall be valid for only one fireworks season, and the issuance of a permit for one particular fireworks season does not create any expectation of or property interest in the issuance of a permit for another fireworks season. Each separate location for the sale of fireworks shall be required to have a separate permit from the City.

2. In instances where a not-for-profit corporation or organization has contracted with a contractor for the retail sale of fireworks at a particular location, the permit from the City shall list both the not-for-profit corporation or organization and the contractor as the permit holders at such location. A contractor shall be required to have a separate permit for the retail sale of fireworks from the state fire marshal for each location in the City at which it proposes to sell fireworks.

## **SECTION 7-304: APPLICATION PROCEDURE**

1. Application for a fireworks sales permit shall be made in the following manner:
  - A. Application shall be made on such form as shall be prescribed by the city clerk and shall be filed with the said clerk only from January 1 through January 31 of the year for which the permit is sought.
  - B. Only the following organizations, associations or entities shall be eligible for a permit:
    - i. Nonprofit organizations and associations using volunteer salespersons and which will use the net proceeds from the sale of fireworks for community betterment purposes within the City.
    - ii. Contractors, as such term is defined in Section 7-302(F) of the Valley Municipal Code, as amended.
  - C. The application shall include all of the following:
    - i. A site and floor plan, drawn to scale in a manner acceptable to the city building inspector, showing location of the stand or tent, setback from rights-of-way, distance to nearest building or structure, placement of fire extinguishers, all entrances and exits, dock storage areas, pedestrian traffic flow, parking areas and vehicular traffic flow, and nature of occupants of nearest buildings.
    - ii. A sign plan showing the location and size of all planned signage. A temporary sign permit shall be obtained separately, if required.
    - iii. Detailed information on the tent or stand to be erected on the site.
    - iv. Detailed information regarding the plan for storage of all fireworks during both open and closed hours.
    - v. If the applicant has held a permit in any of the three preceding years, it must file with its application a written statement of the income and expenses from the sale of its fireworks within the City for each of such years, together with a statement of its community betterment expenditures made from the net proceeds from the sale of fireworks in each said year.
    - vi. The applicant shall state in detail the nature of the community betterment purpose for which the net proceeds from the current year's sale of fireworks will be utilized if the permit is granted.
    - vii. A signed statement from the owner of the property upon which the sales will be conducted, granting the applicant permission to so utilize the property.
    - viii. An application fee of \$50.00 shall be paid to the city clerk with the application. None of the application fee will be refunded.
    - ix. If the applicant is a contractor, the following information shall be supplied: the full name, address, phone number and e-mail address of the contractor and a copy of the signed contract with the not-for-profit corporation or or

ganization.

2. After the application filing period, the city clerk shall review the applications and submit recommended point tallies on the same to the City Council. The city building inspector shall review the applications and, if necessary, consult with other city departments, and forward general recommendations on the applications to the city clerk and to the City Council regarding issues relevant to the applications. Applications will be evaluated on the following criteria point system:

- A. Each year all applications will start out with a total of 20 points.
- B. Applications shall be automatically disqualified if they are received after January 31 or if the applicant is a prior-year permit holder that has displayed and/or sold or attempted to sell illegal fireworks or has otherwise violated the law regarding the operation of its fireworks stand.
- C. Applications that are not disqualified will be reviewed by the city clerk and will lose points according to the following schedule:

<i>Point Deduction</i>	<i>Infraction</i>
2	Missing information regarding the fireworks sales application
2	Missing information regarding the tent or stand to be used
2	Missing information regarding the sign plan
2	Missing information regarding the storage of fireworks
2	Missing information regarding the site plan
5	Lack of sufficient detail or inadequacy regarding proposed community betterment expenditures
5	Lack of sufficient detail or inadequacy regarding previous years income and expenditures
5	Concerns with proposed location based on recommendation from city departments

3. In the event of a tie or ties after ranking, first preference shall be given to those eligible applicants that identify community betterment acquisitions or services programs which will benefit the City as a whole. Those that benefit only particular areas or neighborhoods of the City shall have second preference. If all other application requirements are met, special consideration will be given to applicants agreeing to re-locate and operate a fireworks stand.

4. After the application filing period and after the city clerk's submission of recommendations, the City Council shall review all applications and, by resolution, either approve, approve with conditions, or deny each such application.

5. Prior to issuance of the permit, the applicant shall pay to the City a permit fee of \$250.00 and shall supply to the city clerk a copy of a certificate of insurance issued by an insurance company in good standing, authorized to do business in the State of Nebraska, providing the applicant with combined liability coverage for bodily, injury and property damage in a minimum amount of \$300,000 per occurrence and \$1,000,000 in aggregate coverage and naming the City of Valley as an additional insured.

6. The permit may be obtained at the office of the city clerk only after an inspection

of the fireworks stand or place of sale by the city building inspector to determine if such stand or place of sale conforms to all city laws, building codes, electrical codes, fire safety codes and land use regulations. The applicant shall request the City to make such inspection not later than 10 days prior to the opening day of the particular period of the fireworks season, and such inspection shall be made by the City within a reasonable time after the request

7. Permits will be valid only for the period specified in this article for the particular fireworks sales season and will automatically terminate on the specified ending date. A permit shall allow sales at only one location in the City. Permit holders shall not have any property right to or expectation of receiving a permit or operating a fireworks stand in the City in any future year or period.

