

## CHAPTER VIII

## FIRE DEPARTMENT

### ARTICLE I – FIRE DEPARTMENT

#### SECTION 8-101: CREATION, OPERATION AND FUNDING.

The City shall provide fire protection by and through the City Fire Department, the direct management and control of which shall be vested in the Fire Chief. The Fire Chief shall be appointed by the Mayor, subject to the approval of the City Council.

The Fire Department shall be composed of such volunteer firefighters approved from time to time by the City Council. Prior to responding to a fire call, all proposed new members shall be added to a list for approval, and approved by, the City Council.

The City Council, for the purpose of defraying the cost of the management, maintenance, and improvement of the Fire Department may levy a tax each year not exceeding the maximum limits prescribed by state law on the actual valuation of all real estate and personal property within the City that is subject to taxation. The revenue from the said tax shall be placed in the General Fund, which shall be in the possession of the city treasurer. Said monies so levied and collected shall be set aside in the city budget as the Fire Department budget for defraying the cost of the department. (Ref. *Neb. Rev. Stat.* §§ 16-222, 16-309 and 19-1302)

#### SECTION 8-102: OFFICERS GENERALLY; APPOINTMENT.

There is hereby created the Office of Fire Chief who shall be appointed by the mayor for his or her term, subject to the approval of the city council.

#### SECTION 8-103: FIRE CHIEF; POWERS AND DUTIES GENERALLY.

The fire chief shall have such powers and authority and shall perform such duties as are provided by this Code and by state law, together with any rules and regulations approved by the City Council. The general duties hereunder are, at the direction of the City Administrator, to command the department and control the property, implements and apparatus used by the department. The Fire Chief shall:

1. have the immediate superintendence of the volunteer firefighters.

2. maintain the Fire Department in a state of readiness to promptly respond to any emergency, manmade or natural disaster, traffic or other accident, or other calls for service or assistance.
3. ensure that the volunteer firefighters are well-informed and trained in the modern methods of fire prevention, fire suppression, fire safety education and emergency medical service.
4. ensure that the fire department provides community relations programs from time to time as are necessary or appropriate to develop or maintain positive relationships between the fire department and the community.
5. enforce the rules and regulations of the Fire Department, which have been approved by the City Council, to ensure a high level of discipline within the Department.
6. execute orders of the City Administrator.
7. act as a member of the Board of Health.
8. ensure that all fire hoses are pressure tested not less than once each year.
9. cause the repair, improvement or maintenance of the equipment and personally supervise and approve of the same.
10. report to the City Council on a quarterly basis beginning with the first regular meeting in July 2010.
11. inspect or cause to be inspected by Fire Department officers, members, or some other official, as often as may be necessary, all buildings, premises and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to create a fire hazard. The inspection shall be of the storage, sale and use of flammable liquids, combustibles and explosives; electric wiring and heating; and the means and adequacy of exits in case of fire in schools, churches, hotels, halls, theatres, factories, hospitals and all other buildings in which numbers of persons congregate from time to time for any purpose, whether publicly or privately owned; the design, construction, location, installation, and operation of equipment for storing, handling, and utilizing of liquefied petroleum gases, specifying the odorization of said gases and the degree thereof; and chemicals, prozylin plastics, nitrocellulose films, or any other hazardous mate-

rial that may now or hereafter exist. Upon finding that a municipal ordinance has been violated, notify, or cause to be notified, the owner, occupant or manager of the premises where a violation has occurred. Notice may be made personally or by delivering a copy to the premises and affixing it to the door of the main entrance of the said premises. Whenever it may be necessary to serve such an order upon the owner, such order may be served personally or by mailing a copy to the owner's last known post office address if the said owner is absent from the jurisdiction. Any such order shall be immediately complied with by the owner, occupant or manager of the premises or building. The owner, occupant or manager may, within five days after such order by the chief of the Fire Department or his/her agent, appeal the order with the City Council requesting a review, and it shall be the duty of the City Council to hear the same within not less than five days nor more than ten days from the time when the request was filed in writing with the city clerk. The City Council shall then affirm, modify or rescind the said order as safety and justice may require and the decision shall then be final, subject only to any remedy which the aggrieved person may have at law or equity. The said order shall be modified or rescinded only where it is evident that reasonable safety exists and that conditions necessitate a variance due to the probable hardship in complying literally with the order of the fire chief. A copy of any decision so made shall be sent to both the fire chief and the owner, occupant or manager making the appeal.

12. investigate or charge an assistant chief with the duty to investigate, within two days, the cause, origin and circumstances of fires arising within his/her jurisdiction.

13. on or before the first day in April and October of each year cause to be filed with the Office of the Clerk of the District Court of Cass County a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law.

14. have the power during the time of a fire and for a period of 36 hours thereafter to arrest any suspected arsonist, or any person for hindering the department's efforts, conducting himself/herself in a noisy and disorderly manner at the scene of a call, or who shall refuse to obey any lawful order by the fire chief or assistant fire chief.

15. have charge of operations at a fire and command the services of any person present at any fire in extinguishing the same or in the removal and protection of property.

