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CHAPTER 4

FIRE PROTECTION AND PREVENTION

ARTICLE 1 – Organization and Regulation of the Fire Department

4.0101 Hettinger Fire Protection District

Fire protection for the City of Hettinger is provided by the Hettinger Fire Protection District, organized under the law of the State of North Dakota.

4.0102 Volunteer Department

The Hettinger Fire Protection District shall be composed of volunteer firemen who shall receive no wages or salaries therefor.

4.0103 Chief of Hettinger Fire Protection District – Powers of

The Chief of the Hettinger Fire Protection District shall be the fire chief for the City of Hettinger for all purposes and shall have all the authority granted by ordinances and state laws to a city fire chief.

4.0104 Police Powers

All members of the Hettinger Fire Protection District, while on active duty, shall have the powers of policemen 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 his duty.

4.0105 Unlawful to Hinder Hettinger Fire Protection District

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 Chief of the Hettinger Fire Protection District.

4.0106 Right of Way

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 wagon, street car, 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 Hettinger Fire Protection District to pass without hindrance or delay.

4.0107 Driving Over Fire Hoses

No person shall drive any team, wagon, cart, street car, railroad car, steam engine, automobile or other vehicle of any kind whatsoever, upon or over any hose belonging to the Hettinger Fire Protection District while the same is laid in the streets and alleys of the city.

4.0108 False Alarms

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 tamper, meddle or interfere with any such fire alarm box; or intentionally cut, break, deface or remove any such box, or any of the wires or supports thereof, connected with the fire alarm system or intentionally interfere with or injure any

property of any kind belonging to or used by the Hettinger Fire Protection District; or hinder or delay any apparatus or equipment or vehicle belonging to the Hettinger Fire Protection District.

4.0109 Taking Fire Equipment

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

4.0110 Entering Fire Department

No person shall occupy any rooms in any building which are used by the Hettinger Fire Protection District, or enter such rooms or handle any apparatus used by the Hettinger Fire Protection District without permission.

ARTICLE 2 – Fire Limits

4.0201 Fire Limits

The fire limits for the city are specified in Chapter 15 of these ordinances.

4**.0202 Fire Limits – Erection of Buildings Within**

All buildings erected within the fire limits shall be constructed in conformity with the Building Code of the City of Hettinger as established by ordinance.

4.0203 Inspection of Premises, Discovery, Order

The Chief of Hettinger Fire Protection District, 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. 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.

4.0204 Quality of Materials

All building materials shall be of good quality, and shall conform to specifications which the Building Official prescribed. The more generally accepted standard specifications for quality of materials are those of the American Society for Testing Materials.

4.0205 Repairs

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 or otherwise over fifty percent (50%) of its value shall be torn down and removed.

ARTICLE 3 – Fires in Public Places

4.0301 Smoking

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

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 of Hettinger, 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 on any pavement or oiled street within the city, or within twenty-five (25) feet of any building, excepting under the written permit of the Chief of the Fire Department, and only when such burning shall be done in metallic receptacles approved by him, and under proper safeguards as he may direct as to time and weather conditions, and no 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 result embers shall be extinguished and the hot ashes removed or wet down at the close of said fire.

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

REPLACED 4-11-2018 with Ordinance No. 2018-2

4.0306 Reports

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

ORDINANCE NO. 2018-2

AN ORDINANCE TO AMEND AND RE-ENACT ORDINANCE NO. 4.0305 OF THE OF THE CITY OF HETTINGER, NORTH DAKOTA, RELATING TO FIRES IN PUBLIC PLACES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HETTINGER, NORTH DAKOTA:

Section 1: Section 4.0305 of the City Code of the City of Hettinger is hereby amended and re-enacted as follows:

4.0305 OPEN BURNING PROHIBITED

1. No person shall kindle, maintain or burn any garbage or other refuse either openly or in containers within the city limits of the City of Hettinger. ~~if such burning is prohibited by state law or proclamation.~~ This includes paper products, inert yard waste, or an open burning fire of any nature, including campfires.

