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CHAPTER 8 – PUBLIC SAFETY

Article 1 – Fire Department

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

A. The city operates the Fire Department through the fire chief. The City Council, for the purpose of defraying the costs of the management, maintenance and improvement of the Fire Department, shall each year levy a tax sufficient, in its judgment, to support such department. The city shall have power to procure fire engines and other apparatus, to organize fire engine companies, and to prescribe rules of duty and the government thereof with such penalties as the City Council may deem proper, not exceeding \$100.00; and to make all necessary appropriations therefor.

B. The City Council may levy a tax annually of not more than \$0.07 on each \$100.00 upon the taxable value of all the taxable property within the city for the maintenance and benefit of the volunteer Fire Department. The amount of such tax shall be established at the beginning of the year and shall be included in the adopted budget statement. Upon collection of such tax, the city treasurer shall disburse the same upon the order of the fire chief with the approval of the City Council.

C. 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 city and the Rural Fire District. Such an agreement shall provide for mutual aid, protection and a sharing of necessary expenses between the city and the Rural Fire District.

(Neb. Rev. Stat. §§17-147, 17-718, 35-501, 35-514.02, 35-530)

SECTION 8-102: OFFICES OF CHIEF, ASSISTANT CHIEF AND CAPTAINS CREATED; DUTIES

The fire chief, assistant fire chief, and two captains of the Fire Department shall be elected by the active members of said department and approved by the City Council. They shall hold their offices until their successors are elected and approved by the council. Such officers may be removed from office by the council for misconduct, inefficiency, or dereliction of duty. When any vacancy occurs by removal or otherwise, the members of the department shall immediately elect a successor, subject to the approval of the City Council. In the event of the failure of the Fire Department to elect a fire chief, assistant fire chief, or captains or in case of a vacancy in any of said offices for a period of five days after such vacancy occurs, the council shall fill such vacancy by the appointment of a member of the Fire Department to said office.

SECTION 8-103: FIRE CHIEF; POWERS AND DUTIES

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 City Council when any of the fire vehicles or equipment needs repair. Upon the written consent and directive of the council, the fire chief shall cause the repair, improvement, or maintenance of the said vehicles or equipment.

B. The fire chief shall: (1) have full control of the actions of Fire Department members during the time said department is on duty at a fire or during the period of fire drills; (2) have full charge and control of all of the fire equipment and of the movement thereof; and (3) have and is hereby invested with the authority of a police officer in the performance of his duty as such fire chief.

C. It shall be the duty of the fire chief to come before the City Council 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. He shall, on the first day of April and October each year, file with the city clerk a certified copy of the rolls of all members in good standing in their respective companies.

D. 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 investigate the cause, origin, and circumstances of any fire arising within his jurisdiction. (Neb. Rev. Stat. §§17-505, 35-102, 81-506, 81-512)

SECTION 8-104: DUTIES OF FIRE 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 city, and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

SECTION 8-105: MEMBERSHIP

A. The Fire Department shall consist of so many members as may be decided by the City Council. The members may organize themselves in any way they may decide, subject to the review of the council.

B. The volunteer Fire Department shall not have upon its rolls at one time more than 25 persons for each engine company in the Fire Department. Members in good standing are those who keep their dues promptly paid up and are present and render active service when called out for the legitimate purposes of the Fire Department.

C. Volunteer firefighters of the Fire Department shall be deemed employees of the city while in the performance of their duties as members of the department. Members of the volunteer Fire Department, before they are entitled to benefits under the

Nebraska Workers' Compensation Act, shall be recommended by the fire chief or some person authorized to act for the chief for membership therein to the mayor and City Council, and upon confirmation shall be deemed employees of the city. After confirmation to membership, members of the department may be removed by a majority vote of the council and thereafter shall not be considered employees of the city. Firefighters shall be considered as acting in the performance and within the course and scope of their employment when performing activities outside of the corporate limits of the city but only if directed to do so by the fire chief or some person authorized to act for the chief.