16. have the right to enter into buildings at all reasonable hours and upon all premises within his/her jurisdiction for the purpose of examining the same for fire hazards and related dangers.

17. have the power to cause the removal of any property whenever it shall become necessary for the preservation of such property from fire, or to prevent the spreading of fire, or to protect adjoining property.

18. direct the removal of any building or fence for the purpose of checking the progress or fighting of any fire.

19. require teachers of public, private and parochial schools and educational institutions to have one fire drill each month and to keep all doors and exits unlocked during school hours.

20. review and approve, subject to section 1-510, all expenditures of the Fire Department.

21. keep, or cause to be kept, in books for these purposes, a record of all meetings of the Fire Department; an attendance record of all members at said meetings; a record of all fire training sessions and a list of attendees; a record of all fires together which includes the cause, origin, circumstances, property involved, notation of valuable property thought to be covered by a policy of insurance and in what amount and a list of all volunteers who responded to the call thereof; a full report of all transactions of the department; a detailed report of all complaints against members and the judgment of the chief thereupon; and such other books and records as the fire chief deems necessary and advisable to keep related to the business of the department, all of which shall be placed on file with the City Clerk on a monthly basis.

22. establish and regularly update performance based criteria for use in considering the advancement of an applicant for membership to the City Council, which such proposed member shall have satisfied prior to advancement to the City Council such applicant's name for membership. Such criteria shall be subject to City Council approval.

23. examine and investigate charges against any member of the Fire Department and request the assistance of law enforcement in the investigation.

24. create offices of the assistant chief, captain, and lieutenant as is necessary for the proper management and command of the De-

partment. (Ref. *Neb. Rev. Stat.* §16-222, 16-246, 16-309, 18-1902, 35-101, 35-102, 35-108, 79-4,123, 81-506, 81-512, 81-527)

SECTION 8-104: ASSISTANT FIRE CHIEFS.

The Fire Chief shall have the authority to appoint his or her assistant Fire Chiefs who shall at all times assist the Fire Chief in the performance of his or her duties, and shall in the absence of the Fire Chief succeed to the office of the Fire Chief.

SECTION 8-105: MEMBERSHIP.

The Fire Department shall consist of as many members as may be decided by the City Council. Proposed members shall be identified by the Fire Chief and approved by the City Council prior to gaining member status. To remain in active membership, members must actively and faithfully perform the duties of their position.

Members shall be considered employees of the City for the purpose of worker's compensation once membership is approved by the City Council.

The City shall purchase a life insurance policy (or group policy) to cover each active volunteer firefighter in the amount and with terms required by state law.

The members may hold meetings and engage in social activities with the approval of the City Council. A record of all meetings shall be kept and filed on a monthly basis with the City Clerk.

Members shall be subject to such rules and regulations and shall perform such duties as may be prescribed or required of them by this Code.

Members of the Fire Department when testifying as a witness in connection with his or her officially assigned duties in that capacity alone shall not be deemed an employee of the State of Nebraska or of the City.

Prior to membership, applicants shall have passed satisfactorily the criteria for membership established by the Fire Chief.

All members of the fire department may be required to submit to a physical examination and/or random drug testing at any time as required by the fire chief or by the city council.

All members of the fire department shall, in compliance with the rules and regulations adopted by the City Council, wear appropriate uniform by which they may be known to the public during the performance of their duties. The City shall furnish said uniforms; provided, however, that any member who shall lose or destroy the same shall be required to pay the cost of replacing it; and when any member shall leave the department, he or she shall immediately deliver all property belonging to the City, to an officer of the fire department.

SECTION 8-106: SUSPENSION AND EXPULSION OF MEMBERS.

During the pendency of any charges against any member of the department, the Fire Chief may suspend from duty any such member until such charges can be examined and investigated.

Following the examination and investigation of any such charges, any member may be removed by the City Council from membership in the Fire Department upon recommendation of the Fire Chief. If the Fire Chief does not recommend removal, upon the recommendation of the Mayor and a vote of 3/4 of the City Council as a whole, the City Council may remove a member from membership following such examination and investigation. (Ref. *Neb. Rev. Stat.* §§ 33-139.01, 35-101 through 35-103, 35-108, 48-126.01)

SECTION 8-107: SERVICE OUTSIDE CITY LIMITS RESTRICTED.

1. The Fire Department is authorized to remove equipment from the City limits to provide mutual aid to fire districts with whom the City has a mutual aid agreement.
2. The fire department may move its fire and other emergency equipment and personnel outside the limits of the city in order to render aid in the event of a disaster or civil defense emergency or in connection with any program of practice or training for such disaster or civil defense emergency when such program is conducted or participated in by the civil defense agency of this state. Such movement may be to any point in this state, or may be into any adjoining state when mutual aid arrangements have been entered into on behalf of this state and such other state as authorized by statute.
3. The fire department may move its fire and other emergency equipment and personnel outside the limits of the city for limited pe-

riods of time for the purpose of honoring fallen fire fighters from other fire districts and for the purpose of participating in parades and similar events in other cities. (Ref. *Neb. Rev. Stat.* §§ 81-829.39; 81-829.48)

#### SECTION 8-108: CONTRACTS FOR SERVICE.

1. The fire department may move its fire and other emergency equipment and personnel outside the limits of the city in accordance with contracts entered into between the city and business establishments, industries, other political subdivisions or government agencies.
2. The mayor and council are authorized to enter into contracts with business establishments, industries, other political subdivisions or government agencies for the purpose of providing fire protection and other emergency services outside the limits of the city.

