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## CHAPTER FIVE

### FIRE PROTECTION AND PREVENTION

#### **ARTICLE 1 - Organization and Regulation of the Fire Department**

##### **5.0101 Establishment of Fire Department**

There is hereby created and established a fire department, and if hereto created, such department is hereby continued, consisting of a chief and such other members of said fire department as may from time to time be provided for by the governing body. Members shall be appointed in the manner provided by law.

##### **5.0102 Supervision by Fire Chief**

The Fire Chief shall have control, subject to the order and direction of the City governing body, of the fire department and all fire apparatus belonging to the City. Whenever any fire apparatus needs repairing, the Fire Chief shall cause the same to be done without delay.

##### **5.0103 Volunteer Fire Department**

The fire department of the City shall be composed of volunteer firemen who shall receive no wages or salaries therefore.

##### **5.0104 Officers of Fire Department**

The officers of the volunteer fire department of the City shall consist of a Fire Chief and an assistant Fire Chief, who shall be duly elected from the membership of said department and approved by the city governing body, plus such other officers as the members thereof deem necessary.

##### **5.0105 Chief of Fire Department – Powers**

The Fire Chief shall be a competent and experienced fireman who shall have entire charge and control of the department at all fires. The Fire Chief shall further have charge, supervision and control over all property, equipment and supplies of the fire department entrusted to his care during his tenure of office.

##### **5.0106 Duties of Fire Chief**

The Fire Chief shall have the following duties:

1. To keep records. The Fire Chief shall cause to be kept, in books for that purpose, a full and complete record of the organization of the department, its membership, vacancies, appointments and dismissals, and of all notices issued by the department. The Fire Chief shall also keep a record of all transactions of the department, all fires

occurring in the City, and the cause thereof when ascertainable, and of all property placed in the Fire Chief's charge. Such records shall always be open to the inspection of any member of the city governing body.

2. To command and control. It shall be the duty of the Fire Chief to preserve order and discipline at all times in the department, and to require and force a strict compliance with the ordinances of the City relating to the department and the rules and regulations pertaining thereto. At all fires the Fire Chief shall have sole and absolute control and command over all persons connected with the fire department of the City.
3. To make reports. The Fire Chief shall report at the end of each quarter and when otherwise asked to do so to the city governing body. At the end of each calendar year, the Fire Chief shall file an annual report in with the City Auditor. The Fire Chief shall report upon the condition of the fire department, the number of fires that have occurred in the City since the last report, and during the year in the annual report, and the cause of the same, so far as can be ascertained, the number of buildings destroyed or injured, the names of the owners or occupants of the same as nearly as can be ascertained, and the amount of loss upon the buildings and other property. The Fire Chief shall also file reports on fires to the state fire marshal as required by North Dakota Century Code Section 18-01-06.
4. To make annual inventory. The Fire Chief shall, by the end of June in each year, make a complete list of all fire department property, stating its condition. The Fire Chief shall also report as to such new apparatus or supplies as in the Fire Chief's judgment may be needed to properly maintain the department.
5. To prepare a budget. The Fire Chief shall prepare a budget of the cost of providing for and maintaining the fire department of the City during the succeeding fiscal year.
6. To keep property in good condition. The Fire Chief shall keep property in good condition and see that all fire department equipment and facilities are kept clean and in good working condition.
7. To have charge of alarm system. The Fire Chief shall have charge of the fire alarm systems of the City.
8. To control crowds at fires. The Fire Chief may prescribe limits in the vicinity of any fire within which no persons, except those admitted by the Fire Chief's order, are allowed.
9. To order removal of property. The Fire Chief may order the removal of property whenever it shall become necessary for the preservation of such property from fire, to prevent the spreading of fire, or to protect adjoining property.

10. To command assistance. The Fire Chief may command assistance from persons in attendance at any fire for the extinguishing of fires.
11. To prescribe badge and uniform. The Fire Chief may prescribe the badge and uniform to be worn by the members of the fire department.

#### **5.0107 Fire Chief to Report New Equipment Needed**

Whenever, in the Fire Chief's judgment it is necessary, the Fire Chief or other representative of the fire department shall meet with and render a report to the city governing body as to the equipment and supplies that are needed for the efficient operation of the fire department.

#### **5.0108 Law Enforcement Powers of Fire Department**

All members of the fire department of the City, while on active duty, shall have the powers of law enforcement on duty and are authorized to arrest any person or persons who shall interfere or attempt to interfere with or to hinder any member of the department in the performance of their duty.