D. The City Council shall purchase and maintain in force a policy of group term life insurance to age 65 covering the lives of all of the active volunteer fire and rescue personnel, except that when any such person serves more than one city or rural fire protection district, the policy shall be purchased only by the first city 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 department.

E. The City Council 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.

F. All members of the Fire Department shall be subject to such rules and regulations and shall perform such duties as may be prescribed or required of them by the fire chief or the City Council. The members of the department 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 city code or the laws of the state.

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

(Neb. Rev. Stat. §§33-139.01, 35-101 through 35-103, 35-108, 48-115)

SECTION 8-106: 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. Fire equipment may not be removed from the Fire Department without prior approval of department personnel. Maintenance of the Fire Department building is the responsibility of the City Council. (Neb. Rev. Stat. §28-519)

SECTION 8-107: LAWFUL BURNING OF PROPERTY

Property may be lawfully destroyed by burning such structures as condemned by law, structures no longer having any value for habitation or business, or no longer serving any useful value in the area in which situated, and any other combustible material that will serve to be used for test fires to educate and train members the Fire Department and promote fire safety. Before any structure may be destroyed by fire for training and educational purposes, it must be reported to the state fire marshal and a permit issued for that purpose. Any expense incurred in burning a structure shall be assumed by the department. (Neb. Rev. Stat. §28-506)

SECTION 8-108: 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 – Rescue Squad

SECTION 8-201: OPERATION AND FUNDING

A. The City of Gordon owns and operates a Rescue Squad for the benefit of those within the city and outlying areas. The City Council shall oversee and control all income and equipment. Rescue Squad personnel shall make rules and regulations for the proper and effective use of emergency rescue equipment and for the adequate training of personnel to operate such equipment, subject to the review of the City Council and current physician medical director and/or PMD surrogate.

B. The City Council, for the purpose of defraying the costs of the management, maintenance, operations and improvement of the Rescue Squad, shall each year levy a tax sufficient, in its judgment, to support said department. The rescue squad chief shall manage the department and it shall be his or her duty and/or the approved surrogate to inform the City Council when any of the ambulances or other equipment needs repair. Upon the consent of the council, the rescue squad chief and/or approved surrogate shall oversee the repair, improvement or maintenance of the equipment.
(Neb. Rev. Stat. §35-514.02)

SECTION 8-202: MEMBERSHIP

A. The Rescue Squad 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. The rescue squad chief shall appoint members who will be subject to the review and approval of the City Council. All vacancies shall be filled in this manner. They may hold meetings and engage in social activities. The secretary shall, upon request, keep a record of all meetings and shall make a report to the City Council of all meetings and activities of the Rescue Squad. The council may, for services rendered, compensate or reward any member of the Rescue Squad in an amount set by resolution. All members of the Rescue Squad shall be subject to such rules and regulations and shall perform such duties as may be prescribed or required of them by the rescue squad chief or the council.

B. The members of the Rescue Squad shall be considered to be employees of the City for the purpose of providing them with workmen's compensation and other benefits. Each member shall be entitled to a term life insurance policy in the amount of at least \$10,000.00 for death from any cause to age 65 and such policy shall, at the option of the individual squad member, be convertible to a permanent form of life insurance at age 65, provided that the squad member covered is actively and faithfully performing the duties of their position.

SECTION 8-203: OFFICES CREATED

There are hereby created the offices of rescue squad chief, assistant rescue squad chief, secretary, training officer, supply clerk and maintenance officer. Said officers

shall be elected by the active members of said Rescue Squad and approved by the mayor and City Council. They shall hold their offices until their successors are elected and approved by the mayor and council. Such officers may be removed from office by the mayor and council for misconduct, inefficiency or dereliction of duty. When any vacancy occurs by removal or otherwise, the Rescue Squad members shall immediately elect a successor subject to the approval of the City Council. In the event of the failure of said Rescue Squad to elect a squad chief, assistant squad chief, secretary, training officer, supply clerk and maintenance officer or in case of a vacancy in any of said offices for a period of ten days after such vacancy occurs, the City Council shall fill such vacancy by the appointment of a member of the Rescue Squad to said office.