#### SECTION 8-109: RULES AND REGULATIONS.

The fire chief may propose from time to time to the Mayor and City Council such rules and regulations as he or she may deem advisable and necessary for the proper control and command of all persons connected with the fire department. Upon approval of said rules and regulations by the city council, the fire chief shall have the authority and the duty to implement such rules and regulations. Each member of the fire department shall be furnished with a copy of the rules and regulations and sign an acknowledgment of the receipt thereof, and shall thereafter comply with said rules and regulations in the fire chief's governance of the fire department.

#### SECTION 8-110: APPROVED MUTUAL AID AGREEMENTS.

The City previously has, and hereby affirms, an agreement with the Plattsmouth Rural Fire District to provide fire protection thereunder with equipment provided by the Rural Fire District. The City previously has, and hereby affirms, its current mutual aid agreements. All such agreements shall be placed on file at the office of the City Clerk for inspection at any reasonable time during normal business hours. (Ref. *Neb. Rev. Stat.* §§ 16-222, 18-1706 *et seq.*)

#### SECTION 8-111: WATCHING PREMISES AFTER FIRES.

Upon the determination of the Fire Chief that public safety requires it, one or more members of the Fire Department shall have the duty, after the engines are withdrawn and the firefighters dismissed

from any fire, to have and keep charge of the premises for twenty-four (24) hours thereafter or until the probable danger of smolder fire is past and a reasonable time had for the investigation of the cause of the fire; and, during this time, the Fire Chief or his/her subordinate officer(s) shall cause strict watch to be kept and guard the premises of the fire.

**SECTION 8-112: INTERFERENCE WITH FIREFIGHTERS AND FIRE EQUIPMENT.**

Any person who shall willfully offer any hindrance to, or interfere with, any firefighter in the performance of his/her duty at a fire, or while going to a fire, or shall in any manner willfully injure any fire engine, apparatus or other equipment for putting out fires, or shall give any false fire alarm shall be deemed guilty of a misdemeanor.

**SECTION 8-113: DEPARTMENTAL EXPENDITURES.**

No obligations, except in emergencies and with regard to minor expenditures, shall be incurred on behalf of the Fire Department unless authorized pursuant to ordinance 1-510.

**SECTION 8-114: FAILURE TO RESPOND TO A CALL FOR ASSISTANCE AT FIRES.**

It shall be unlawful for any person to fail to respond to a request from a member of the Fire Department for assistance in performing his or her duties and upon conviction shall be a guilty of a misdemeanor.

**SECTION 8-115: DRIVING OVER HOSE..**

It shall be unlawful for any person, without the consent of a member of the Fire Department, to drive any vehicle over unprotected hose of the Fire Department and upon conviction shall be a guilty of a misdemeanor. (Ref. Neb. Rev. Stat. §60-6,184)

**SECTION 8-116: EQUIPMENT.**

Except pursuant to a request for assistance pursuant to section 8-114, it shall be unlawful for any person except for 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 and upon conviction shall be a guilty of a misdemeanor. (Ref. Neb. Rev. Stat. §28-519)

SECTION 8-117: INTERFERENCE.

It shall be unlawful for any person or persons to hinder or obstruct a member of the Fire Department in the performance of their duties and upon conviction shall be a guilty of a misdemeanor. (Ref. Neb. Rev. Stat. §28-908)

SECTION 8-118: FALSE ALARM.

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

SECTION 8-119: DONATIONS TRUST FUND.

The Department may maintain a trust fund pursuant to Neb. Rev. Stat. § 35-901. If the Department maintains such a fund, it shall:

1. Except as provided in subsection 3 of this section, deposit all general donations or contributions, bequests, or annuities made to the Volunteer Department and all money raised by or for the Volunteer Department in the trust fund. The trust fund shall be under the control of the Volunteer Department, and the Volunteer Department may make expenditures from the trust fund as it deems necessary. The Volunteer Department shall appoint a treasurer of the Volunteer Department who shall be the custodian of the trust fund.
2. The trust fund shall not be considered public funds or funds of the City of Plattsmouth for any purpose, including the Nebraska Budget Act, nor shall the City incur any liability solely by reason of any expenditure from such fund except liability for property when the City receives title to property acquired with money from such fund.
3. (a) If the total amount of expenditures and receipts in the trust fund exceeds one hundred thousand dollars in any twelve-month period, the Volunteer Department shall inform the City and the City may examine or cause to be examined all books, accounts, vouchers, records, and expenditures with regard to the trust fund.  
  
