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CHAPTER VII FIRE DEPARTMENT (Chapter Am. by Ord. No. 467, 6/6/02)

ARTICLE I - ORGANIZATION

SECTION 7-101: OPERATION AND FUNDING

The Village operates the village fire department through the village fire chief and firemen. The Village Board, for the purpose of defraying the cost of the management, maintenance, and improving the fire department, shall each year levy a tax not exceeding the maximum limits prescribed by state law on the actual valuation of all real estate and personal property within the Village that is subject to taxation. The revenue from said tax shall be known as the Fire Department Fund, which shall be at all times in the possession of the village treasurer.

Source: Neb. Rev. Stat. §17-718, 18-1201

SECTION 7-102: MEMBERSHIP

The fire department shall appoint no more than 25 members for each engine and hose company in said fire department, subject to the review and approval of the Village Board. All vacancies shall be filled in this manner. Said members shall be considered to be employees of the Village 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 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, the firemen covered are actively and faithfully performing the duties of their positions. The fire department shall consist of so many members as may be decided by the members of the fire department. The members may organize themselves in any way they may decide. They may hold meetings and engage in social activities. The secretary of the fire department shall keep a record of all meetings and shall make a report to the Board of Trustees of all meetings and activities. The Board of Trustees may, for services rendered, compensate or reward any member of the fire department in any amount set by resolution. 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. The members of the fire department shall, during 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 the laws of the State of Nebraska.

(Neb. Rev. Stat. §35-101 through 35-103, 48-115) (Amended 4/11/04, Ord. No. 479; 1/9/14, No. 532)

SECTION 7-103: POWERS AND DUTIES OF CHIEF

The fire chief shall have full control of the actions of the members of the fire department during the time said department is on duty at a fire or during the

period of fire drills, and the fire chief shall have full charge and control of all of the equipment of said fire department and of the movement thereof. The chief shall have and is hereby invested with the authority of a police officer in the performance of his/her duty as such fire chief. It shall be his/her duty to preserve and maintain order at all times during a fire and he/she shall have power and authority to call to his/her aid, either for the purpose of maintaining order or for the performance of any other act in connection with the fire, any and all bystanders whom he/she may select at the time; it shall be the duty of all persons who are called upon by the fire chief for service at a fire to promptly obey all orders issued by him/her. It shall also be the duty of the fire chief to see that all fire equipment is in proper working order. He/she shall perform such other duties as are imposed upon him/her by law.

SECTION 7-104: FAILURE TO OBEY NOTICE OF FIRE CHIEF; PENALTY

Whenever the chief shall give the directions mentioned in the foregoing section to the owner or occupant of any premises, either verbally or by written notice, it shall be the duty of said owner or occupant within 24 hours to cause such removal or alteration thereof at the owner's or occupant's expense, as shall be required by said chief. If the owner or occupant refuses or neglects to cause such removal or alteration within the time specified, upon conviction he/she shall be fined not more than \$500.00 and shall pay the costs of prosecution. His/her failure to comply with such directive for each 24 hours thereafter shall constitute a separate and distinct offense.

SECTION 7-105: RECORDS

The fire department shall keep or cause to be kept a record of all meetings of the fire department, the attendance record of all members, a record of all fires, and shall make a full report of such records to the Board of Trustees at the regular meeting of the Board of Trustees in August of 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/she shall include the information of whether such losses were covered by insurance, and if so, in what amount. All records shall be available to the public at any reasonable time.

SECTION 7-106: DUTY OF FIREFIGHTERS

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

SECTION 7-107: 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 village 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 fire fighting 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 7-108: HOSE TESTING

All fire hose shall be pressure tested under the direct supervision of the fire chief at least four times each year.

SECTION 7-109: DISORDERLY SPECTATORS

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.

Source: Neb. Rev. Stat. §28-730.01

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 fire fighting effort, or any person who conducts himself/herself in a noisy or disorderly manner. The said officials shall be severally vested with the usual powers and authority of village policemen 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 Village in which property has been destroyed or damaged when the damage exceeds \$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/she deems it

expedient or necessary. 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/her with a written statement of all the facts relating to the cause and origin of the fire, and such further information as he/she may call for.

Source: Neb. Rev. Stat. §81-506

SECTION 7-112: 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.

Source: Neb. Rev. Stat. §39-682

SECTION 7-113: TRAFFIC

Every vehicle already stationary when the fire alarm shall have been sounded must remain so for a period of five minutes after the sounding of the fire alarm. No vehicle, except by the specific direction of the fire chief or assistant fire chief, shall follow, approach or park closer than 500 feet to any fire vehicle or to any fire hydrant to which a hose is connected. Nothing herein shall be construed to apply to vehicles carrying doctors, members of the fire department or emergency vehicles.

Source: Neb. Rev. Stat. §39-681

SECTION 7-114: FALSE ALARM

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

SECTION 7-115: PEDESTRIANS

It shall be unlawful for any pedestrian to enter or remain in any street after a fire alarm shall have sounded until the fire trucks shall have completely passed.

SECTION 7-116: EQUIPMENT

It shall be unlawful for any person except the fire chief and the members of the village 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 fire department apparatus belonging to the Village.