SECTION 8-204: CHIEF; POWERS AND DUTIES

The Rescue Squad chief shall:

A. Have full control of the actions of Rescue Squad members during the time said department is offering emergency services or during the period of training.

B. Have full charge and control of all of the equipment of said Rescue Squad and any movement thereof.

C. Call for law enforcement assistance when there is an immediate threat to the performance of services by the Rescue Squad.

D. Preserve and maintain order at all times during the performance of emergency services by all members of the Rescue Squad.

E. See that all rescue equipment is in proper working order and report to the public works director or city manager whenever any repairs or new equipment are required.

F. Keep or cause to be kept a record of all calls for emergency assistance and shall give the reports of each incident to the city clerk for further processing. The patient care reports shall be entered into the State of Nebraska electronic reporting system within 72 hours to the best of their ability to avoid reprimand from the State of Nebraska overseeing said current system. The record of any emergency event shall be held in confidence according to HIPAA rules and regulations.

G. Perform such other duties as are imposed upon him or her by law.

SECTION 8-205: DUTY OF RESCUE SQUAD

It shall be the duty of the Rescue Squad members to use all proper means for offering assistance to preserve life, the well-being and safe transportation of any person who is involved in an emergency within the approved scope of practice for level of providers put forth by State of Nebraska and approved by current physician medical director.

SECTION 8-206: EQUIPMENT

It shall be unlawful for any person to vandalize, destroy or in any other way to interfere with the use and storage of any of the Rescue Squad equipment belonging to the city. This regulation includes squad members' personal vehicles/equipment when said personnel are actively on a call or standby for the Rescue Squad.

SECTION 8-207: INTERFERENCE

It shall be unlawful for any person to hinder or obstruct the Rescue Squad chief or members in the performance of their duties. This includes all traffic to and from the scene of the emergency, transportation to a health facility and hindering the exit of any emergency vehicles from the parking garage and/or training center.

SECTION 8-208: ASSAULT ON EMERGENCY RESPONDER

A. It shall be unlawful for any person to assault an emergency responder, certain employees, or a health care professional. A person commits the offense of assault if:

1. He or she intentionally, knowingly, or recklessly causes bodily injury to an emergency responder, an out-of-hospital emergency care provider or a health care professional.
2. The offense is committed while such emergency responder, out-of-hospital emergency care provider or health care provider is in the performance of his or her official duties.

B. The assault on an emergency responder, out-of-hospital emergency care provider or health care provider in the third degree shall be a Class IIIA felony.
(Neb. Rev. Stat. §28-931)

SECTION 8-209: FALSE ALARM

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

Article 3 – Fires

SECTION 8-301: 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 8-302: 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 8-303: 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 8-304: 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 8-305: 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 8-306: 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 8-307: 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 commits 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 has no legal right or obligation to protect or control, not to assist in extinguishing a fire.

(Neb. Rev. Stat. §28-908)

SECTION 8-308: 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. 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. Such investigation shall be in compliance with the rules and regulations of the state fire marshal. The officer making the investigation of fires occurring within the city shall immediately notify the state fire marshal and shall, within one week of the occurrence of the fire, furnish him or her with a written statement of all the facts relating to the cause and origin of the fire and such further information as he or she may call for. (Neb. Rev. Stat. §81-506)

SECTION 8-309: DISTANT FIRES

Upon the permission of the mayor or fire chief or pursuant to any agreement with a rural fire district for mutual aid and protection, such fire equipment of the city as may be designated by the City Council as rural equipment may be used beyond the corporate limits to extinguish a reported fire. The firemen of the city 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 city when directed to do so by the mayor, fire chief, or some person authorized to act for such chief and in so doing, may use such fire equipment of the city as may be designated by the City Council.