(b) Funds, fees, or charges solicited, collected, or received by the Volunteer Department that are (i) in consequence of the performance of fire or rescue services by the Volunteer Department at a given place and time, (ii) accomplished through the use by the Volunteer Department of equipment owned by the City and provided to

the Volunteer Department for that purpose, and (iii) paid by or on behalf of the recipient of those services shall not be deposited in a trust fund authorized by this section. Such funds are public funds of the City supporting the Volunteer Department and are deemed to have been collected by the Volunteer Department as the agent of the City and are held by the Volunteer Department on the City's behalf. If such funds are in the possession of a Volunteer Department, the City shall cause all the books, accounts, records, vouchers, expenditures, and statements regarding such funds to be examined and independently audited at the City's expense by a qualified professional auditor or the Auditor of Public Accounts for the immediately preceding five years.

4. Nothing in this section shall be construed or deemed to permit a violation of the Nebraska Liquor Control Act.

5. All expenditures of public funds as defined in the Nebraska Budget Act for support of the Volunteer Department or its purposes shall be submitted as claims, and approved by the City and published as required by law. All such claims shall be properly itemized for proposed expenditure or reimbursement for costs already incurred and paid except as may be otherwise permitted pursuant to section 35-106.

6. All money raised pursuant to the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, and the Nebraska Small Lottery and Raffle Act shall be subject to such acts with respect to the deposit and expenditure of such money.

7. The Volunteer Department shall not solicit, charge, or collect any funds, fees, or charges as described in subdivision 3(b) of this section without the express authorization of the City Council supporting the Volunteer Department by vote of a majority of the members of the City Council. Such authorization shall not extend beyond a twelve-month period but may be renewed at the City council's discretion in the same manner in which it was initially granted. Upon collection or receipt, such funds, fees, or charges shall be remitted to the designated officer of the City for deposit to the City's account. The City Council may appropriate and expend some or all of such funds for the support of a service award benefit program adopted and conducted pursuant to the Volunteer Emergency Responders Recruitment and Retention Act.

## ARTICLE II - FIRE PREVENTION

### SECTION 8-201: FIRE PREVENTION CODE

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

### SECTION 8-202: FIRE CODE ENFORCEMENT

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

### SECTION 8-203: LAWFUL ENTRY

It shall be the duty of the owner, lessee or occupant of any building or structure, except the interiors of private dwellings, to allow the fire chief to inspect or cause to be inspected as often as necessary the said structure for the purpose of ascertaining and enumerating all conditions therein that are likely to cause fire, or any other violations of the provisions of the city ordinances affecting the hazard of fire. (Ref. Neb. Rev. Stat. §81-512)

### SECTION 8-204: VIOLATION NOTICE

It shall be the duty of the owner, lessee or occupant of any building or structure that was lawfully inspected as hereinbefore prescribed, and who receives written or verbal notice of a violation of any of the provisions of the city ordinances, to correct the condition that violates the said ordinance or ordinances within five days from the date of receipt of such notice.

### SECTION 8-205: STREET FIRES PROHIBITED

It shall be unlawful for any person to set out a fire on the pavement or near any curb now built or hereafter to be built within the City.

### SECTION 8-206: FIRES PROHIBITED

All outside burning of any substance be and hereby is determined unlawful unless the same is burned in a state-approved incinerator or approved by the state fire marshal or his/her agent. This prohibition shall not apply to the burning of

wood or other substances in a home heating system or fireplace, nor shall it apply to charcoal or gas grills normally used in outdoor cooking activities.

#### SECTION 8-207: 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.
2. The fire chief of the City Fire Department or his/her designee may waive an open burning ban under subsection (1) of this section for an area under his/her jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit issued by the fire chief or his/her designee to a person desiring to conduct open burning shall be in writing, signed by the fire chief or his/her designee, and on a form provided by the state fire marshal.
3. The fire chief or his/her designee may waive the open burning ban in his/her jurisdiction when conditions are acceptable to the chief or his/her designee. Anyone burning in such jurisdiction when the open burning ban has been waived shall notify the Fire Department of his/her intention to burn.
4. The fire chief may adopt and promulgate rules and regulations listing the conditions acceptable for issuing a permit to conduct open burning under subsection (2) of this section.
5. The Fire Department may charge a fee not to exceed \$10.00 for each such permit issued. This fee shall be remitted to the City Council for inclusion in the general funds allocated to the 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 (2) of this section in the course of such state's or political subdivision's official duties. (Ref. Neb. Rev. Stat. §81-520.01)

#### SECTION 8-208: POISONOUS AND FLAMMABLE GASES

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

For any application where permission is granted, the City Council may prescribe such rules, regulations and precautionary actions as it may deem necessary. Permit requirement for the initial construction or location of storage facilities shall not apply to those facilities in existence on the effective date of this section; provided, any such present use that is discontinued for a period of 60 days shall not be revived without a permit. (Ref. Neb. Rev. Stat. §16-222)

#### SECTION 8-209: FIRE LIMITS; DEFINED

The following-described territory in the City shall be and constitute the fire limits: All lots and blocks lying between Pearl and Vine Streets east of 7<sup>th</sup> Street and containing Blocks 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, and all subdivisions thereof.

