

CITY OF CASSELTON
ORDINANCE # 314
BURNING AND FIRE ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASSELTON, CASS COUNTY, NORTH DAKOTA:

ARTICLE 1 - Organization and Regulation of the Fire Department

- 4.0101 Establishment of Fire Department
- 4.0102 Supervision by Fire Chief
- 4.0103 Volunteer Fire Department
- 4.0104 Officers of Fire Department
- 4.0105 Chief of Fire Department - Powers of
- 4.0106 Duties of Fire Chief
- 4.0107 Fire Chief to Report New Equipment Needed
- 4.0108 Unlawful to Hinder Fire Department
- 4.0109 Unlawful to enter into Restricted Emergency Zone
- 4.0110 Right of Way - Fire Department Vehicles
- 4.0111 Driving Over Fire Hoses
- 4.0112 False Alarms of Fire
- 4.0113 Taking Fire Equipment
- 4.0114 Entering Fire Department
- 4.0115 Fire Department Service Outside Corporate Limits

ARTICLE 2- Fires in Public Places

- 4.0201 Open Burning Prohibited - Exception
- 4.0202 Specific Burning Prohibited
- 4.0203 Reporting of Fires
- 4.0204 Penalty Provisions

ARTICLE 3 - Fire Prevention

- 4.0301 Adoption of Fire Code
- 4.0302 Enforcement of Fire Prevention Code
- 4.0303 Storage of Flammable Liquids
- 4.0304 Storage of Liquefied Petroleum
- 4.0305 Modifications of Fire Code
- 4.0306 Appeals from Decisions of Fire Chief

ARTICLE 4 - Firearms, Fireworks and Explosives

- 4.0401 Firearms not to be Furnished to Minors
- 4.0402 Firearms

**CHAPTER FOUR
FIRE PROTECTION AND PREVENTION**

ARTICLE 1 - Organization and Regulation of the 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 governing body. Members shall be appointed in the manner provided by law.

4.0102 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.

4.0103 Volunteer Fire Department

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

4.0104 Officers of Fire Department

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

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 entrusted to his care during his tenure of office.

4.0106 Duties of Fire Chief

The fire chief shall have the following duties and powers:

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

City, and the cause thereof when ascertainable, of the time lost by firemen, and of all property placed in his charge, and all expenditures made by his order and shall keep such other books and records as shall be required in the department, and such books shall always be open to the inspection of any member of the governing body.

2. To command and control. It shall be the duty of the chief of the department 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 his department and the rules and regulations pertaining thereto. At all fires he shall have sole and absolute control and command over all persons connected with the fire department of the City.
3. To make reports. The chief of the fire department shall report annually to the City Council and when required to do so to the City governing body. At the end of each calendar year, he shall make an annual report in writing. He shall report upon the condition of the fire department, the number of fires that have occurred in the City since his last report, and during the year in his 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 so destroyed or injured, which report shall be filed in the office of the city auditor. The chief of the fire department 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 chief of the fire department shall, during the month of June in each year, make a complete itemized list and report of all property under his charge and belonging to the City, stating its condition. He shall also report as to such new apparatus or supplies as in his judgment may be needed to properly maintain his department.
5. To prepare a budget. To prepare a budget of the whole cost and expense of providing for and maintaining the fire department of the City during the succeeding fiscal year.
6. To keep property in good condition. To keep property in good condition to see that all apparatus and property committed to his care and the several buildings or portions thereof, are kept clean and in good sanitary condition.
7. To control crowds at fires. The chief of the fire department may prescribe limits in the vicinity of any fire within which no persons, firemen and policemen, and those admitted by his order until the officer in charge of the incident declares the scene to be safe.
8. To order removal of property, when. To 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.
9. To command assistance. To command assistance from persons in attendance at any fire, not members of the fire department, for the extinguishing of fires.
10. To prescribe badge and uniform. To prescribe the badge and uniform to be worn by the

members of the department.

4.0107 Fire Chief to Report New Equipment Needed

Whenever, in his 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 board as to the supplies, new apparatus and equipment that are needed for the efficient operation of this department.

4.0108 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 other emergency situation, or to disobey any lawful command of the chief or acting chief of the department.

4.0109 Unlawful to enter into Restricted Emergency Zone

It shall hereafter be unlawful for any person except those authorized to enter any restricted emergency zone which has been created, and established by the Fire Department or other Emergency Response Personnel at the scene of any fire/ emergency zone and such zone shall cover such territory as the fire chief or his assistant shall determine upon arrival at a fire or later if an emergency exists.

