

## **CITY OF POWERS LAKE CHAPTER FOUR**

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## CHAPTER FOUR

### FIRE PROTECTION AND PREVENTION

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

##### 4.0101 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 chief of the fire department.

##### 4.0102 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.

##### 4.0103 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.

##### 4.0104 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.

##### 4.0105 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.

##### 4.0106 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.

#### ARTICLE 2 - Fire Limits

##### 4.0201 Fire Limits

All those parts of the City which have been zoned for commercial or industrial use or that may hereafter be so zoned.

##### 4.0202 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.

4.0203 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.

4.0204 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.

4.0205 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

4.0301 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.

4.0302 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.

4.0303 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 chief of the fire department or city council under proper safeguards as the chief or city council 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. A bonfire is defined as any fire larger than the allowed in 4.0307.

4.0304 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.

4.0305 Open Burning Prohibited

No person shall kindle, maintain or burn any garbage or other refuse either openly or in containers.

4.0306 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.

4.0307 Fire pit regulation

Fire pits/rings may be up to 36 inches maximum, with flames no more than three (3) feet high, and may not be located closer than thirty (30) feet from any structure and a fire extinguisher is readily available or a garden hose with water is available to suppress any potential fire hazard.

4.0308 Fire Danger Index

No burning will be allowed when the ND Rangeland Fire Danger Rating is in the high, very high, and extreme level and/or when a red flag warning has been issued.

4.0309 Penalty

A person violating this ordinance will first be given a warning with subsequent offences an infraction and subject to a fine not to exceed One Thousand Dollars (\$1,000).

ARTICLE 4 - Fire Prevention

4.0401 Storage of Flammable Liquids

No new bulk plants or tanks for storage of flammable liquids shall be permitted within the limits of the City except in the following established area: None

4.0402 Storage of Liquefied Petroleum

The limits or area for storage of liquefied petroleum shall comply with the limits.

ARTICLE 5 - Firearms, Fireworks and Explosives

4.0501 Firearms not to be Furnished to Minors

It shall be unlawful for any person, firm or corporation to sell or rent firearms to minors within the limits of this City.

4.0502 Exploding Firearms

It shall be unlawful for any person or persons to fire or discharge within the city limits of this City, any cannon, gun, fowling piece, pistol or other firearms of any description without the written permission of the City governing board which permit shall limit the time of such firing and be subject to revocation by the City governing board at any time after being granted. Provided, however, that nothing in this section shall be construed to apply to the firing of any gun or other firearms when done in cases of actual necessity or in the performance of lawful duty or by militia companies or veterans' organizations when on parade.

4.0503 Blank Cartridges, Pistols, Etc. - Manufacture, Use and Sale of

No person except a licensed dealer shall manufacture, use, sell or keep for sale within the City any blank cartridges, pistols, blank cartridge revolver or other blank cartridge firearms, blank cartridge caps containing dynamite or firecrackers exceeding three (3) inches in length and exceeding one-half (1/2) inch in diameter.

4.0504 \_\_\_\_\_ Fireworks Defined

"Fireworks," as used in this ordinance, means any combustible or explosive composition, or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation.

The term includes any:

- (1) Blank cartridge;
- (2) Toy pistol, toy cannon, toy cane, or toy gun in which an explosive other than toy paper cap is used;
- (3) Balloon that requires fire underneath to propel the balloon;
- (4) Firecracker, torpedo, skyrocket, Roman candle, daygo bomb, sparkler, or other item of like construction;
- (5) Item containing any explosive or flammable compound; or
- (6) Any tablet or other device containing any explosive substance.

This section does not apply to any toy paper cap containing not more than twenty-five hundredths of a grain (16.20 milligrams) of explosive composition per cap.

4.0505 Use of Fireworks

- (1) No person shall use or detonate within the city limits any fireworks or firecrackers of any kind or character at any time, except public displays of fireworks may be permitted by the City within its limits, in accordance with N.D.C.C. § 23-15-03 or except as permitted by this section.
- (2) Fireworks are permitted in the City limits of the City of Powers Lake on June 27 to July 3 of each year, between the hours of 8:00 a.m. until 11:00 p.m. and July 4 of each year between the hours of 8:00 a.m. until 1:00 a.m. on July 5<sup>th</sup>. Fireworks used, possessed, or detonated under this section must conform to the following categories:
  - (a) A star light, with wood spike cemented in one end, total pyrotechnic composition not to exceed twenty grams in weight (10 ball). **However, a person may not possess, detonate, or use a skyrocket, customarily known as a bottle rocket and roman candles.**
  - (b) A helicopter type flyer, total pyrotechnic composition not to exceed twenty grams each in weight.
  - (c) A cylindrical fountain, total pyrotechnic composition not to exceed seventy-five grams each in weight. The inside tube diameter may not exceed three-fourths inch (19.05 millimeters).

