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## **CHAPTER 8 – FIRE REGULATIONS**

### **Article 1 – Fire Department**

#### **SECTION 8-101: AGREEMENT WITH RURAL FIRE DISTRICT**

A. The Village has entered into an agreement with the Valparaiso Rural Fire District for fire protection within the Village. The rules and regulations of the Rural Fire District shall be incorporated by reference as the rules and regulations of the Village for the purposes of fire protection.

B. All references to “Fire Department” or “fire chief” in this chapter shall mean the Rural Fire District and its fire chief.  
(Neb. Rev. Stat. §35-501)



## 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: 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 8-204: 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 8-205: 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 8-206: 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 or her 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 8-207: 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. 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 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 he or she may call for. (Neb. Rev. Stat. §81-506)

## **Article 3 – Fire Prevention**

### **SECTION 8-301: FIRE CODE; ADOPTED BY REFERENCE**

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. 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 8-302: LIFE SAFETY CODE; ADOPTED BY REFERENCE**

Incorporated by reference into this municipal code are the standards recommended by the National Fire Protection Association known as the Life Safety Code, 2018 edition and all subsequent amendments. This code shall have the same force and effect as if set out verbatim herein. (Neb. Rev. Stat. §§18-132, 19-902, 81-502)

### **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: FIRES REGULATED**

A. Any person desiring to burn any substance, except as described in subsection (B) herein, shall contain it in a fireproof trash burner or incinerator with a metal fireproof screen of not more than 1 inch mesh, located at least 15 feet from any building. The incinerator shall be built in such a way that it does not permit the escape of burning paper or other substance. The fire chief shall approve any such burner or incinerator before use. If any person shall require a fire in the course of his or her trade as a blacksmith or mechanic, such fire shall be built and maintained in the manner prescribed by the fire chief. All fires shall be built after sunrise and completely extinguished by sunset, except the aforesaid fires used in the course of a trade, which shall be allowed during such hours as the fire chief shall prescribe.

B. It shall be unlawful for any person to set fire to, burn, or cause to be burned any garbage, animal matter, or vegetable matter including straw, hay, leaves and brush.

(Neb. Rev. Stat. §§17-549, 17-556)

### **SECTION 8-305: 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. The fire chief or designee may waive an open burning ban under this section for an area under his or her jurisdiction by

issuing an open burning permit to a person requesting permission to conduct open burning. He or she may adopt standards listing the conditions acceptable for issuing a permit to conduct open burning under this section. Said permit issued by the fire chief shall be in writing, signed by the fire chief, and on a form provided by the state fire marshal. 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.

B. 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. The Village shall not be required to pay said fee if such permit is issued to conduct open burning in the course of the village's official duties.

(Neb. Rev. Stat. §81-520.01)

### **SECTION 8-306: OUTDOOR FIRE PITS AND FIREPLACES**

A. The following definitions shall apply in this section:

1. "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.
2. "Portable fire pits" are defined as being commercially designed and intended to confine and control outdoor wood fires.
3. "Chimineas" are defined as outdoor patio fireplaces, usually made from clay, intended to confine and control outdoor wood fires.
4. "Fire pits" are usually constructed of steel, concrete and/or stone in or above ground and may have a heavy steel screen cover.

B. All outdoor fireplaces shall meet the following requirements:

1. *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.
2. *Construction.* Outdoor fireplaces shall be constructed of concrete or approved noncombustible materials. Not permitted are drums, barrels, half-barrels, or similarly constructed devices.
3. *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.



4. *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.
5. *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.
6. *Amount of Materials Being Burnt.* Users must (a) 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 (b) follow the manufacturer's recommendation on the maximum amount of fuel to be used at one time with the spark guard in place.
7. *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.
8. *Provisions for Protection.* A garden hose connected to a water supply or other approved fire extinguishing equipment shall be readily available for use.
9. *Weather Conditions.* Outdoor fireplaces shall not be operated when weather conditions are extremely dry.
10. *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.
11. *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.
12. *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 8-307: 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 District 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)

## **Article 4 – Hazardous Materials**

### **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 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)

### **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 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 8-404: 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 or anhydrous ammonia 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)



## 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. “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;
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. §§17-556, 28-1241, 28-1244)

### **SECTION 8-503: 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. Any fireworks furnished for agricultural purposes pursuant to written authorization from the state fire marshal to any holder of a distributor's license; or
4. 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 8-504: RETAILERS; DEFINITIONS; LICENSE REQUIREMENTS**

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

B. No person or organization may receive more than one license during any one calendar year. Each license shall be granted for one specific location identified by an address or suitable area description on the application. Licenses shall be considered personal to the applicant and may not be assigned in any manner.

