

Chapter 7

§7-101

FIRE REGULATIONS

§7-118

Article 1. Fire Department

§7-101 MUNICIPAL FIRE DEPARTMENT; OPERATION AND FUNDING. The Municipality operates the Municipal Fire Department through the Municipal Fire Chief and Firemen. The Governing Body, for the purpose of defraying the cost of the management, maintenance, and improving the Fire Department may 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 Municipality that is subject to taxation. The revenue from the said tax shall be known as the Fire Department Fund. The Fund shall be at all times in the possession of the Municipal Treasurer.

In addition to the above, the Fire Department is authorized to enter into agreement with the appropriate Rural Fire District for the mutual aid and protection of the residents of both the City and the Rural Fire District. The agreement so entered into shall be on file at the office of the Municipal Clerk for public inspection at any reasonable time. (Ref. 16-222, 18-1201 RS Neb.; 8-1-1, 8-1-15 Code 1964)

§7-102 MUNICIPAL FIRE DEPARTMENT; FIRE CHIEF. The Fire Chief shall manage the Fire Department and it shall, be his duty to inform the Governing Body when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the Governing Body, the Fire Chief shall cause the repair, improvement, or maintenance of the said equipment and shall personally supervise and approve of the same. It shall be the duty of the Fire Chief to come before the Governing Body at the regular meeting in January of each year to give an annual report to the Governing Body of the general condition and the proposed additions or improvements recommended by him. (Ref. 8-1-4 Code 1964)

§7-103 MUNICIPAL FIRE DEPARTMENT; EQUIPMENT, CARE OF. All apparatus and appliances for the extinguishment of fire belonging to this City shall be under the direct and immediate control of the Chief of the Fire Department and of the several fire companies to which such appliances have been delivered. No person shall, under any pretense whatsoever remove any of such appliances from the place or house where it is kept by its respective company, except the members of such company, without the order of one of the properly authorized officers of such company, the Chief of the Department or someone authorized to act in his stead. It shall be the duty of the aforesaid fire companies to keep all apparatus and hose furnished by the City in a serviceable and clean condition and in such a state as to be of immediate use in case of fire. (Ref. 8-1-6 Code 1964)

§7-104 MUNICIPAL FIRE DEPARTMENT; EXPENDITURE OF FUNDS. No obligation, except in exigencies and with regard to minor expenditures, shall be incurred on behalf of the Fire Department unless authorized by the Council. (Ref. 8-1-10 Code 1964)

§7-105 MUNICIPAL FIRE DEPARTMENT; EQUIPMENT, NOT TO BE DISTURBED. No person, other than the Fire Chief and the members of the Fire Department, shall, at any time, molest, handle or interfere with any of the fire apparatus belonging to the City. (Ref. 8-1-14 Code 1964)

§7-106 MUNICIPAL FIRE DEPARTMENT; MEMBERSHIP.

The Fire Department shall consist of so many members as may be decided by the City Council. The members may organize themselves in any way they may decide, subject to the review of the City Council. The Fire Chief shall appoint no more than 25 members for each fire department company subject to the review and approval of the City Council. All vacancies shall be filled in this manner.