2. Notwithstanding anything to the contrary, operation of outdoor fireplaces, portable outdoor fireplaces, fire pits and chimeneas shall be permitted, so long as:

    a. Do not exceed 36 inches in diameter;
    b. Include a spark arrestor screen;
    c. A fire extinguisher or water hose is readily accessible at all times while in use;

If the smoke or odor emissions become offensive or objectionable to adjacent property owners, resulting in a complaint being made to law enforcement, the authorities may require the fire to be extinguished. A special burn permit for large outdoor gatherings, such as a pit barbeque shall be required. Permits must be approved first by the Hettinger Fire Chief or another officer of the fire department, and secondly by the Hettinger City Council.

3. Notwithstanding anything herein to the contrary, outdoor fireplaces, portable outdoor fireplaces, fire pits and chimeneas shall not be used when the North Dakota Rangeland Fire Index is within the Very High, or Extreme Category and/or a Red Flag Warning has been issued for the Adams County area or prohibited by proclamation by North Dakota State Government.

4. Any person who violates any portion of this section shall be guilty of an infraction and fined One Hundred Dollars ($100). Each and every violation shall constitute a separate offense.

Section 2: Repeal of Ordinances in Conflict. All Ordinances and part of Ordinances in conflict herewith are hereby repealed.

Section 3: Severability. In the event any section of this Ordinance is held invalid by court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Chapter shall continue in full force and effect.

Section 4: Effective Date: This Ordinance shall be in full force and effect from and after final passage.

_____
Richard Wyman, Mayor

ATTEST:

_____
Patricia Carroll, City Auditor

First Reading: 3-14-18
Second Reading: 4-11-18
Final Passage: 4-11-18

ARTICLE 4 – Fire Protection

4.0401 Adoption of Rural Fire Mitigation Action Guide

There is hereby adopted by the City of Hettinger for the purposes of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the North Dakota Rural Fire Mitigation Action Guide and the whole thereof, except such portions as are hereinafter deleted, modified or amended. One (1) copy is now filed in the office of the Hettinger City Auditor, and the same are hereby adopted and incorporated in full as if set out at length herein.

On or before April 1 of each year, a notice summarizing the provisions of this ordinance and the fire mitigation guide, and the penalty for violation of the same, shall be published as a display ad in the official newspaper for the City. (See Sample Notice at Appendix 4A)

On or before June 25 of each year, the action guide restrictions dealing with the use of fireworks and the penalty for violation of the same shall be published as a display ad in the official newspaper for the City. (See Sample Notice at Appendix 4B)

The fee for any permit or license required by the said fire prevention code, where no other license or permit fee is fixed elsewhere in the city ordinances, shall be the sum of $50.00 to be paid to the Fire Chief or the City Auditor and by him to be paid into the City Treasury without delay.

The fire prevention code shall be enforced by the fire chief who shall appoint such members of the Hettinger Fire Protection District as inspectors as shall from time to time be necessary.

4.0402 Amendments, Additions and Deletions Made in Fire Code

None

4.0403 Storage of Flammable Liquids

It shall be unlawful for any person to install an overhead fuel tank or an underground fuel tank in the residential area of the City. It is further provided that any installation of underground tanks or overhead tanks for the storage or combustible fuel shall be permitted within the City of Hettinger only upon proper application for a permit for such construction made to the City Zoning Administrator.

It shall be unlawful for a person or dealer to deliver any combustible fuel to any person within the City if the person does not have a permit as required by this section.

It is further provided that any violation of this section shall be remedied by the removal of such tanks by the owner or at the owner's expense in the event the owner refuses to remove the tanks.

Any person or dealer violating this provision shall be punished by a fine not exceeding one hundred dollars.

4.0404 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.

4.0405 Appeals

Whenever the chief of the fire department 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 the 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 governing body within 30 days from the date of the decision of the appeal.

