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**CHAPTER FOUR
FIRE PROTECTION AND PREVENTION**

ARTICLE 1 – Organization of Fire Department

4.0101 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 City Council. Members shall be appointed in a manner established by the membership, under the direction of the Fire Chief.

4.0102 Supervision by fire Chief

The Fire Chief shall have control, subject to the order and direction of the City Council, 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.

4.0103 Volunteer Fire Department

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

4.0104 Officers of Fire Department

The officers of the volunteer fire department shall consist of a chief and an assistant chief, who shall be duly elected from the membership of said department and approved by the City Council, plus such other officers as the members thereof deem necessary. Said officers are to be elected in a manner established by the membership.

4.0105 Chief of Fire Department – Powers of

The chief of the fire department shall be a competent and experienced fireman who shall have entire charge and control of the department at all fires. He shall further have charge, supervision and control over all property, equipment and supplies of the fire department.

4.0106 Duties of Fire Chief

The Fire Chief shall have the following duties and powers:

1. The chief shall cause to be kept a full and complete record of the organization of the department, its membership, the respective positions held by the firefighters, vacancies, appointments and dismissals, and of all notices issued by the department, and of all its transaction, of all fires occurring in the City, and the cause thereof when ascertainable, and of all property, all expenditures made order and shall keep such other books and records as required, and such books shall always be open to the inspection of the City Council.
2. It shall be the duty of the chief to preserve order and discipline at all times in the department, and to require and force a strict compliance with the ordinances relating to the fire department and the rules and regulations pertaining thereto. At all fires the chief shall have sole and absolute control and command over all persons connected with the fire department.
3. Within five days after the occurrence of any fire involving loss of life, or suspicion of arson, the fire chief shall report the circumstances and the name of the owner and occupant to the state fire marshal.
4. The chief shall, during the month of December in each year, make a complete itemized list and report of all property under his charge and belonging to the City, stating its condition. This list shall be presented to the City Auditor and may be used for insurance purposes.

5. The chief shall assist the City Auditor, if requested, in preparation of an annual budget.
6. The chief shall keep property in good condition to see that all apparatus and property and buildings are kept clean and in good sanitary condition.
7. The chief shall have charge of alarm systems in the city.
8. The chief may prescribe limits in the vicinity of any fire within which no persons, except those who reside therein, firefighters and policemen, and those admitted by his order.
9. The chief may order the removal of property, whenever it shall become necessary for the preservation of such property from fire or to prevent the spreading of fire, or to protect adjoining property.
10. The chief may command assistance from persons in attendance at any fire, not members of the fire department, for the extinguishing of fires.
11. The chief may prescribe the badge and uniform to be worn by the members of the department.
12. The chief shall have the same powers of the Building Inspector, or other designated official as stated in 10.0404.

4.0107 New Equipment needed

Whenever it is necessary the Fire Chief, or his representative, shall meet with and render a report to the City Council as to the supplies, new apparatus and equipment that are needed for the efficient operation of the department.

4.0108 Police Powers

All members of the fire department of the City, while on active duty, shall have the powers of police officers 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.

4.0109 Unlawful to Hinder 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 chief or acting chief of the department.

4.0110 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 wagon, street car, automobile or other vehicle of any kind whatsoever. The driver of any other vehicle shall drive to the nearest right-hand curb or edge of the road, stop and remain until the fire vehicles shall have passed.

4.0111 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 fire department while the same is laid in the streets and alleys of the city.

4.0112 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 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 fire department.

4.0113 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 written consent of the chief.

4.0114 Entering Fire Department

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

4.0115 Fire Department Service Outside Corporate Limits

Members of the fire department are authorized to go outside the corporate limits of the City of Cando 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 chief, the assistant chief or presiding officer of the City Council. 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

4.0201 Fire Limits Defined

All that portion of the City of Cando bounded by and within the following territory in said City as hereby defined, shall be known and constitute the fire limits of the City of Cando, to wit: The South Half of Lots 1,2,3,4,5, and 6 in Block Three, the South Half of lots 13,14,15,16,17, and 18 in Block Four, and the North Half of Block Seven, and all of Block Eight in Percival McDonald's Addition to the City of Cando.

4.0202 Erection of Buildings Within

No buildings or parts of any building 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 Council upon application, which may be granted or refused in the City Council's discretion.

4.0203 Alterations and Additions in 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, Discovery, Order

The Building Inspector, or Fire Chief, or other designated official, shall as often as practical, inspect all buildings or structures during construction. Whenever in their 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, they 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.

4.0206 Adoption of Electrical Code

Chapter 16 sets forth the adoption of the electrical code.

ARTICLE 3 – FIRES IN PUBLIC PLACES

4.0301 Smoking – Setting Fires

Any person who, by smoking attempting to light or to smoke cigarettes, cigars, pipes or tobacco in any manner, 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, motel, public rooming house, tenement house or any public building, so as to endanger life or 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, motels, public rooming houses, lodging houses and other places of public assemblage with 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 Fire Chief or Police Chief under proper safeguards as he 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.

