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**ORDINANCE NO. 2020 - 11**

**AN ORDINANCE AMENDING ARTICLE I. FIRE PROTECTION OF CHAPTER 25 RELATING TO FIRE PROTECTION OF THE CODE OF THE CITY OF HUTCHINSON INCORPORATING THE 2018 EDITION OF THE INTERNATIONAL FIRE CODE BY REFERENCE AND REPEALING THE EXISTING ARTICLE I OF CHAPTER 25 OF SAID CODE.**

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HUTCHINSON, KANSAS:

**Section 1.** Article I. Fire Protection of Chapter 25 relating to Fire Protection of the Hutchinson City Code is hereby amended to adopt the 2018 Edition of the International Fire Code and to read as follows:

**Article I. Fire Protection**

**Section 25-101 Adoption of International Fire Code, 2018 Edition**

There is hereby incorporated by reference for the purpose of regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Hutchinson; providing for the issuance of permits and allocation of fees therefor; the "International Fire Code, 2018 Edition, including Appendix Chapters B, C, D, F, H and I, as published by the International Code Council save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified, or changed. One copy of said International Fire Code, 2018 Edition, shall be marked or stamped "Official Copy as Adopted by Ordinance No. 2020 - 11," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Fire Chief and all administrative departments of the City charged with enforcement of the ordinance shall be supplied, at the cost of the City, such number of official copies of such International Fire Code, 2018 Edition, as may be deemed expedient.

## **Sec. 25-102 Local amendments to International Fire Code, 2018 Edition**

That the following sections of the International Fire Code, 2018 Edition, are hereby modified as follows:

Section 101.1 Title. These regulations shall be known as the Fire Code of the City of Hutchinson, hereinafter referred to as “this code.”

### Section 105.1.7 Work Commencing Prior to Issuance of Permit.

Any person who commences any work on fire suppression systems or alarm systems before obtaining the required permit from the City of Hutchinson Building Official, shall be subject to two hundred percent (200%) of the usual permit fee in addition to the required permit fee.

Plan review and approval by the City of Hutchinson Fire Department Inspection Division for fire suppression systems and automatic fire alarm systems is required prior to permit issuance.

### Section 108.3.1 Test and inspection records.

The above requirement for record inspection and availability of records shall be met by the submission of records to the internet-based system under contract with the City. Contractors required to test fire and life safety systems shall be qualified and registered with the internet-based system under contract with the City at the time the inspection is made. Record of inspection, testing and maintenance of fire and life safety systems shall be entered on the internet-based system under contract with the City at the time of inspection, testing or maintenance is performed. Fees associated with the internet-based system shall be paid by the contractor directly to the internet-based system company.

### Section 110.4 Violation penalties.

Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code Official, or of a permit or certificate used under provisions of this code, shall be guilty of a Class C misdemeanor, punishable by a fine as defined in Hutchinson City Code Sections 24-901 and 24-902, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 112.4 Failure to Comply.

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a Class C misdemeanor, punishable by a fine or by imprisonment, or both such fine and imprisonment as defined in Hutchinson City Code Sections 24-901 and 24-902..

Section 307.6 Open Burning.

Within the City limits of Hutchinson, a permit is required for open burning except for recreational fires and portable outdoor fireplaces as defined in Section 202 General Definitions, International Fire Code, 2018 Edition. No open burning, including recreational fires and portable outdoor fireplaces, will be permitted when atmospheric conditions make open burning hazardous, such hazardous conditions are also commonly known as a “Red Flag” day.

Section 506.3 Lock Boxes required

Lock boxes are required on all new commercial construction and buildings undergoing 25% renovation.

Section 904.1.2 Contractors, Installers and Repairmen

Installation, additions to, repairs, and/or alterations of fire extinguishing systems, including automatic sprinkler systems, and wet and dry standpipes; private fire service mains, and private fire hydrant systems; automatic fire alarm systems shall be done by licensed fire extinguishing system contractors, fire sprinkler system contractors, fire alarm system contractors and/or locally licensed plumbers or electricians. Contractors are to be licensed through and in accordance with the provisions of Chapter 21 Building Regulations of the Hutchinson City Code.

j. By omitting Section 1103.5.3 of the International Fire Code, 2018 Edition.