- (1) All members of the Fire Department shall be subject to such rules and regulations, and shall perform such duties, as may be prescribed or required of them by the Fire Chief or the City Council. The members of the Fire Department shall, during the time of a fire or great public danger, have and exercise the powers and duties of police officers and shall have full power and authority to arrest all persons guilty of any violation of the municipal code or the laws of the State of Nebraska.
- (2) Members of the Fire Department may hold meetings and engage in social activities with the approval of the City Council. The secretary shall, upon request, keep a record of all meetings and shall make a report to the City Council of all meetings and activities of the Fire Department.
- (3) Members of the Fire Department shall be considered to be employees of the city for the purpose of providing them with workers' compensation and other benefits. The City Council may compensate or reimburse any member of the Fire Department for expenses incurred in carrying out his or her duties in an amount set by resolution.
- (4) The City Council shall purchase and maintain in force a policy of group term life insurance to age 65 covering the lives of all the city's active volunteer fire and rescue personnel, except that when any such person serves more than one municipality or rural or suburban fire protection district, the policy shall be purchased only by the first municipality or district which he or she serves. The policy shall provide a minimum death benefit of \$10,000 for death from any cause and shall, at the option of the insured, be convertible to a permanent form of life insurance at age 65. The coverage of such policy shall terminate as to any individual who ceases to be an active volunteer member of the fire department of the city. (Neb. RS 35-108)
- (5) For purposes of Neb. RS 33-139.01, volunteer firefighters and rescue squad members testifying as witnesses in that capacity alone shall not be deemed employees of the city. (Neb. RS 33-139.01, Neb. RS 18-2538, Ref 33-139.01, 35-101 thru 35-103, 35-108 R.S. Neb.: 8-1-3 code 1964, Amended by Ord No, 15-85, 10-1-1985, Amended by Ord. 18-04, 8-3-2004)

§7-107 MUNICIPAL FIRE DEPARTMENT; FIRES. It shall be the duty of the Fire Department to use all proper means for the extinguishment of fires; to protect property within the

Municipality; and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

§7-108 MUNICIPAL FIRE DEPARTMENT, DISTANT FIRES. Upon the permission of the Mayor or Fire Chief, such fire equipment of the Municipality as may be designated by the Governing Body as rural equipment may be used beyond the corporate limits to extinguish reported fires. (Ref. 8-1-11 Code 1964)

§7-109 MUNICIPAL FIRE DEPARTMENT; FIGHTING DISTANT FIRES. The firefighters of the Municipality shall be considered as acting in the performance and within the scope of their duties in fighting fire or saving property or life outside the corporate limits of the Municipality when directed to do so by the Mayor or Chief of the Fire Department or some person authorized to act for such Chief and in so doing, may take such fire equipment of the Municipality as may be designated by the Governing Body. (Ref. 8-1-11 Code 1964)

§7-110 MUNICIPAL FIRE DEPARTMENT; PRESERVATION OF PROPERTY. Any official of the Municipal 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 Municipal firefighters to remove any building, structure, 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.

§7-111 MUNICIPAL FIRE DEPARTMENT; DRILLS. The Municipal Fire Department shall hold departmental fire drills at least six (6) times per year at such times as the members of the Fire Department shall decide. (Ref 8-1-16 Code 1964)

§7-112 MUNICIPAL FIRE DEPARTMENT; RIGHT-OF-WAY DURING FIRES AND DRILLS. The Municipal Fire Department shall have the right-of-way upon any street, alley, or highway when going to or returning from fires or drills had under the direction of, or by order of, the Fire Department. When fires occur, the Fire Chief, Chief of Police or any officer specially deputized shall have the power to close any street or highway or public place adjacent to such fire. (Ref. 8-1-16 Code 1964)

§7-113 MUNICIPAL FIRE DEPARTMENT; INSPECTIONS. It shall be the duty of the Fire Chief, when directed to do so by the Governing Body, to 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, 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. (Ref. 81-512 RS Neb.; 8-1-8 Code 1964)

§7-114 MUNICIPAL FIRE DEPARTMENT; NOTICE OF VIOLATION. Upon the finding that the Municipal Code has been violated, the Fire Chief shall notify, or cause to be notified, the owner, occupant, or manager of the premise where a violation has occurred. Notice may be made personally or by delivering a copy to the premise and affixing it to the door of the main entrance of the 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 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 premise or building. The owner, occupant, or manager may, within five (5) days after such order by the Chief of the Fire Department or his agent, appeal the order with the Governing Body requesting a review and it shall be the duty of the Governing Body to hear the same within not less than five (5) days nor more than ten (10) days from the time when the request was filed in writing with the Municipal Clerk. The Governing Body 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. (Ref. 8-1-8 Code 1964)

§7-115 MUNICIPAL FIRE DEPARTMENT; IMPERSONATING FIREMEN. It shall be unlawful for any person to falsely personate a fireman by wearing a badge or other apparel usually worn by a fireman for the purpose of obtaining any benefit whatsoever. Nothing herein shall be construed to prohibit the theatrical representation of a fireman for bona fide entertainment purposes when there is no intent to defraud. (Ref. 28-609 RS Neb.)