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 wood, garbage or refuse openly or in containers if state law or proclamation prohibits such burning. The container must be inspected and approved by the Chief of Police or the Fire Chief and then only used as directed by either chief.

4.0306 Reports of Hotel, Motel or Apartment fires

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

ARTICLE 4 – Fireworks

4.0401 Definitions

For the purpose of this section:

The term “fireworks” means and includes any combustible or explosive composition or any substance or combination of substances or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, including blank cartridges, toy pistols, toy cannons, toy canes, or toy guns, in which explosives other than toy paper caps are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, sky rockets, roman candles, day-go bombs, sparklers, or other fireworks of like construction, any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance. This definition does not include and shall not apply to toy paper caps containing not more than .25 (16.20 Milligrams) of a grain of explosive composition per cap.

4.0402 Sale Dates

No person shall sell or offer for sale any fireworks at retail within the city of Cando except for the period beginning on June 27th and ending July 5th of any year. Anyone selling fireworks in the city shall file with the city auditor an application on or before May 1st of each year. The application shall contain the following:

1. Name, address and phone number of the party being responsible for the sale of fireworks;
2. The location where the fireworks will be sold;
3. A diagram of the building where the fireworks will be sold, showing the location of all exits and fire extinguishers;
4. Whether the party responsible for the sale of the fireworks has ever made an application for the sale of fireworks to any other licensing authority, and the name and address of that licensing authority;
5. Whether the person responsible for the sale of the fireworks has, within the past five years, been convicted of a criminal offense;
6. Any other information deemed relevant by the city; and
7. A consent allowing the city to inspect the premises where the fireworks will be sold.

The fee set in the fees and rates schedule of the city, which may be changed from time to time, must accompany the application.

4.0403 Special Occasion Permits

A Fireworks Technician who is licensed or certified or the Cando Fire Department may apply for a city permit for a fireworks display, if granted will be available at no cost. This permit enables only the licensed or certified Fireworks Technician or designated members of the Cando Fire Department listed on the permit to set off, explode or detonate fireworks.

4.0404 Restrictions on use

1. No person shall ignite or discharge any fireworks within 100 feet of a fireworks booth, gasoline service station buildings, gasoline dispensers, flammable or combustible liquid tank fill or vent lines, above-ground flammable or combustible liquid tanks, or any building, structure or vehicle containing unsealed flammable or combustible liquids, hazardous materials or explosives.

2. No person shall ignite or discharge any fireworks within, or throw same from a motor vehicle or at any person, group of people, animal or group of animals. Ignition or discharge of fireworks shall take place so as to not endanger persons, buildings, structures, property, brush, automotive vehicles and/or equipment, etc.

3. No person shall ignite or discharge any fireworks before July 1st or after July 4th in any year.

4. No person shall set off, explode or detonate any fireworks at any time other than during the hours of ten (10) a.m. and eleven (11) p.m. On July 4th the hours are extended until eleven fifty-nine (11:59) p.m.

5. The restrictions on use not only include the corporate city limits of Cando, but also extends to all other city-owned property outside the city limits.

City Police Officers shall enforce these rules and regulations. Officers responsible for enforcing these rules and regulations may seize illegal fireworks that are offered for sale, sold, or in the possession of any individual in violation of this chapter.

4.0406 Saving Clause

If any portion of this ordinance shall be judged unconstitutional or contrary to the laws of the State of North Dakota, such section shall not invalidate the remaining portions of this ordinance, and it is hereby expressly declared that the remaining portions of this ordinance would have been adopted notwithstanding the invalid portions thereof, and that such portions not declared unconstitutional or contrary to the laws of the State of North Dakota shall remain in full force and effect.

ARTICLE 5 – Fire Hall

4.0501 Fire Hall

The Volunteer Fire Department of the City of Cando is hereby granted the privilege to occupy the rooms situated and located in the Fire Hall so long as such Fire Department shall use and manage them for the prevention and extinguishments of fires and until a paid Fire Department is established. The Volunteer Fire Department must obtain permission from the City Council prior to allowing any other usage of the fire Hall.

4.0502 Other Organizations Utilizing Fire Hall

Any other organization utilizing the Fire Hall, other than the Volunteer Fire Department of the City of Cando, shall pay a fee for such use in an amount set by the City Council and paid into the General Fund of the City of Cando.

ARTICLE 6 – PENALTY FOR VIOLATION OF THIS CHAPTER

4.0601 Penalty – Violation of fire Protection and prevention Chapter

Any person who shall violate any provision 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 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 City Council or by a court of competent jurisdiction, with 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 (\$1,000.00) 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.

It shall be the Municipal Judge's decision to use the sentencing defined in Article 5 of Chapter 13 of the Revised Ordinances of the City of Cando.