Section 5001.7 Hazardous Material Carrier Parking and Garaging

a. No operator of a commercial delivery vehicle such as a box van, bob tail, truck trailer or tank truck containing products classified by federal, state or local regulatory agencies as hazardous materials, including but not limited to explosives and blasting agents, compressed gasses, flammable and combustible liquids, flammable solids, oxidizers, organic

peroxides, pyrophoric material, unstable reactive materials, water reactive materials, corrosives, health and biomedical hazards and irritating materials, shall park or leave such vehicle unattended on any street, highway, avenue or alley within 500 feet of any residential area, apartment or hotel complex or educational, hospital or care facility at any time, or at any other place that would, in the opinion of the Chief, present an extreme life hazard.

b. No tank vehicle shall be parked off a street, highway, avenue or alley for longer than 1 hour, except:

1. Inside a bulk plant and at least 25 feet from any property line, or within a building approved for such use; or

2. at other locations which are at least 200 feet from any building other than a building approved for the storage or service of such vehicle.

c. No tank vehicle shall be garaged in any building other than those specifically approved for such use by the Chief.

d. This section shall not prohibit parking by or absence of the operator (1) in connection with loading or unloading, (2) for meals during the day or night if area is well lighted at the place of parking and (3) for the purpose of securing assistance in case of an emergency.

e. Parking. It shall be unlawful to park a commercial delivery vehicle in any public right-of-way or alley or for any portion of said vehicle to be extended into any public right-of-way or alley while the person operating said vehicle is in the process of delivering or loading hazardous materials or hazardous waste unless barricades or traffic cones are utilized to protect the vehicle.

f. Flagman. It shall be unlawful to back a commercial delivery vehicle into or from a public right-of-way for the purpose of making a delivery or pickup of hazardous materials or hazardous waste without a flagman directing traffic on said public right-of-way.

#### Section 5001.8 Recovery of Expenses

a. General. For the purpose of promoting the public health, safety and welfare, it is hereby declared to be in the public interest to provide for recovery, through civil suit if required, of the certain expenses incurred in taking an emergency action in response to a release or threatened release of hazardous materials.

b. Definitions.

1. "Emergency action" means all of the activities conducted in order to prevent or mitigate injury to human health or the environment from a release or threatened release of any material into or upon the environment.

2. "City" means the City of Hutchinson, Kansas.

3. "Person" means any natural person, corporation, partnership, association, firm or other legal entity, and any trustee, legal representative or combination thereof.

4. "Recoverable expenses" means all cost reasonably incurred by the City in connection with or in support of an emergency action; provided, that recoverable expenses shall not include expenses ordinarily incurred in providing traditionally local services such as routine firefighting. Recoverable expenses shall include, but not be limited to, expenditures for:

- a. Disposable materials and supplies;
- b. Pay and benefits of City employees;
- c. Rental or leasing of protective clothing or equipment, and scientific and technical equipment and other equipment;
- d. Replacement, repair and cleaning cost for equipment;
- e. Expert and other special technical services, not regularly available to the City;
- f. Laboratory services for analysis of samples;
- g. Cleanup, storage or disposal of a hazardous material;
- h. Services, supplies and equipment used in connection with any evacuation;
- i. Medical expense for treatment of illness or injury; and

j. Legal services, including services rendered to enforcement obligations created by this chapter.

5. "Release" means spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of hazardous materials into or upon the environment.

6. "Hazardous material" means any chemical or substance which is a physical or health hazard, as defined and classified in the International Fire Code, whether such material is in usable or waste condition.

7. Imposition of liability. Each person who causes or contributes to the release of any hazardous material, or who owns or is exercising control over any hazardous material at the time of a release thereof, shall be strictly liable to the City for all recoverable expenses incurred in the course of an emergency action in response to such release.

8. Recovery of expenses. For each emergency action, the City shall maintain a detailed record of all recoverable expenses. Promptly upon completion of an emergency action, the City shall certify all recoverable expenses incurred in connection therewith to each person who is or may be liable therefor pursuant to subsection (g) of Section 5000.1.8. In the event the person or persons liable for such recoverable cost have not paid the same in full within 30 days after notice thereof, or reached some other agreement for compensation to the City, the City Attorney shall be authorized to commence an appropriate action in a court of competent jurisdiction for recovery of all such costs.

#### Section 5610 Authorized Fireworks, Sales and Storage

- 5610.1 Prohibition
- 5610.2 Sale of Fireworks/Licenses
- 5610.3 Storage of Fireworks

#### Section 5610.1 Prohibition

The storage, use and handling of fireworks are prohibited.