#### SECTION 8-210: FIRE LIMITS; MATERIALS

Within the aforesaid fire limits, no structure shall be built, altered, moved or enlarged unless such structure will be enclosed with walls constructed wholly of stone, well-burned brick, terra cotta, concrete or other such noncombustible materials as will satisfy the fire chief that the said structure will be reasonably fire-proof. (Ref. Neb. Rev. Stat. §16-222)

#### SECTION 8-211: FIRE LIMITS; REMOVAL OR REPAIR REQUIRED

In the event that a building within the fire limits becomes damaged by fire, wind, flood, vandalism or any other cause to the extent of less than 50% of its value, exclusive of the foundation, it shall be the duty of the owner, lessee or occupant to remove or repair the said building in accordance with the provisions of this article. Any such building shall be removed or repaired within 60 days from the date of such fire or other casualty. It shall be unlawful for any person to repair or rebuild any such damaged building or structure or for any owner thereof to fail to remove any such damaged building or structure.

It shall also be unlawful for the owner to fail to protect and guard the public from injury or damage arising out of such excavation or open basement remaining, if any. If such owner fails or neglects to remove such building or structure and to protect and guard the public from injury or damage arising out of any excavation or open basement remaining, the City may cause the removal of such building or structure and the installation of a proper device for protection against injury or damage. Such costs shall be reported to the owner, who shall be responsible for the payment thereof together with interest thereon from the date of such report, and the building and land shall be subject to sale in satisfaction of such claim.



## ARTICLE III - EXPLOSIVES

### SECTION 8-301: STORAGE

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

All explosive materials shall be stored in a proper receptacle made of concrete, metal or stone and be closed at all times except when in actual use. Such receptacles shall not be located in any room where there are flames or flammable materials. The area surrounding storage facilities shall be kept clear of rubbish, brush, dry grass or trees not less than 25 feet in all directions. Any other combustible materials shall be kept a distance of not less than 50 feet from outdoor storage facilities. (Ref. Neb. Rev. Stat. §16-227)

### SECTION 8-302: BULLETS

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

### SECTION 8-303: BLASTING PERMITS

Any person wishing to discharge high explosives within the City must secure a permit from the City Council and shall discharge such explosives in conformance with its direction and under its supervision; and 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. §28-1229)

### SECTION 8-304: TRANSPORTATION

Any person wishing to transport high explosives in the City shall first acquire a permit from the City Police Department and shall take such precautions and use such route as the department may prescribe. Nothing herein shall be construed to apply to the Police Department or any of the Armed Services of the United States. No vehicle transporting explosives shall make an unscheduled stop for longer than five minutes within the City, and in the event of mechanical failure, immediate notice of such breakdown shall be given the police chief, who shall then prescribe such precautions as may be necessary to protect the residents of the City and a reasonable time for removal of the vehicle from the City. (Ref. Neb. Rev. Stat. §16-227, 28-1235)



## ARTICLE IV – FIREWORKS

### SECTION 8-401: FIREWORKS; DEFINITIONS.

Unless the context otherwise requires:

(1) Distributor means any person engaged in the business of making sales of fireworks at wholesale in this state to any person engaged in the business of making sales of fireworks either as a jobber or as a retailer or both;

(2) Jobber means any person engaged in the business of making sales of fireworks at wholesale to any other person engaged in the business of making sales at retail;

(3) Retailer means any person engaged in the business of making sales of fireworks at retail to consumers or to persons other than distributors or jobbers;

(4) Sale includes barter, exchange, or gift or offer therefor and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee;

(5) Fireworks means 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 common or special fireworks set forth by the United States Department of Transportation in Title 49 of the Code of Federal Regulations;

(6) Common fireworks means 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., small devices designed to produce audible effects such as whistling devices, ground devices containing fifty milligrams or less of explosive composition, and aerial devices and firecrackers containing one hundred thirty milligrams or less of explosive composition. Class C explosives as classified by the United States Department of Transportation shall be considered common fireworks;

(7) Permissible fireworks means only sparklers, vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charge for the purpose of making a noise, lady fingers, not to exceed seven-eighths of an inch in length or one-eighth inch in diameter, total explosive composition

not to exceed fifty milligrams in weight, color wheels, and any other fireworks approved under section *Neb. Rev. Stat. § 28-1247*; and

(8) Display fireworks means those materials manufactured exclusively for use in public exhibitions or displays of fireworks designed to produce visible or audible effects by combustion, deflagration, or detonation. Display fireworks includes, but is not limited to, firecrackers containing more than one hundred thirty milligrams of explosive composition, aerial shells containing more than forty grams of explosive composition, and other display pieces which exceed the limits for classification as common fireworks. Class B explosives as classified by the United States Department of Transportation shall be considered display fireworks. Display fireworks shall be considered an explosive as defined in section *Neb. Rev. Stat. § 28-1213* and shall be subject to *Neb. Rev. Stat. § 28-1213* to *§ 28-1239*, except that display fireworks may be purchased, received, and discharged by the holder of an approved display permit issued pursuant to *Neb. Rev. Stat. § 28-1239.01*. (Ref. *Neb. Rev. Stat. § 28-1241*)