4.0110 Right of Way - Fire Department Vehicles

Any engine, truck or Class A Emergency vehicle belonging to the fire department shall, going to an emergency, have the right of way in all streets, alleys and public places over any vehicle of any kind whatsoever while displaying appropriate lights and siren. 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.

4.0111 Driving Over Fire Hoses

No person shall drive any 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; or hinder or delay any apparatus or equipment or vehicle belonging to 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 of the fire department, or his or her designee.

4.0114 Entering Fire Department

No person shall occupy any rooms in any building which are used by the Fire Department or 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 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 of the fire department, 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 - Fires in Public Places

4.0201 Open Burning Prohibited - Exceptions

An open fire or open burning of any kind is prohibited within the City, except for enclosed grills, recreational fires, and bonfires by permit as provided below:

Recreational fires must be on one's own property and shall not be conducted within 10 feet of a structure or combustible material. Conditions which could cause a fire to spread within 10 feet of a structure shall be eliminated prior to ignition. Fires may not be started with gas, diesel or oil of any kind. Fires cannot be more than three feet in diameter and must be two feet or less in height. Only dry wood may be burned. No treated, painted, stained, or plywood lumber may be burned. The fires must be extinguished if there are legitimate complaints made about the emission of smoke. Wind conditions must be minimal or calm. All recreational fires must be constantly attended by a competent adult until the fire is extinguished. A fire extinguisher or garden hose must be available for immediate use.

Bonfires are not considered recreational fires. Bonfires are allowed only by permit from the fire department after inspection. Bonfires must be placed at least 50 feet away from combustible materials.

4.0202 Specific Burning Prohibited

1. It shall be unlawful under any circumstances to burn leaves, paper, rubbish, garbage or any non-wood substances. All open burning, including recreational fires and bonfires, is banned under any of the following circumstances:
 - A. When the fire index is at the high, very high or extreme level and any time during a red flag warning;
 - B. When prohibited by state law or proclamation within the city limits;
 - C. When due to an emergency deemed unsafe by the fire chief or mayor.

4.0203 Reports Fires

Every fire of any kind, and from whatever source, except recreational fires, occurring in or about any building or structure in the City shall be reported immediately to the fire department.

4.0204 Specific Burning Prohibited

The penalty for violation of this ordinance shall be an infraction, punishable by a maximum fine of \$1,000. The Municipal Judge shall have the authority to establish the penalty for each infraction which is an offense up to a maximum of \$1,000.

ARTICLE 3 - Fire Prevention

4.0301 Adoption of Fire Codes

There is hereby adopted by the City 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 adopted by the State of North Dakota.

4.0302 Enforcement

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

4.0303 Storage of Flammable Liquids

No new bulk plants or tanks for storage of flammable liquids shall be permitted within the limits

of the City, after January 1, 2020, except by a conditional use permit.

4.0304 Storage of Liquefied Petroleum

The limits or area for storage of liquefied petroleum shall comply with the limits established in Section 4.0303.

4.0305 Modifications of Fire Code

The chief of the fire department 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 chief of the fire department thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

4.0306 Appeals from Decisions of Fire Chief

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 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 4 - Firearms

4.0401 Firearms not to be Furnished to Minors

A person under the age of eighteen years may not possess a handgun except that such a person, while under the direct supervision of an adult, may possess a handgun for the purposes of firearm safety training, target shooting, or hunting.

Any parent, guardian or other person having charge or custody of any minor under fifteen years of age who permits that minor to carry or use in public any firearm of any description loaded with powder and projectile, except when the minor is under the direct supervision of the parent, guardian, or other person authorized by the parent or guardian is guilty of a class B misdemeanor.

4.0402 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, except at the Cass County Wildlife trap range, located at 15455 35th St. SE, Casselton, ND 58012, and located

on parcel number 03-1600-00656-010 . 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.

It shall also be unlawful to brandish any kind of real or toy gun as if it is a real gun. Violation of this ordinance shall be a class B misdemeanor. In addition, restitution may be awarded by the Municipal Judge for damage to persons or property. This section specifically excludes any business engaged in the operation of paintball games operating within the appropriate zoning district in which the discharge of paintball guns is carried out in an approved controlled environment. This section also specifically excludes shooting done in a supervised class setting or a regulated competition.

APPROVED:

Lee Anderson, Mayor

ATTEST:

Sheila Klevgard, City Auditor

FIRST READING: 3-2-2020

SECOND READING: 4-6-2020

PUBLICATION: 4-15-2020