SECTION 7-117: OBSTRUCTION

Any vehicle or material within 15 feet of a fire hydrant that is an obstruction may be immediately removed by the fire chief or any member of the fire department at

the risk, cost and expense of the owner or claimant.

SECTION 7-118: IMPERSONATING FIREMEN

It shall be unlawful for any person to falsely impersonate a fireman by wearing a badge or other apparel usually worn by a fireman for the purpose of obtaining any benefit whatsoever. Nothing herein shall be construed to prohibit the theatrical representation of a fireman for bona fide entertainment purposes when there is no intent to defraud.

Source: Neb. Rev. Stat. §28-610

SECTION 7-119: MANDATORY ASSISTANCE

Any official of the village 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. In the event that a spectator refuses, neglects or fails to assist the fire department after a lawful order to do so, he/she shall be deemed guilty of a misdemeanor.

SECTION 7-120: PENALTIES

Any person violating any of the provisions of this article, upon conviction, shall be fined and shall pay the costs of prosecution. Any member of the fire department who shall fail to perform his/her duties as fireman may be expelled from the fire department by action of the fire department.

ARTICLE II - FIRE PREVENTION

SECTION 7-201: FIRE PREVENTION CODE

The rules and regulations promulgated by the office of the State Fire Marshal of the State of Nebraska 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 village clerk and shall be available for public inspection at any time that the village office is open for business.

SECTION 7-202: FIRE CODE ENFORCEMENT

It shall be the duty of all village officials to enforce the incorporated fire code provisions, and all infractions shall be immediately brought to the attention of the Village Board.

SECTION 7-203: INSPECTIONS

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, when directed to do so by the Village Board, to inspect or cause to be inspected 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.

SECTION 7-204: VIOLATION NOTICE

Upon finding that the municipal code has been violated, the fire chief shall notify or cause to be notified the owner, lessee or occupant of the premises where a violation has occurred. Notice may be made personally or by delivering a copy of the premise and affixing it to the door of the main entrance of said premise. Whenever it may be necessary to serve such an order upon the owner, such order may be served personally or by mailing a copy of the order to the owner's last known address if the said owner is absent from the jurisdiction. 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 the condition within five days of the date of receipt of such notice. The owner, occupant or manager may, within five days after such order by the fire chief or his/her agent, appeal the order with the Village Board by requesting, in writing, a review of such order. It shall be the duty of the Village Board to hear the same not less than five days nor more than ten days from the time when the request was filed in writing with the village clerk. The Village Board 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 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 7-205: POISONOUS OR FLAMMABLE GAS

Any person, firm or corporation desiring to store or keep any form of poisonous or flammable gas in the Village for any period of time must first get permission from the Board of Trustees. The Board shall require the name of the gas, the place of storage, and the amount of gas stored. It shall then be the duty of the Board of Trustees to prescribe such rules, regulations and precautionary actions as it may deem necessary.

SECTION 7-206: 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 where public gatherings take place within the corporate limits while any entertainment, program, show, amusement, game, exhibition or other spectacle to which the general public is invited is in progress, or while patrons thereof are finding or leaving seats and standing room; provided, the foregoing shall not be construed to apply to banquets, dinners or entertainments held in any of the aforesaid buildings or structures where food is served and the entertainment takes place incidental thereto or in connection therewith.

SECTION 7-207: PROHIBITED FUELS

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

SECTION 7-208: BURNING PROHIBITED

It shall be unlawful for any person to set a fire of any kind on any asphalted, oiled or concrete street now built or hereafter to be built with in the Village.

SECTION 7-209: 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 7-210: FIRES REGULATED

It shall be unlawful to build or set out certain fires, provided that the person building such fires shall have the substance to be burned in a fireproof trash burner or incinerator with a metal fireproof screen of not more than one inch mesh and located at least 20 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. If any person shall require a fire in the course of his 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 7:00 A.M. and completely extinguished by 8:00 P.M., except the aforesaid fires used in the course of a trade, which shall be allowed during such hours as the fire chief shall prescribe. It shall be unlawful for any person to set fire to, burn or cause to be burned any garbage, animal matter, or vegetable matter. The burning of straw, hay, leaves or brush in the open air shall be unlawful.

SECTION 7-211: OPEN BURNING BAN

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

ARTICLE III - EXPLOSIVE MATERIAL

SECTION 7-301: 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 7-302: 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 Village must secure a permit from the Village Board and shall discharge such explosives in conformance with such directives and precautions as may be prescribed under the direction and supervision of the fire chief.

SECTION 7-304: REGISTRATION

Any person keeping or storing dynamite, nitroglycerin, gun powder or other high explosives in any quantity shall register such information as the Board of Trustees may require with the village clerk, who shall forward such information to the fire chief.

ARTICLE IV - FIREWORKS

SECTION 7-401: REGULATION OF USE, SALE, POSSESSION OF FIREWORKS

The use, sale, offer for sale, and possession of permissible fireworks in the Village of Homer as defined by Neb. Rev. Stat. §28-1241, (Reissue 1995) 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 Neb. Rev. Stat. §28-1241 to 28-1252.

ARTICLE V - PENAL PROVISION

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, 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.