#### SECTION 8-402: APPLICATIONS FOR THE SALE OF FIREWORKS.

1. Vendors applying with the City for a license to sell fireworks shall secure and complete an application for fireworks license from the City Clerk's office and submit the application, together with the other items required in this Section, to the City Clerk's office. Applications will not be accepted prior to April 1<sup>st</sup> of the year for which vendor is seeking a license, and applications will not be accepted after June 1<sup>st</sup> of the year for which vendor is seeking a license. Applications must be submitted by United States Postal Service regular First Class Mail or in person at the City Clerk's office; emailed or faxed applications will be rejected without notice to the vendor.
2. In addition to the application, each vendor must:
  - a. submit a copy of their State license;
  - b. pay a non-refundable application fee set by the fee ordinance;
  - c. provide the requisite occupation tax;
  - d. provide a certificate of insurance;

- e. provide a copy of their state sales tax permit;
- f. provide a bond in an amount set by the fee ordinance
- g. provide a site plan which illustrates the facilities at which the fireworks will be sold; and
- h. if the vendor is other than the record owner of the property on which the fireworks will be sold, provide evidence satisfactory to the City that the vendor has obtained the record owner's authorization for vendor to sell fireworks on the property.

3. Before the City Council considers the application, the City Clerk shall submit the application to the Fire Chief who shall inspect the site proposed and make a recommendation regarding the potential fire hazard to the City Council, with the application. The Fire Chief shall recommend denial when the fireworks location is a moveable vehicle, a gasoline or filling station, a trailer, a premises holding a liquor or beer license, or a temporary structure for which a duly authorized and issued building permit has not been properly secured.

4. If the City Council grants the license, the City Council shall direct the City Clerk to issue the license. Such license shall authorize the sale of permissible fireworks only between June 24 and July 5 of each year.

4. The City Council may revoke a license at any time after proper notice and a hearing if one is requested. No license is transferable and separate licenses are required for each location. (Ref. Neb. Rev. Stat. §§ 28-1246; 28-1249)

5. The vendor's bond will not be returned after expiration or revocation of a license until the Fire Chief and Police Chief have inspected the property for which the license was granted and determined that the vendor complied with the terms of the license and applicable local and state law.

## ARTICLE V: EMERGENCY MEDICAL SERVICES DEPARTMENT

### SECTION 8-501: CREATION, DUTIES, OPERATION AND FUNDING.

There is hereby created the City of Plattsmouth Emergency Medical Services Department. It shall be the duty of the Emergency Medical Services Department to provide for the transportation of sick, injured, wounded or otherwise incapacitated persons needing emergency medical attention. The Emergency Medical Services Department shall perform its duties subject to the requirements of state statutes regarding an emergency medical service and shall not carry out any of its duties until such requirements are met. The direct management and control of the Emergency Medical Services Department shall be vested in the Emergency Medical Services Director. The Emergency Medical Services Director shall be appointed by the Mayor for his or her term, subject to the approval of the City Council.

The Emergency Medical Services Department shall be composed of such paid and volunteer pre-hospital emergency medical service providers approved from time to time by the City Council. Prior to responding to a medical call, all proposed new volunteer members of the department shall be added to a list for approval, and approved by, the City Council. (Ref. *Neb. Rev. Stat.* §§ 16-217, 16-253, and 16-309)

### SECTION 8-502: OFFICERS GENERALLY; APPOINTMENT.

There is hereby created the office of the Emergency Medical Services Director.

### SECTION 8-503: EMERGENCY MEDICAL SERVICES DIRECTOR; POWERS AND DUTIES GENERALLY.

The Emergency Medical Services Director shall have such powers and authority and shall perform such duties as are provided by this Code and by state law. The general duties hereunder are, at the direction of the City Administrator, to command the department and control the property, implements and apparatus used by the department. The Emergency Medical Services Director shall:

1. have the immediate superintendence of all pre-hospital emergency medical service providers.
2. develop merit based standards, subject to the approval of the

City Council, for all volunteer positions within the Department to ensure the ability to perform the essential functions of the position.

3. establish and regularly update, in cooperation with the City's Physician Medical Director, rules and regulations for qualification as a volunteer member of the Department. Each member of the Emergency Medical Services Department shall be furnished with a copy of the rules and regulations and sign an acknowledgment of the receipt thereof, and shall thereafter comply with said rules and regulations in the Emergency Medical Services Director's management of the Emergency Medical Services Department.

4. make recommendations to the City Administrator for hiring and removal of additional paid staff.

5. maintain the Emergency Medical Services Department in a state of readiness to promptly respond to any emergency, manmade or natural disaster, traffic or other accident, or other calls for service or assistance.

6. ensure that the emergency medical service providers are competent and maintain currency with their level of licensing, and that they are well-informed and trained in the modern methods of emergency medical services.

7. ensure that the Emergency Medical Services Department provides community relations programs from time to time as are necessary or appropriate to develop or maintain positive relationships between the Emergency Medical Services Department and the community.

8. execute orders of the City Administrator.

9. act as a member of the Board of Health.

10. cause the repair, improvement or maintenance of the equipment and personally supervise and approve of the same.

11. report to the City Council at the first regular meeting in January of each year.