Article 4 – Fire Prevention

SECTION 8-401: FIRE CODE

All of the provisions of the most recent edition of the Fire Code, as published by the National Fire Protection Association and recommended by the American Insurance Association, are hereby adopted by reference as part of this chapter. If requested, the city clerk shall provide a source for obtaining a copy of the said code. In the event that any of the provisions of said code 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)

SECTION 8-402: 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, most recent edition and all subsequent amendments. This code shall have the same force and effect as if set out verbatim herein. If requested, the city clerk shall provide a source for obtaining a copy of the said code. (Neb. Rev. Stat. §§18-132, 19-902, 81-502)

SECTION 8-403: CODE ENFORCEMENT

It shall be the duty of all city 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 8-404: 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 City Council for inclusion in the general funds allocated to the Fire Department. Such funds shall not reduce the

tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (B) of this section in the course of such state's or political subdivision's official duties.

(Neb. Rev. Stat. §81-520.01)

SECTION 8-405: OUTDOOR FIRE PITS AND FIREPLACES

It shall be unlawful for any person to set a fire of any kind, either contained fires, such as garbage and other refuse in barrels, or open burning of any kind, except that this section shall not apply to outdoor fireplaces as described herein.

A. For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. Chiminea: A commercially designed outdoor patio fireplace, usually made from clay, intended to confine and control outdoor wood fires.
2. Fire pit: Usually constructed of steel, concrete and or stones and constructed above ground, with a heavy steel screen cover.
3. Outdoor fireplace: Includes fire pit, portable fire pit, and chiminea. These devices shall use wood as fuel and are used for a contained recreational fire 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. Outdoor fireplaces also do not include burn barrels for garbage or refuse or any open, uncontained or uncontrolled fire.
4. Portable fire pit: Commercially designed and intended to confine and control outdoor wood fires.

B. All outdoor fireplaces shall meet the following requirements:

1. Outdoor fireplaces shall be constructed of concrete or approved noncombustible materials. The fire fuel area and opening shall be completely enclosed by steel screening or an approved noncombustible screening material with openings in screening not to exceed one-half inch square. These requirements also shall apply to vent stacks, chimneys and openings to fire pits.
2. The fire pit fuel area shall not exceed 3 feet in diameter nor 2 feet in height.
3. Burn materials shall be untreated wood only. Rubbish, grass, leaves, cardboard, tires, plastics, railroad ties, treated lumber and household garbage shall not be burned.

4. The amount of material being burned shall be limited to ensure containment of the fire within the device and shall follow the manufacturer's recommendation on fuel amounts.
5. Devices shall be continuously attended by a responsible person until the fire is completely extinguished and will not rekindle. Outdoor fireplaces shall not be operated when winds exceed 10 miles per hour or if embers and smoke might travel to other combustible materials.
6. Smoke from any outdoor fireplaces shall not create a nuisance for adjacent property owners. The fire chief and assistant chiefs will be authorized to require any fire to be extinguished immediately if he or she determines the outdoor fireplace is creating an unsafe condition due to weather, amount of fuel being burned, improper use of outdoor fireplace device, or for any other reason.
7. An open burn permit is not required for these devices, provided that the fire is completely contained within the device and covered by a screen or similar device which meets the requirement identified above at all times.
8. Outdoor fireplaces shall be placed no closer than 15 feet from a structure or combustible material.

(Neb. Rev. Stat. §§17-549, 17-556, 81-520.01) (Ord. No. 1180, 10/11/18)

SECTION 8-406: INSPECTIONS; VIOLATION NOTICE

A. 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 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 city 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 city ordinances to correct such condition within five days from the receipt of such notice.

(Neb. Rev. Stat. §81-512)

SECTION 8-407: 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.