8. The City Council may revoke a permit if it determines that the permit holder has violated this Code or any of the terms or conditions of the permit. Such revocation shall be effective immediately.

(Ord. No. 617, 2/8/11) (Am. by Ord. No. 620, 4/12/11)

### **SECTION 7-305: NUMBER OF PERMITS LIMITED**

Permits for the sale of fireworks shall be limited to two in number for a fireworks season, this number being the maximum number of permits that may normally be safely regulated by the City. (Ord. No. 617, 2/8/11)

### **SECTION 7-306: SALES REGULATIONS**

Persons holding a permit to sell fireworks shall comply with the following regulations:

1. Permit holders may sell only consumer fireworks.
2. Permit holders may sell consumer fireworks only during the fireworks season. Within the fireworks season, consumer fireworks may be sold only between the hours of 8:00 a.m. and 10:00 p.m.
3. Permit holders shall, during such times in which consumer fireworks are being sold, have an adult in charge of its stand or retail outlet and shall display therein the required permit in a conspicuous manner and place.
4. Permit holders shall at all times comply with all regulations in this article or elsewhere in this Code and with state and federal laws.
5. Permit holders shall at no time sell any fireworks to any person under 12 years of age.
6. Any persons actually selling or offering for sale any fireworks shall be at least 16 years of age.
7. The permit holder shall issue a fireworks use safety pamphlet, approved by the City, to each person purchasing any fireworks.
8. The permit holder shall maintain sufficient security personnel on the site of the sales facility at all times when fireworks are stored on the site while the sales facility is closed. Between the salespersons on the site while the facility is open and the security personnel on the site while the sales facility is closed, the site shall be supervised and monitored 24 hours per day.
9. The permit holder shall obtain all licenses or permits required by the state of



## **SECTION 7-307: LOCATION AND SITE REGULATIONS**

1. In addition to all other requirements and regulations of the City, all temporary fireworks stands or places of sale of fireworks shall be located and set back at least 25 feet from the nearest public right-of-way and be separated from any permanent structure by a minimum of 50 feet.

2. Parking for the sales facility shall be provided on a surface approved by the city building inspector.

3. Any structure in which fireworks are sold and to which pedestrian traffic is allowed shall have a minimum of two points of ingress/egress located so that each point serves approximately one-half of the structure. Both ingress/egress locations shall be unobstructed at all times that the facility is open.

(Ord. No. 617, 2/8/11)

## **SECTION 7-308: PROXIMITY TO CERTAIN BUSINESSES OR ACTIVITIES**

1. Stands and areas where fireworks are to be sold shall be located at least 300 feet from any gasoline or liquid propane gas dispensing station or repair shop using flammable materials and at least 20 feet from any other establishment selling fireworks. Such distance shall be measured from the closest point where fireworks are sold or stored to the closest point where gasoline, liquid propane gas or combustible materials are dispensed or stored above ground or from the closest point where other fireworks are sold or stored, as the case may be.

2. 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.

(Ord. No. 617, 2/8/11) (Am. by Ord. No. 620, 4/12/11)

## **SECTION 7-309: SCREENING**

All stands and places for the sale of fireworks shall screen all supplies sold and stored so as to prevent other fireworks from being tossed or thrown into such supplies. (Ord. No. 617, 2/8/11)

## **SECTION 7-310: FIRE SAFETY**

1. Fire extinguishers and "No Smoking" signs shall be placed on the site as required by the City's fire code regulations on retail display and sale of fireworks.

2. The permit holder shall comply with the rules for retail sales of consumer fireworks contained in that most recent edition of the National Fire Protection Association ("NFPA") Standard 1124, Chapter 7, which has been adopted by the state fire marshal. In the event of conflict between a provision of NFPA 1124, Chapter 7, and another rule in this Code, the stricter or more restrictive rule shall apply. A copy of the said NFPA 1124, Chapter 7, shall be maintained in the office of the city clerk for public review.

(Ord. No. 617, 2/8/11)

## **SECTION 7-311: REMOVAL**

Immediately after the fireworks sale season, the permit holder shall clean the area in and around any stand where fireworks were sold and remove any portable tent or stand from its temporary location. Such work shall be completed within three days of the closing of the particular period of the fireworks season. (Ord. No. 617, 2/8/11)

### **SECTION 7-312: REPORT**

Each permit holder shall, on or before December 1 of the year for which the permit is held, file with the city clerk a written statement of the income and expenses from the sale of its fireworks within the City for such year, together with a detailed statement of its community betterment expenditures made from the net proceeds from the sale of fireworks in such year. (Ord. No. 617, 2/8/11)

### **SECTION 7-313: SEVERABILITY**

If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this ordinance, which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable. (Ord. No. 617, 2/8/11)

## **ARTICLE IV – PENAL PROVISION**

### **SECTION 7-401: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, whether set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and fined in a sum of not more than \$500.00. Each day's maintenance of the same shall constitute a separate offense.