§7-116 MUNICIPAL FIRE DEPARTMENT; MANDATORY ASSISTANCE. Any official of the Municipal 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 shall be deemed guilty of a misdemeanor. (Ref. 8-1-5 Code 1964)

§7-117 MUNICIPAL FIRE DEPARTMENT; POWER OF ARREST. The Municipal Fire Chief or the assistant Fire Chief shall have the power during the time of a fire and for a period of thirty-six (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 in a noisy or disorderly manner. The said officials shall be severally vested with the usual powers and authority of Municipal Policemen to command all persons to assist them in the performance of their duties. (Ref. 8-1-7 Code 1964)

§7-118 MUNICIPAL FIRE DEPARTMENT; 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 Municipality in which property has been destroyed or damaged in excess of fifty (\$50.00) dollars. 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 (2) days of the occurrence of such fire and the State Fire Marshal shall have the right to supervise and direct the investigation whenever he deems it expedient or necessary. The officer making the investigation of fires occurring within the Municipality shall immediately notify the State Fire Marshal and shall, within one (1) week of the occurrence of the fire, furnish him with a written statement of all the facts relating to the cause and origin of the fire, and such further information as he may call for. (Ref. 81-506 RS Neb.; 8-1-9 Code 1964)

§7-201

Fire Regulations

§7-209

Article 2. Fires

§7-201 FIRES; PRESERVATION OF PROPERTY. The Fire Chief, or any officer in charge of the Fire Department, shall have the authority and power to cause the removal of property whenever it shall become necessary for the preservation of more valuable property, the protection of human life, or to prevent the spreading of fire to adjoining property. The Fire Chief may direct the Municipal Firemen to remove any building, structure, or fence for the purpose of checking the progress of any fire. The Fire Chief shall have the authority to blow up, or cause to be blown up, with explosives any building or structure during the progress of a fire for the purpose of checking the progress of the same. (Ref. 16-222, 16-246 RS Neb.)

§7-202 FIRES; DISORDERLY SPECTATOR. It shall be unlawful for any person during the time of a fire and for a period of thirty-six (36) hours after its extinguishment to hinder, resist or refuse to obey the Municipal 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. (Ref. 28-908 RS Neb.)

§7-203 FIRES; EQUIPMENT. It shall be unlawful for any person except the Fire Chief and the members of the Municipal 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 Municipality. (Ref. 28-519 RS Neb.; 8-1-4 Code 1964)

§7-204 FIRES; INTERFERENCE. It shall be unlawful for any person or persons to hinder or obstruct the Municipal Fire Chief or the members of the Fire Department in the performance of their duty. (Ref. 28-908 RS Neb.)

§7-205 FIRES; OBSTRUCTION. It shall be unlawful for any person to obstruct the use of a fire hydrant, or have or place any material within fifteen (15') feet of the said hydrant. Any

vehicle or material found as 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. (Ref. 39-672 RS Neb.)

§7-206 FIRES; ASSISTANCE. It shall be unlawful for any person to refuse, after the command of the Fire Chief or Assistant Fire Chief, to aid in extinguishing a fire or to assist in the removal and protection of property. (Ref. 28-908 RS Neb.)

§7-207 FIRES; 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. (Ref. 39-682 RS Neb.; 8-1-12 Code 1964)

§7-208 FIRES; TRAFFIC. Every vehicle already stationary when the fire alarm shall have been sounded must remain so for a period of five (5) 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 five hundred (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. (Ref. 39-681 RS Neb.; 8-1-13 Code 1964)

§7-209 FIRES; FALSE ALARM. It shall be unlawful for any person to intentionally and without good and reasonable cause raise any false alarm of fire. (Ref. 28-907, 35-520 RS Neb.)