#### **5.0109 Unlawful to Hinder Fire Department**

It shall be unlawful for any person to prevent, interfere with, or in any manner hinder the fire department, or any member thereof, while engaged in the discharge of duty at a fire, or to disobey any lawful command of the Fire Chief or acting Fire Chief.

#### **5.0110 Right of Way - Fire Department Vehicles**

Any engine, truck or apparatus belonging to the fire department shall, going to or returning from a fire, have the right of way in all streets, alleys and public places over any automobile or other vehicle of any kind whatsoever, and any person in charge of any such vehicle must stop the same when necessary to permit any engine, truck or apparatus of the fire department to pass without hindrance or delay.

#### **5.0111 Driving Over Fire Hoses**

No person shall drive any automobile or other vehicle of any kind whatsoever, upon or over any hose belonging to the fire department while the hose is laid in the streets and alleys of the City.

#### **5.0112 False Alarms of Fire**

It shall be unlawful for any person knowingly to give or cause to be given any false alarm of fire, or to give or cause to be given, while a fire is in progress, a second or general alarm for the same fire, or tamper with or set off any fire alarm or signal box with like intent; or intentionally interfere with or injure any property of any kind belonging to or used by the fire department; or hinder or delay any apparatus or equipment or vehicle belonging to the fire department.

### **5.0113 Taking Fire Equipment**

No person shall take, receive or attempt to receive or take from the possession and control of any member of the fire department, any of the apparatus, tools, or property belonging to said department, without the consent of the Fire Chief .

### **5.0114 Entering Fire Department**

No person shall occupy any rooms in any buildings used by the Fire Department or enter such rooms or handle any apparatus used by the fire department without permission.

### **5.0115 Fire Department Service Outside Corporate Limits**

Members of the fire department are authorized to go outside the corporate limits of the City for the purpose of rendering aid to other fire departments or of extinguishing fires or rendering aid in the case of accidents upon orders of the Fire Chief, the assistant chief, or presiding officer of the City governing body. Where the City has undertaken by contract to render service to property outside the corporate limits, the fire department may leave the corporate limits in the fulfillment of such contract.

## **ARTICLE 2 - Fire Limits**

### **5.0201 Fire Limits**

The fire limits of the City shall include all those parts of the City which have been zoned for commercial or industrial use or that may hereafter be so zoned.

### **5.0202 Fire Limits - Erection of Buildings Within**

No buildings or parts of any buildings shall be erected within the fire limits unless the construction meets the provisions of the North Dakota State Building Code, which is the official building code of the City. Outbuildings may be erected of any other material, not necessarily of fireproof qualities, by obtaining a permit from the City governing board upon application therefore which may be granted or refused in the City governing board's discretion.

### **5.0203 Alterations and Additions in Fire Limits**

Within the fire limits no buildings or structure of frame construction or of unprotected metal construction shall be hereafter extended on any side unless the construction of such extension conforms to all requirements of this article for new construction. All ordinary construction buildings and all frame buildings hereafter built or altered in which the lower stories or portions thereof are used for business, and the stories above for residence purposes shall have all partitions and ceilings separating the business portions from the residence portions covered with metal lath and plaster or other equivalent fireproofing material.

#### **5.0204 Inspection of Premises, Materials, Order**

The building official, or chief of fire department, or other designated official, shall as often as practical, inspect all buildings or structures during construction for which a permit has been issued to see that the provisions of law are complied with and that construction is prosecuted safely. All building materials shall be of good quality and shall conform to generally accepted standard specifications. Whenever in his opinion, by reason of defective or illegal work in violation of a provision of this article the continuance of a building operation is contrary to public welfare, he may order all further work to be stopped, and may require suspension of work until the condition in violation has been remedied.

#### **5.0205 Repairs to Damaged Buildings**

It shall be unlawful to repair any existing frame building within the fire limits after the same has been damaged by any cause to fifty percent (50%) of its value. Any existing frame building damaged by fire otherwise over fifty percent (50%) of its value shall be torn down and removed.

### **ARTICLE 3 - Fires in Public Places**

#### **5.0301 Smoking - Setting Fires**

Any person who, by smoking or attempting to light or to smoke cigarettes, cigars, pipes, or tobacco in any manner, in which lighters or matches are employed who shall in any careless, negligent or reckless manner whatsoever, whether willfully or wantonly or not, set fire to any furniture, curtains, drapes, household fittings, or furnishings whatsoever in any hotel, public rooming house, tenement house, or any public building, so as to endanger life to property in any way or to any extent shall be guilty of violating this article.