(Neb. Rev. Stat. §§17-556, 28-1246, 28-1249) (Ord. No. 2008-08,4/8/08)

### **SECTION 8-505: RETAILERS; LICENSE APPLICATION**

A. Application for a license shall be made in the office of the village clerk between January 1 and April 1 of each year on an application form prescribed and furnished by the clerk. The application form shall require of the applicant the following:

1. Name, address, and telephone number of applicant, and if applicant is a corporation, or a similar type organization, then in addition to the aforementioned information, the name, address, and telephone number of a contact person who shall be responsible for the fireworks license;
2. A plot plan showing the location of the stand, address, legal description, setback from street right-of-way, distance to the nearest building or struc-

ture, and occupancy of nearest structure or structures, said plot plan also to include the area 100 feet on either side of said area to be utilized and the nature of the structures within said area:

3. The Zoning District in which the area to be utilized by the applicant for the sale of permissible fireworks at retail is located;
4. A list of persons over the age of 19 years who will be employed by the applicant and who, at any given time, will be in charge of the place of sale of permissible fireworks;
5. Such other information as may be required for the enforcement of this Article.

B. The application shall be signed and acknowledged by the applicant, who agrees to be bound by all ordinances of the Village and to comply with all laws, regulations and rules of the State of Nebraska.

(Neb. Rev. Stat. §§17-556, 28-1246, 28-1249) (Ord. No. 2008-08,4/8/08)

### **SECTION 8-506: RETAILERS; GRANTING OF LICENSE**

A. After receipt of all applications by the village clerk on or before April 1 each year, he or she shall submit said applications to the chairman and Village Board at their next meeting for review and the granting of not more than two licenses for the sale of permissible fireworks in the Village.

B. In granting said licenses, the chairman and board shall consider whether the applicant has met all the requirements of this ordinance and may utilize the standards as set forth in Section 6.05 of the Zoning Ordinance of the Village in granting or denying said applications for a license for the sale of permissible fireworks.

C. Within 15 days from the date of the meeting of the chairman and Village Board regarding said applications, the village clerk shall notify all applicants, in writing, of the granting or denial of said applications.

D. If the application is approved, the license may be obtained at the office of the village clerk only after the following:

1. Inspection by village personnel of the fireworks stand or place of sale to determine if such stand or place of sale conforms to all village laws, standards, building codes, and land use regulations. The applicant for a license shall request the Village to make such inspection not later than June 23 of the calendar year, and such inspection shall be made by the Village within 24 hours after the request.
2. Furnishing proof to the village clerk that licensee has obtained a valid li-

cense for sale of fireworks from the State of Nebraska for the sale of permissible fireworks at retail for the fireworks site in the Village.

3. Payment to the Village of an occupation tax as set by resolution by the Village Board and kept on file in the office of the village clerk.
4. Execution of a consent form, agreeing to abide by all regulations imposed by the Village pertaining to the sale of fireworks.
5. Payment to the Village of a cash bond in an amount as set by resolution by the Village Board and kept on file in the office of the village clerk, conditioned that (a) the licensee shall abide by any and all regulations of the Village pertaining to the sale of fireworks; (b) the licensee shall clean the area in and around any stand where fireworks are sold; and (c) remove any portable stand from its temporary location, such work to be done by July 7 of each year. In the event any portable stand is not removed from its temporary location within the allotted time or the sale area is not cleaned and the debris and trash not removed therefrom, then the cash bond shall be forfeited and the proceeds used by the Village to clean the area and remove the stand.
6. Cash bonds, as provided above, shall be returned to the licensee when village personnel have certified that the conditions of the bond have been satisfied.
7. Licenses issued under the provisions of this article shall be valid only for the calendar year in which issued.

(Neb. Rev. Stat. §§17-556, 28-1246, 28-1249) (Ord. No. 2008-08,4/8/08)

### **SECTION 8-507: RETAILERS; FIREWORKS STANDS**

A. All fireworks stands, booths, or other places for sale of fireworks shall be located and set back at least 25 feet from the nearest right-of-way line of any public right-of-way and be separated from any permanent building structure by a minimum of 15 feet. Fireworks shall be sold within either (1) a temporary building structure utilizing a booth or stand allowing for walkup sales; (2) a temporary building structure which allows patrons to enter the structure; or (3) a tent; provided, however, no structure or tent used for the sale of fireworks shall exceed a maximum floor space of 1,250 square feet. In addition, structures or tents used for the sale of fireworks must have a minimum of three entryways which shall be a minimum of 3 feet across and be as remote from the other entryways as is practicable given the size and design of the structure or tent. Tents used for the sale of fireworks shall be flame retardant and a licensee using such shall keep proof at the sales location that the tent is flame retardant.

B. Stands and areas where fireworks are to be sold shall be located at least 75 feet from any gasoline service station or automotive repair shop using flammable materials. Such distances shall be measured from the closest point where fireworks are



sold or stored to the closest point where gasoline or combustible material is dispensed or stored above ground.

C. A minimum of one ten-pound Class A fire extinguisher must be kept in each fireworks stand at all times.

D. In addition to all other requirements and regulations of the Village, all sellers of fireworks shall comply with all laws regulations and rules of the State of Nebraska dealing with the sale and distribution of fireworks.

E. Every license issued under the provisions of this article shall be displayed at all times at the place of business of the licensee.  
(Neb. Rev. Stat. §§17-556, 28-1246, 28-1249) (Ord. No. 2008-08, 4/8/08)

### **SECTION 8-508: 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.