§7-301

Fire Regulations

§7-311

Article 3. Fire Prevention

§7-301 FIRE CODE; ADOPTED BY REFERENCE. To provide for certain minimum standards, provisions and requirements for the safeguarding to a reasonable degree of life and property from the hazards of fire and explosion arising from storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises, the Uniform Fire Code, 1988 Edition, except Article 4, permits, published by the international Conference of Building Officials and the Western Fire Chiefs Association and printed in book or pamphlet form as hereby adopted, together with errata thereto and is hereby incorporated by reference in the City Ordinances and all amendments thereto as may be made from time to time as though printed in full herein, insofar as said code does not conflict with the statutes of the State of Nebraska and the City Ordinances. One (1) copy of the Uniform Fire Code shall be on file in the office of the Municipal Clerk and is available for public inspection at any reasonable time. One (1) copy of any amendments to said Fire Code shall also be filed with the Municipal Clerk. The provisions of said Fire Code shall be controlling throughout the Municipality and its zoning jurisdiction. Whenever any of the provisions of said Fire Code come into conflict with any of the provisions of this Article, the provisions contained therein shall control. (Ref. 18-132, 19-902, 19-922, 81-502 RS Neb.) (Amended by Ord. Nos. 18-81, 5/5/81; 16-89, 6/6/89)

§7-302 FIRE PREVENTION; FIRE CODE ENFORCEMENT. It shall be the duty of all Municipal officials to enforce the incorporated fire code provisions and all infractions shall be immediately brought to the attention of the Fire Chief.

§7-303 FIRE PREVENTION; 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 Municipal ordinances affecting the hazard of fire. (Ref. 81-512 RS Neb.)

§7-304 FIRE PREVENTION; 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 Municipal ordinances to correct the condition that violates the said ordinance or ordinances within five (5) days from the date of receipt of such notice.

§7-305 FIRE PREVENTION, FIRE LIMITS DEFINED. The following described territory in the Municipality shall be and constitute the fire limits:

Blocks 4, 5, 6, 7, 8, 9, 10, 11, 20, 21, and 22 all in the Original Town of Seward, Nebraska. (Ref. 16-222 RS Neb.; 8-2-1 Code 1964)

§7-306 FIRE PREVENTION; 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 fireproof. (Ref. 16-222 RS Neb.; 6-5-2 Code 1964)

§7-307 FIRE PREVENTION; FIRE 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 Municipality. (Ref. 17-556 RS Neb.)

§7-308 FIRE PREVENTION: FIRES REGULATED. It shall be unlawful for any person to cause or allow the burning of garbage or refuse within the City limits unless such burning takes place in a multiple chambered incinerator located within a building or accessory thereto situated on the premises and vented into a masonry or metal flue; provided, that the emissions from such multiple chambered incinerator do not cause a nuisance. Open burning shall not be a violation of this Section when it can be shown that such open burning is the only feasible method of disposal and that disposal by open burning is in the public interest. Persons intending to engage in such open burning shall file a request to do so with the Fire Chief who may issue a permit subject to special conditions. The application shall include the following:

- A. The name, address and telephone number of the person submitting the application.
- B. The type of business or activity involved.

- C. A description of the proposed equipment and operating practice to be used to prevent an uncontrolled fire.
- D. The type, quantity and composition of the material to be burned.
- E. The schedule of the burning operations.
- F. The exact location where the open burning will occur.
- G. Specific reasons why open burning is the only feasible method of disposal and why open burning is in the public interest. (Ref. 4-3-25 Code 1964)

§7-309 FIRE PREVENTION; OPEN BURNING DEFINED. The term "open burning" as used in this Article, shall mean the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. (Ref. 4-3-26 Code 1964)

§7-310 FIRE PREVENTION; MULTIPLE CHAMBER INCINERATOR; DEFINED. The term "multiple chamber incinerator" as used in this Article, shall mean any incinerator used to dispose of combustible refuse by burning, consisting of three (3) or more refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned, the refractories having a Pyrometric Cone Equivalent of 31, tested according to the method described in the American Society for Testing and Materials Method C-24-56. Gas or fuel fired incinerators now in use may be used until the same become unusable. Thereafter multiple chamber incinerators, as defined herein, shall be used as permitted and provided by this Article. (Ref. 4-3-14 Code 1964)