12. on or before the first day in April and October of each year cause to be filed with the city clerk and the clerk of the District Court of Cass County a certified copy of the rolls of all members in good standing in their respective companies in order to obtain the exemptions provided by law.

13. review and approve, subject to section 1-510, all expenditures of the Emergency Medical Services Department.

14. keep, or cause to be kept, in books for these purposes, a record of all meetings of the Emergency Medical Services Department; an attendance record of all members at said meetings; a record of all training sessions and a list of attendees; a record of all calls which shall include the name of the party transported, the location of the place where the squad responded, the address and location where the party was taken, why such transportation was needed all other information the Director deems relevant and necessary for the good and protection of the Department and the City; a full report of all transactions of the department; a detailed report of all complaints against members and the judgment of the Emergency Medical Services Director thereupon; and such other books and records as the Emergency Medical Services Director deems necessary and advisable to keep related to the business of the department, all of which shall be placed on file with the City Clerk on a monthly basis. All non-medical records shall be available to the public at all reasonable times.

15. examine and investigate charges against any member of the Emergency Medical Services Department and request the assistance of law enforcement in the investigation.

16. establish a management and command structure for the Department to assure proper supervision of the Department. (Ref. *Neb. Rev. Stat.* § 16-246 and 16-309)

#### SECTION 8-504: MEMBERSHIP.

The Emergency Medical Services Department shall consist of as many paid and volunteer members as may be decided by the City Council. All proposed volunteer members shall be identified by the Emergency Medical Services Director and approved by the City Council prior to gaining membership status. To qualify for such recommendation by the Director, proposed members shall have satisfied prior to advancement to the City Council the criteria for qualification as a volunteer member. To remain in active volunteer membership status, members must actively and faithfully perform the duties of their position and continue to meet the criteria for qualification as a volunteer member.

Members shall be considered employees of the City for the purpose of worker's compensation.

The City shall purchase a life insurance policy (or group policy) to cover each active volunteer emergency medical service providers in the amount and with terms required by state law.

The members may hold meetings and engage in social activities with the approval of the City Council. A record of all meetings shall be kept and filed on a monthly basis with the City Clerk.

Members shall be subject to such rules and regulations and shall perform such duties as may be prescribed or required of them by this Code.

Volunteer members of the Emergency Medical Services Department when testifying as a witness in connection with his or her officially assigned duties in that capacity alone shall not be deemed an employee of the State of Nebraska or of the City.

All members of the Emergency Medical Services Department may be required to submit to a physical examination and/or random drug testing at any time as required by the Emergency Medical Services Director or by the city council.

All members of the Emergency Medical Services Department shall, when possible, wear an appropriate uniform by which they may be known to the public during the performance of their duties. The City shall furnish said uniforms; provided, however, that any member who shall lose or destroy the same shall be required to pay the cost of replacing it; and when any member shall leave the department, he or she shall immediately deliver the all property belonging to the City, to an officer of the Emergency Medical Services Department. (Ref. *Neb. Rev. Stat.* § 35-108 and 48-115)

**SECTION 8-505: SUSPENSION AND EXPULSION OF VOLUNTEER MEMBERS.**

During the pendency of any charges against any volunteer member of the department, the Emergency Medical Services Director may suspend from duty any such volunteer member until such charges can be examined and investigated.

Following the examination and investigation of any such charges, any volunteer member may be removed by the City Council from membership in the Emergency Medical Services Department upon recommendation of the Emergency Medical Services Director. If the Emergency Medical Services Director does not recommend

removal, upon the recommendation of the Mayor and a vote of 3/4 of the City Council as a whole, the City Council may remove any such volunteer member from membership following such examination and investigation.

SECTION 8-506: DISCIPLINE AND DISCHARGE OF PAID STAFF.

All paid staff are subject to the City's Employee Handbook.

SECTION 8-507: SERVICE OUTSIDE CITY LIMITS RESTRICTED.

1. The Emergency Medical Services Department is authorized to remove equipment from the City limits to provide mutual aid to fire and medical districts with whom the City has a mutual aid agreement.

2. The Emergency Medical Services Department may move its emergency equipment and personnel outside the limits of the city in order to render aid in the event of a disaster or civil defense emergency or in connection with any program of practice or training for such disaster or civil defense emergency when such program is conducted or participated in by the civil defense agency of this state. Such movement may be to any point in this state, or may be into any adjoining state when mutual aid arrangements have been entered into on behalf of this state and such other state as authorized by statute.

3. The Emergency Medical Services Department may move its emergency equipment and personnel outside the limits of the city for limited periods of time for the purpose of honoring fallen firefighters and emergency medical service providers from other fire and medical districts and for the purpose of participating in parades and similar events in other cities. (Ref. *Neb. Rev. Stat.* §§ 81-829.39 and 81-829.48)

SECTION 8-508: CONTRACTS FOR SERVICE.

1. The Emergency Medical Services Department may move its emergency equipment and personnel outside the limits of the city in accordance with contracts entered into between the city and business establishments, industries, other political subdivisions or government agencies.