- (d) A cone fountain, total pyrotechnic composition not to exceed fifty grams each in weight.
  - (e) A wheel, total pyrotechnic composition not to exceed sixty grams in weight, for each driver unit, but there may be any number of drivers on any one wheel. The inside bore of a drive tube may not be over one-half inch (12.7 millimeters).
  - (f) An illuminating torch or a colored fire in any form, total pyrotechnic composition not to exceed one hundred (100) grams each in weight.
  - (g) A sparkler or a dipped stick, total pyrotechnic composition not to exceed one hundred (100) grams each in weight. Pyrotechnic composition containing any chlorate may not exceed five (5) grams.
  - (h) A comet or shell, of which the mortar is an integral part, except a comet or shell designed to produce an audible effect, total pyrotechnic composition not to exceed forty (40) grams in weight.
  - (i) A soft shell firecracker not to exceed one and one-half inches (38.1 millimeters) in length and one-fourth inch (6.35 millimeters) in diameter, total pyrotechnic composition not to exceed fifty (50) grams each in weight.
  - (j) A whistle without report, total pyrotechnic composition not to exceed forty (40) grams each in weight.
  - (k) A person may not possess, detonate or use a balloon that requires fire underneath to propel the balloon.
- (3) Cleanup of all debris caused by fireworks must be completed within 24 hours of detonation and is the responsibility of the person/persons detonating the firework.

4.0506 Sale of Fireworks Prohibited

Except as otherwise permitted in this ordinance, no person may offer for sale, expose for sale, sell at retail, bring into this State, or cause to be brought into this State, or use or explode any fireworks.

4.0507 Sale of Fireworks.

- (1) Any person operating a retail business and who has a retail license as provided in subsection 124-6 of this ordinance may offer for sale at retail that year any of the fireworks listed in paragraph 2 of this subsection, to any individual who is at least twelve (12) years of age, only during the periods of June 27 through July 5.
- (2) The following items may be sold by licensed retail businesses during the retail sale periods:
  - (a) A star light, with wood spike cemented in one end, total pyrotechnic composition not to exceed twenty grams in weight (10 ball). **However, a person may not offer to sell or offer to distribute a skyrocket, customarily known as a bottle rocket and roman candles.**
  - (b) A helicopter type flyer, total pyrotechnic composition not to exceed twenty grams each in weight.
  - (c) A cylindrical fountain, total pyrotechnic composition not to exceed seventy-five grams each in weight. The inside tube diameter may not exceed three-fourths inch (19.05 millimeters).
  - (d) A cone fountain, total pyrotechnic composition not to exceed fifty grams each in weight.
  - (e) A wheel, total pyrotechnic composition not to exceed sixty grams in weight, for each driver unit, but there may be any number of drivers on any one wheel. The inside bore of a drive tube may not be over one-half inch (12.7 millimeters).
  - (f) An illuminating torch or a colored fire in any form, total pyrotechnic composition not to exceed one hundred (100) grams each in weight.
  - (g) A sparkler or a dipped stick, total pyrotechnic composition not to exceed one hundred (100) grams each in weight. Pyrotechnic composition containing any chlorate may not exceed five (5) grams.
  - (h) A comet or shell, of which the mortar is an integral part, except a comet or shell designed to produce an audible effect, total pyrotechnic composition not to exceed forty (40) grams in weight.

- (i) A soft shell firecracker not to exceed one and one-half inches (38.1 millimeters) in length and one-fourth inch (6.35 millimeters) in diameter, total pyrotechnic composition not to exceed fifty (50) grams each in weight.
- (j) A whistle without report, total pyrotechnic composition not to exceed forty (40) grams each in weight.
- (k) A person may not possess, detonate or use a balloon that requires fire underneath to propel the balloon.

4.0508 Public Display of Fireworks Permitted by City or Fair Association Within Its Limits—Supervised Display Allowed – Permit Required.