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 Mayor of the City of Hettinger, which permit shall limit the time of such firing and be subject to revocation of the Mayor of the City of Hettinger 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. – Manufacturer, Use and Sale of

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

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" shall 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 hundredths grains of explosive mixtures.

ORDINANCE NO. _2022-1

AN ORDINANCE ENACTING AND AMENDING SECTIONS 4.0504, 4.0505, & 4.0507 OF THE CITY CODE OF THE CITY OF THE CITY OF HETTINGER, RELATING TO DISCHARGE OF FIREWORKS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HETTINGER, NORTH DAKOTA, AS FOLLOWS:

Section 1: Section 4.0504 entitled "Fireworks Defined" is hereby amended and re-enacted as follows:

4.0504

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, 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 (N.D.C.C. 23-15-01).

Section 2: Section 4.0505, entitled "Fireworks-Discharging of, Sale of" is hereby amended and re-enacted as follows:

4.0505

The sale and use of all types of fireworks, as defined by North Dakota Century Code 23-15.01, and all amendments thereto, shall be prohibited except as permitted by NDCC Chapter 23-15, and during the permitted time periods described herein. Any person who is convicted of violating or failing to comply with any provision of this ordinance may be punished by a fine of not more than $1,000.00 or by imprisonment not to exceed thirty days or both such fine and imprisonment at the discretion of the Court.

Notwithstanding anything herein to the contrary, no person shall discharge, or otherwise set off any consumer fireworks described by this Article within the City at any time other than the period of the 27th day of June through the 5th day of July and the period of December 31st through the following January 1st, subject to the following time restrictions:

1. Fireworks may only be discharged or otherwise set off from 10:00 A.M. to 10:00 P.M. for the period of June twenty-seventh through July third.
2. Fireworks may only be discharged or otherwise set off from 10:00 A.M. to midnight on July 4th, and from 10:00 A.M. to 10:00 P.M. on July 5th.
3. Fireworks may only be discharged or otherwise set off from 10:00 A.M. on December thirty-first to 1:00 A.M. on January first.
4. In the event of a county wide burn ban, the use of fireworks shall be prohibited.

Section 3: Section 4.0507, entitled Special Events-Fireworks is hereby enacted as follows:

4.0507

1. The governing body of the City may, by special permit, may grant its approval to authorize any person, organization of entity to discharge or otherwise set off fireworks at special events designated by the permit. The permit may not be valid for a period to exceed forty-eight (48) hours and may include Sundays. The permit shall be issued for only the primary place of business/residence of the permit holder.

2. An application for a special permit must be filed by a licensee in the office of the City Auditor. The application shall contain the following:
   a. Name of the licensee;
   b. Type of event for which the permit is desired;
   c. Dates and times for which the permit is desired.

Section 4: Repeal of Ordinances in Conflict. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Section 5. Severability. In the event any section of this Ordinance is held invalid by a court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Chapter shall continue in full force and effect.

Section 6: Effective Date. This Ordinance shall be in full force and effect from and after final passage.

Dated this ___21st_____day of ___December____, 2022.

_____
James Lindquist, Mayor
Hettinger City

ATTEST:

_____
Krista Faller, City Auditor

First Reading:
Second Reading: December 21, 2022
Final Passage: December 21, 2022

4.0505 Fireworks – Discharging of, Sale of

The sale and use of all types of fireworks, as defined by North Dakota Century Code 23-15-01, and all amendments thereto, shall be prohibited except as permitted by NDCC Chapter ordinance may be punished by a fine of not more than $1,000.00 or by imprisonment not to exceed thirty days or both such fine and imprisonment at the discretion of the Court.

4.0506 Exceptions

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 athletes or sports, or for use by military organizations.

ARTICLE 6 – Penalty for Violation of this Chapter

4.0601 Penalty

Every violation of the regulations and restraints adopted hereby shall constitute an infraction, punishable by a fine of up to $500.00. Further, if an individual, in violation of the regulations and restraints adopted hereby, is found to be responsible for a fire which damages property and/or threatens lives, he or she may be held liable for the losses as well as any and all firefighting costs.