2. The mayor and council are authorized to enter into contracts with business establishments, industries, other political subdivisions

or government agencies for the purpose of providing emergency medical services outside the limits of the city.

SECTION 8-509: APPROVED MUTUAL AID AGREEMENTS.

The City previously has, and hereby affirms, an agreement with the Plattsmouth Rural Fire District to provide emergency medical services thereunder. The City previously has, and hereby affirms, its current mutual aid agreements. All such agreements shall be approved by the City Council and thereafter placed on file at the office of the City Clerk for inspection at any reasonable time during normal business hours. (Ref. *Neb. Rev. Stat. §§ 18-1706 et seq.*, 81-829.39 and 81-829.48)

SECTION 8-510: INTERFERENCE WITH PRE-HOSPITAL EMERGENCY MEDICAL SERVICE PROVIDERS AND MEDICAL EQUIPMENT.

Any person who shall willfully offer any hindrance to, or interfere with, any emergency medical services provider in the performance of his/her duty, or shall in any manner willfully injure any medical squad, apparatus or other equipment for providing medical services, or shall give any false medical alarm shall be deemed guilty of a misdemeanor.

SECTION 8-511: DEPARTMENTAL EXPENDITURES.

No obligations, except in emergencies and with regard to minor expenditures, shall be incurred on behalf of the Emergency Medical Services Department unless authorized pursuant to ordinance 1-510.

SECTION 8-512: EQUIPMENT.

It shall be unlawful for any person, except for members of the Emergency Medical Services Department, to molest, destroy, handle or in any other way to interfere with the use and storage of any of the medical squads and other apparatus belonging to the City and upon conviction shall be a guilty of a misdemeanor. (Ref. *Neb. Rev. Stat. § 28-519*)

SECTION 8-513: FALSE CALL.

It shall be unlawful for any person to intentionally and without good and reasonable cause raise any false alarm for emergency medical services and upon conviction shall be a guilty of a misdemeanor.

(Ref. *Neb. Rev. Stat.* § 28-907)

SECTION 8-514: DONATIONS TRUST FUND.

The Department may maintain a trust fund pursuant to *Neb. Rev. Stat.* § 35-901. If the Department maintains such a fund, it shall:

1. Except as provided in subsection 3 of this section, deposit all general donations or contributions, bequests, or annuities made to the Volunteer Department and all money raised by or for the Volunteer Department in the trust fund. The trust fund shall be under the control of the Volunteer Department, and the Volunteer Department may make expenditures from the trust fund as it deems necessary. The Volunteer Department shall appoint a treasurer of the Volunteer Department who shall be the custodian of the trust fund.

2. The trust fund shall not be considered public funds or funds of the City of Plattsmouth for any purpose, including the Nebraska Budget Act, nor shall the City incur any liability solely by reason of any expenditure from such fund except liability for property when the City receives title to property acquired with money from such fund.

3. (a) If the total amount of expenditures and receipts in the trust fund exceeds one hundred thousand dollars in any twelve-month period, the Volunteer Department shall inform the City and the City may examine or cause to be examined all books, accounts, vouchers, records, and expenditures with regard to the trust fund.

(b) Funds, fees, or charges solicited, collected, or received by the Volunteer Department that are (i) in consequence of the performance of fire or rescue services by the Volunteer Department at a given place and time, (ii) accomplished through the use by the Volunteer Department of equipment owned by the City and provided to the Volunteer Department for that purpose, and (iii) paid by or on behalf of the recipient of those services shall not be deposited in a trust fund authorized by this section. Such funds are public funds of the City supporting the Volunteer Department and are deemed to have been collected by the Volunteer Department as the agent of the City and are held by the Volunteer Department on the City's behalf. If such funds are in the possession of a Volunteer Department, the City shall cause all the books, accounts, records, vouchers, expenditures, and statements regarding such funds to be examined and independently audited at the City's expense by a qualified professional auditor or the Auditor of Public Accounts for the immediately preceding five years.

4. Nothing in this section shall be construed or deemed to permit a violation of the Nebraska Liquor Control Act.

5. All expenditures of public funds as defined in the Nebraska Budget Act for support of the Volunteer Department or its purposes shall be submitted as claims, and approved by the City and published as required by law. All such claims shall be properly itemized for proposed expenditure or reimbursement for costs already incurred and paid except as may be otherwise permitted pursuant to section 35-106.

6. All money raised pursuant to the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, and the Nebraska Small Lottery and Raffle Act shall be subject to such acts with respect to the deposit and expenditure of such money.

7. The Volunteer Department shall not solicit, charge, or collect any funds, fees, or charges as described in subdivision 3(b) of this section without the express authorization of the City Council supporting the Volunteer Department by vote of a majority of the members of the City Council. Such authorization shall not extend beyond a twelve-month period but may be renewed at the City council's discretion in the same manner in which it was initially granted. Upon collection or receipt, such funds, fees, or charges shall be remitted to the designated officer of the City for deposit to the City's account. The City Council may appropriate and expend some or all of such funds for the support of a service award benefit program adopted and conducted pursuant to the Volunteer Emergency Responders Recruitment and Retention Act.

## ARTICLE VI - PENAL PROVISIONS

### 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.