- (1) This ordinance does not prohibit supervised public displays of fireworks by the City of Powers Lake, fair associations, amusement parks, or other organizations.
- (2) Except when a display is given by the City of Powers Lake within its own limits, no display may be given unless a permit for the display has first been secured.
  - (a) Every permit application must be made in writing to the City Auditor at least (45) days in advance of the date of the display.
  - (b) The City Auditor shall refer the application to the Powers Lake City Council at the next regularly scheduled meeting.
  - (c) The City Council shall make an investigation of the application to determine whether the operator of the display is competent and whether the display is of such character and is to be so located, discharged, or fired that it will not be hazardous to property or endangering any person.
    - 1. The City Council or other such officer or person as may be designated by the city council shall conduct the investigation of the application. If the investigation is made by a person other than the City Council, the investigator shall report his findings to the Council.
  - (d) The Council shall report the results of the investigation to the City Auditor.
- (3) The City Auditor shall issue a display permit only when:
  - (a) The Council's investigation reports the operator is competent and the display will conform to safety requirements, including any rules and regulations of the State Fire Marshal and
  - (b) Applicant has paid a two dollar (\$2.00) permit fee.
  - (c) Proof of event insurance is presented with application.
- (4) Permits are non-transferrable.
- (5) After a permit has been issued, sales, possession, use, and distribution for the permitted display are lawful for that purpose only.

4.0509 Exceptions.

- (1) This ordinance does not prohibit:
  - (a) A licensed wholesaler, dealer, or jobber from selling at wholesale fireworks that are not prohibited.
  - (b) The sale of any kind of fireworks for shipment directly out of State.
  - (c) The use of fireworks by transportation agencies for signal purposes or illumination.
  - (d) The sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations.
- (2) An application for license as a distributor must be made to the State Fire Marshal as provided in N.D.C.C. 23-15-04(2).
- (3) An application for a license as a retailer must be made to the County Sheriff on forms prescribed by the State Fire Marshal as provided in N.D.C.C. 23-15-04(2).



- (4) Retail and wholesale licenses are valid only for the calendar year in which they are issued and must be at all times displayed at the place of business of the licensee.
- (5) Retail licensees must comply with any other licenses required by law or Powers Lake ordinance.
- (6) A person not licensed as a wholesaler or retailer may not bring any fireworks into the City of Powers Lake for resale.
- (7) A retailer may not sell any fireworks that have not been purchased from a wholesaler licensed under State law.
- (8) Licensees must keep available for inspection by Powers Lake Police Department a copy of each invoice for fireworks purchased as long as any fireworks included on the invoice are held in the licensee's possession. Each invoice must show the license number of the wholesaler from whom the purchase was made.

#### 4.0510 Enforcement

Powers Lake Police Department are charged with enforcing these provisions and shall seize, take, remove, or cause to be removed at the owner's expense all fireworks or combustibles offered or exposed for sale, stored, held for use, or used in violation of this ordinance.

#### 4.0511 Penalty

The penalty for violation of this ordinance is an infraction punishable by a minimum fine fifty dollars (\$50.00) for the first offense and a minimum of four hundred dollars (\$400.00) for the second offense and each subsequent offense.

#### 4.0504 Fireworks Defined

As used in this article, the term "fireworks" means any substance or combination of substances or articles prepared for the purpose of producing a visible or an audible effect by explosion or detonation and includes blank cartridges, toy cannons and toy canes in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, sky rockets, roman candles, daygo bombs or other fireworks of like construction, and any fireworks containing any explosive or compound, or any tablets, or other device containing any explosive substance and commonly used as fireworks. The term "fireworks" does not include toy pistols, toy guns in which paper caps containing twenty-five hundredths grains or less of explosive compound are used, and toy pistol caps which contain less than twenty-five hundredths of a grain of explosive composition per cap. (Source: North Dakota Century Code section 23-15-01)

#### 4.0505 Fireworks - Discharging of, Sale of

The sale, use, firing or discharging of any rocket, firecracker, torpedoes, roman candles or of any such "Fourth of July" explosives whatsoever, or fireworks within the City limits is expressly prohibited at any time whatsoever, except as provided by state statute.

#### 4.0506 Exceptions to Fireworks Restriction

Nothing in this article shall be construed to prohibit the sale or use of fireworks to airplanes, railroads and other transportation agencies for signal purposes or illumination or the sale or use of blank cartridges for a show or theater or for signal or ceremonial purposes in athletics or sports or for use by military organizations.

#### ARTICLE 6 - Adoption of Electrical Code

#### 4.0601 Electrical Code Adopted

There is hereby adopted the laws and regulations and wiring standards of North Dakota adopted by the State Electrical.

#### ARTICLE 7 - Penalty for Violation of this Chapter

4.0701 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 five hundred dollars (\$1,500.00) 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 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.