APPENDIX 4A

Notice
Penalty for Violation of Fire Protection and Prevetion Ordinance

Any person who shall violate any provision of Chapter 4 of the City of Hettinger Ordinances, otherwise known as the Fire Protection and Prevention Ordinance, is guilty of an infraction, which is punishable by a fine or up to $500.00, or may be subject to criminal charges under state or federal law. Each day that prohibited conditions are maintained shall constitute a separate offense. Further, if an individual is found to be responsible for a fire which damages property and/or threatens lives, he or she may be held liable for the losses as well as any and all firefighting costs.

Violations of such ordinance include, but are not limited to the following:

- Disobeying any lawful command of the Chief or Acting Chief of the Hettinger Fire Protection District;
- Hindering fire department personnel from discharging fire-fighting duties, including failure to yield to the right of way of any fire engine, truck, or other apparatus going to or returning from a fire;
- Taking, receiving or attempting to receive or take from the possession and control of any fire-fighting personnel, anything belonging to the department or being used to fight a fire;
- Driving over fire hoses laid upon or over any street or alley of the City;
- Knowingly giving or cause to be given any false alarm of fire, tampering with fire alarm or signal box or wiring, or supports thereof;
- Failure to conform with building codes in erecting any building within the City of Hettinger;
- Carelessly, negligently, or recklessly setting fire to any furniture, curtains, drapes or other furnishings of any public building or rooming house by smoking or attempting to smoke or light a cigarette, or other tobacco product;
- Kindling, maintaining, or assisting in maintaining any bonfire or other exposed fire within the city or within 25 feet of any building without the written permit of the Chief of the Hettinger Fire Protection District;
- Depositing ashes, smoldering coals, embers, greasy or oily substances and other matter liable to spontaneous ignition within 10 feet of any combustible material;
- Kindling, maintaining or burning any garbage or other refuse;
- Installing any overhead or underground fuel tank in a residential area of the city without first obtaining a permit for such from the City Zoning Administrator.

APPENDIX 4B

FIREWORKS NOTICE

Any person operating a retail business and who has a retail license as provided in section 23-15-04 of the North Dakota Century Code may offer for sale and sell fireworks at retail, to any individual who is at least twelve years of age, only during the period of June twenty-seventh through July fifth.

The term fireworks 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 blank cartridge, toy pistol, toy cannon, toy cane, or toy gun in which an explosive other than a toy paper cap is used; balloon that requires fire underneath to propel the balloon; firecracker, torpedo, skyrocket, Roman candle, daygo bomb, sparkler, or other item of like construction; item containing any explosive or flammable compound; or 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.

The sale of fireworks is limited to the following items only:

1. A star light, with wood spike cemented in one end, total pyrotechnic composition not to exceed twenty grams each in weight (10 ball).
2. A helicopter type flyer, total pyrotechnic composition not to exceed twenty grams in weight.
3. 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].
4. A cone fountain, total pyrotechnic composition not to exceed fifty grams each in weight.
5. A wheel, total pyrotechnic composition not to exceed sixty grams in weight, for each driver unit, but there may be a number of drivers on any one wheel. The inside bore of a driver tube may not be over one-half inch [12.7 millimeters].
6. An illuminating torch or a colored fire in any form, total pyrotechnic composition not to exceed one hundred grams each in weight.
7. A sparkler or a dipped stick, total pyrotechnic composition not to exceed one hundred grams each in weight. Pyrotechnic composition containing any chlorate may not exceed five grams.
8. 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 grams each in weight.
9. 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 milligrams each in weight.
10. A whistle without report, total pyrotechnic composition not to exceed forty grams each in weight.

Any person who violates this law is guilty of a class B misdemeanor, which is punishable by a maximum penalty of 30 days imprisonment, a $1,000.00 fine, or both.