§7-311 FIRE PREVENTION; PROHIBITED FUELS. Commencing on May 1, 1982, it shall be unlawful to burn solid fuels, to include but not limited to, wood, wood products and coal for cooking, heating or any other purpose within Blocks 4, 5, 6, 7, 8, 9, 10, 11 and 20, Seward Original Town, City of Seward, Nebraska. (Ord. No. 7-82, 4/20/82)

§7-401

Fire Regulations

§7-401

Article 4. Poisonous and Flammable Gases

§7-401 POISONOUS AND FLAMMABLE GASES. Any person, firm, or corporation desiring to store or keep in the Municipality for any period of time any form of poisonous flammable or anhydrous ammonia gas or liquefied petroleum gas in excess of five (5) gallons or add to, enlarge, or replace any facility used for the storage of such gases, must first get permission from the Governing Body. The Governing Body, shall require the name of the gas, the place of storage, and the amount of gas stored. If permission is granted, the Governing Body shall prescribe such rules, regulations, and precautionary, actions as they may deem necessary. Any such present use that is discontinued for a period of sixty (60) days shall not be revived without a permit. (Ref. 16-222 RS Neb.)

Article 5. Explosives

§7-501 EXPLOSIVES; STORAGE PERMIT REQUIRED. In addition to notifying the Municipal Fire Department pursuant to section 28-1233(3) RS Neb., any person desiring to store or keep for any period of time explosive materials defined in section 28-1213 RS Neb., shall file with the Municipal Clerk an application for an explosive material storage permit twenty-four hours prior to such storage. Application for said permit shall contain all the necessary information and documents required for the protection of the residents of the Municipality. The Municipal Clerk shall issue a permit to the applicant upon approval of the application by the Police Chief and Fire Chief and the payment of the permit fee set by resolution of the Governing Body. The transfer of explosive materials to another person within the Municipality shall require the person receiving the explosive materials to obtain a new permit. The transfer of explosive materials to a new location by the owner shall require a new permit for the new location. (Ref. 16-222, 16-227, 28-1229, 28-1233 RS Neb.) (Amended by Ord. No. 60-94, 9/20/94)

§7-502 EXPLOSIVES; BLASTING PERMIT REQUIRED. In addition to notifying the Municipal Fire Department pursuant to section 28-1233(3) RS Neb., any person desiring explosive materials as defined in section 28-1213 RS Neb., within the Municipality shall apply for and secure a permit therefor from the Municipal Clerk twenty-four (24) hours prior to such discharge. The application for said permit shall contain all necessary information and documents required for the protection of the residents of the Municipality. The Municipal Clerk shall issue a permit upon approval of the application by the Police Chief and Fire Chief and payment of the permit fee as set by resolution of the Mayor and City Council. Any person securing said permit shall discharge such explosives in conformance with the conditions specified in the permit. In no case shall any person perform blasting operations unless in compliance with all state and local laws and regulations and unless operating under the direct supervision of a person in possession of a valid user's permit issued by the Nebraska State Patrol. (Ref. 16-227, 28-1229, 28-1233 RS Neb.) (Amended by Ord. Nos. 4-90, 1/16/90; 61-94, 9/20/94)

§7-503 EXPLOSIVES; TRANSPORTATION. Any person wishing to transport high explosives in the Municipality shall first acquire a permit from the Municipal Police and shall take such precautions and use such route as he may prescribe. Nothing herein shall be construed to apply to the Municipal Police, or any of the Armed Services of the United States. No vehicle transporting explosives shall make an unscheduled stop for longer than five (5) minutes within the Municipality and in the event of mechanical failure. Immediate notice of such breakdown shall be given to the Police Chief who shall then prescribe such precautions as may be necessary to protect the residents of the Municipality and a reasonable time for removal of the vehicle from the Municipality. (Ref. 16-227, 28-1235 RS Neb.)