#### **5.0302 Notice - Smoking Ordinance**

A plainly printed notice shall be posted in a conspicuous place in each sleeping room of all hotels, public rooming houses, lodging houses and other places of public assemblage within the City advising tenants of the provisions of this chapter.

#### **5.0303 Bonfires Prohibited - Exception**

No person shall kindle, maintain, or assist in maintaining any bonfire or other exposed fire within the City except under the written permit of the Fire Chief under proper safeguards as the Fire Chief may direct. Permits may be granted only on condition that such permit carries an obligation on the part of the grantee to keep a sufficient safe control of said fire and to be responsible for all damages therefrom, and that all resultant embers shall be extinguished, and the hot ashes removed or wet down at the close of said fire.

The use of properly constructed outdoor fireplaces or firepits, manufactured fireplaces and firepits with spark arresting screens, or propane firepits are exempted unless specified during a burn ban.

#### **5.0304 Hot Ashes and Other Dangerous Materials - Depositing of**

Ashes, smoldering coals, or embers, greasy or oily substances, and other matter liable to spontaneous ignition shall not be deposited or allowed to remain within ten (10) feet of any combustible materials or construction made up of combustible materials, except in metal or other non-combustible receptacles. Such receptacles shall be placed on non-combustible stands, unless resting on a non-combustible floor or on the ground outside the building, and shall be kept at least two (2) feet away from any combustible wall or partition.

#### **5.0305 Open Burning Prohibited**

No person shall kindle, maintain, or burn any garbage or other refuse either openly or in containers if such burning is prohibited by state law or proclamation.

#### **5.0306 Reports of Hotel or Apartment Fires**

Every fire of any kind, and from whatever source, occurring in or about any hotel, rooming house, lodging house, or apartment building in the City shall be reported immediately to the fire department.

#### **5.0307 Burn Ban**

The Hettinger County Commission, and the governing boards of the cities, may declare a ban on open burning and the use of fireworks when emergency conditions exist. The ban is publicized in the local media, and a copy of the proclamation is kept on file in the county or city auditor's office. When a ban on open burning and the use of fireworks is in effect, any person who willfully violates the ban may be subject to a class B misdemeanor charge (Source Section 37-17.1-10.1 of the North Dakota Century Code).

### **ARTICLE 4 - Fire Prevention**

#### **5.0401 Adoption of Fire Codes**

There is hereby adopted by the City of New England for the purposes of prescribing regulations governing conditions hazardous to life and property from fire or explosions, that certain code known as the International Fire Code (IFC) and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which code a copy is on file in the office of the City Auditor and the same is hereby adopted and incorporated in full as if set out length herein.

#### **5.0402 Amendments, Additions and Deletions Made in Fire Code**



Amendments

Sec. \_\_\_\_\_ shall be amended to read as follows:

Additions

Sec. \_\_\_\_\_ is amended by adding thereto the following:

Deletions

Sec. \_\_\_\_\_ is deleted.

**5.0403 Enforcement of Fire Prevention Code**

1. The fire prevention code shall be enforced by the fire department of the City under the supervision of the Fire Chief.
2. The Fire Chief may detail such members of the fire department as inspectors as shall from time to time be necessary.

**5.0404 Storage of Flammable Liquids**

New bulk plants or tanks for storage of flammable liquids must meet zoning regulations, fire code, and approval of the governing body.

**5.0405 Storage of Liquefied Petroleum**

The limits or area for storage of liquefied petroleum shall comply with the limits established in Section 5.0404.

**5.0406 Modifications of Fire Code**

The Fire Chief shall have power to modify any of the provisions of the fire prevention code upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Fire Chief thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

**5.0407 Appeals from Decisions of Fire Chief**

Whenever the Fire Chief shall disapprove an application or refuse to grant a license or permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the fire department to the City governing body within thirty (30) days from the date of the decision of the appeal.

## **ARTICLE 5 - Adoption of Electrical Code**

### **5.0501 Electrical Code Adopted**

There is hereby adopted the laws and regulations and wiring standards of North Dakota adopted by the State Electrical Board and the whole thereof of which not less than one (1) copy shall be on file in the office of the City Auditor of the City, and the same is hereby adopted as fully as if it were set out at length herein.

## **ARTICLE 6 - Penalty for Violation of this Chapter**

### **5.0651 Penalty - Violations of Fire Protection and Prevention Chapter**

Any person who shall violate any provisions of this chapter or fail to comply therewith or who shall violate or fail to comply with any order made thereunder or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder and from which no appeal has been taken or who shall fail to comply with such an order as affirmed or modified by the governing body or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not to exceed thirty (30) days or by both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.