SECTION 8-408: STOVES, FURNACES, AND CHIMNEYS

All stoves and other heating devices shall be installed at a proper distance from combustible materials and portions of the building. If any combustible materials or portions of the building are dangerously close to such heating devices, they shall be protected by noncombustible material. This section shall apply both to existing structures and those which may hereafter be erected. (Neb. Rev. Stat. §17-549)

Article 5 – Hazardous Materials

SECTION 8-501: EXPLOSIVES; STORAGE; REGISTRATION

A. Any person, firm, or corporation storing or keeping dynamite, gunpowder, nitroglycerine, or other high explosives within the city for any period of time shall register such information with the city clerk 24 hours prior to being brought into the city. The clerk shall forward such information to the fire chief and to the City Council. Transfer of explosives to another individual within the city 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)

SECTION 8-502: BULLETS

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

SECTION 8-503: 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)

SECTION 8-504: POISONOUS OR FLAMMABLE GASES; PERMIT

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 a permit from the City Council, which shall require the name of the gas, the place of storage, and the amount of gas stored. If permission is granted, the council shall prescribe such rules, regulations, and precautionary actions as it may deem necessary. (Neb. Rev. Stat. §17-549)

**SECTION 8-505: LIQUEFIED PETROLEUM GAS CODE; ADOPTED BY
REFERENCE**

The Liquefied Petroleum Gas Code, most recent edition, published by the National Fire Protection Association, is hereby incorporated by reference, in addition to all amendments, as though printed in full herein insofar as said code does not conflict with state statutes. If requested, the city clerk shall provide a source for obtaining a copy of the said code. The provisions of the said code shall be controlling throughout the city and throughout its zoning jurisdiction. (Neb. Rev. Stat. §§17-1001, 18-132, 19-902, 19-922)

Article 6 – Fireworks

SECTION 8-601: 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, 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 8-602: DEFINITIONS

A. “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.

B. “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.

(Neb. Rev. Stat. §28-1241) (Ord. No. 1116, 7/10/08)

SECTION 8-603: SALE; LICENSE; FEES

A. It shall be unlawful for any person to sell, hold for sale, or offer for sale any fireworks as a retailer unless such person has first obtained a license as a retailer. Application for each such license shall be made to the state fire marshal. Each application shall be accompanied by the required fee, which for a retailer's license shall be as set by resolution by the City Council and kept on file in the office of the city clerk. Each application for a retailer's license shall be received by the fire marshal at least ten business days prior to the sales period, as set forth in Neb. Rev. Stat. §28-1249, in which the retailer wishes to sell consumer fireworks. A retailer's license shall be good only for the specific sales period listed on the application and within the calendar year in which issued. The retailer's license shall at all times be displayed at the place of business of the holder thereof.

B. Consumer fireworks may be sold at retail only between June 25 at 12:01 a.m. and July 4 at 11:59 p.m. and between December 29 at 12:01 a.m. and December 31 at 11:59 p.m.

C. Consumer fireworks may be discharged only between 8:00 a.m. and 10:00 p.m. June 25 through July 3; between 8:00 a.m. and 11:59 p.m. July 4; and between 4:30 p.m. December 31 and 12:30 a.m. January 1.

D. No person under the age of 16 years shall sell or discharge any fireworks without the direct supervision of an adult.

E. No person or other legal entity shall sell or discharge any fireworks on any public street or other public property without providing for the cleanup and removal of any and all resulting debris immediately following such sale or discharge.

F. This article shall not apply to any commercial firm or other legal entity which has obtained a permit for a fireworks display from the state fire marshal, so long as such discharge and/or display is conducted in accordance with such permit.

(Neb. Rev. Stat. §§17-556, 28-1246, 28-1249) (Am. Ord. Nos. 1116, 7/10/08; 1131, 11/19/10)

SECTION 8-604: 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 8-602.

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) (Ord. No. 1116, 7/10/08)

SECTION 8-605: 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 7 – Penal Provision

SECTION 8-701: 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.