#### EXCEPTIONS:

1. Storage and handling of fireworks are allowed as required for explosives in Article 77.

2. The use of fireworks for display is allowed as set forth in Section 7802.4.

3. The possession, storage, sale, handling and use of specific types of Division 1.4G fireworks which have been approved for use and sale within the city limits are allowed during legalized time period prescribed by the City of Hutchinson. Such fireworks shall comply with the following guidelines:

- a. The fireworks comply with CPSC 16 CFR, Parts 1500-1507, and DOTn 49 CFR, Parts 100-185, for consumer fireworks;
- b. The fireworks shall be classified as Class C and/or 1.4G; and
- c. Shall emit a shower of sparks no more than six (6) feet (1,828.8 mm) in any direction; and
- d. Shall not be labeled as emitting flaming balls;
- e. Shall be stored and sold from June 30<sup>th</sup> through July 4<sup>th</sup> from 8:00 a.m. until 11:00 p.m.;
- f. Shall be discharged from June 30<sup>th</sup> through July 4<sup>th</sup>, from 8:00 A.M. until 11:00 P.M.;
- g. Shall be discharged on private property only, which shall not include business, commercial, industrial or public property;
- h. Members of the Hutchinson Police Department are authorized to enforce this provision and all applicable provisions of Chapter 25 pertaining to the storage, use, handling and possession of fireworks within the City of Hutchinson.

4. It is prohibited to discharge or use fireworks in a reckless manner which creates a risk of injury or death or damage to the property of another.

5. The fire chief, or his/her designee, has the authority to ban the discharge of fireworks when in his/her judgment, a special circumstance exists which indicates that the discharge of fireworks will create a public hazard, including, but not limited to: state-wide or local burn bans, drought, wind, or other climatic or environmental conditions or circumstances.

6. The sale of fireworks shall comply with requirements as determined by the Kansas State Fire Marshal's Office.

7. A violation of this section of the code is a class C misdemeanor AS DEFINED IN Hutchinson City Code Sections 24-901 and 24-902.

Section 5610.2 Sales of Fireworks/Licenses

a. The Fire Chief shall adopt administrative regulations, which may be amended from time to time, regarding the type of sale facility and all related safety/code requirements, which are hereby incorporated by reference.

b. It shall be unlawful for any person to engage in the business of selling fireworks within the corporate limits of the City without first obtaining a license.

1. Any person desiring to apply for a license shall file with the City Clerk a sworn application in writing on a form to be furnished by the City Clerk.

2. The application shall be referred to the Fire Chief who shall review all the plans submitted with the application and inspect the proposed sale site. The Fire Chief shall have a minimum of three (3) business days and a maximum of fourteen (14) days to investigate.

3. At the time of the filing of the application, a fee of Two Thousand Five Hundred Dollars (\$2,500) for each fireworks sale facility shall be paid to the City Clerk, by certified check or money order.

4. If as a result of the investigation, the Fire Chief approves of the plans for sale of fireworks, he shall endorse upon such application approval thereof before returning such application to the City Clerk, who shall immediately issue to the applicant a license to sell fireworks. Said license shall be prominently displayed at the sale site.

5. All licenses for sale of fireworks shall be renewed annually.

c. Insurance

Licensee shall hold the City harmless from and indemnify it against all claims of liability arising, in any way, from sale of fireworks. Licensee shall further secure and maintain in force a policy of comprehensive general liability with a combined single limit



of \$1,000,000. A certificate evidencing such insurance shall be furnished to the City.

### Section 5610.3 Storage of Fireworks

Fireworks will be stored at all times pursuant to the requirements of the State Fire Marshal, Kansas Administrative Regulations Chapter 22-6-1 *et seq.* and monitored by the Fire Chief of the City. A vendor who is guilty of violating a provision of these regulations will not be eligible to obtain a license to sell fireworks in the City the next calendar year following such determination.

### Section 5704.1.1 Storage in Above Ground Tanks

Storage of flammable liquids and combustible liquids in above ground tanks is prohibited within the City limits, unless they are properly safeguarded according to NFPA standards and do not involve a hazard to life or property, and have been approved by the Fire Chief or his authorized agents. Existing tanks that are properly safeguarded and do not involve a hazard to life or property may be approved.

### Section 5704.2.12.3 Tank Testing and Removal Fees

Inspection fees for underground tank testing, underground tank removal, and underground tank installation shall be set by and payable to the City Building Official.

**Section 2.** That the geographic limits referred to in certain sections of the International Fire Code, 2018 Edition, are hereby established as follows:

Section 5704.2.9.6.1 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks outside of buildings is prohibited): City limits of Hutchinson, Kansas.

Section 5706.2.4.4 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks is prohibited): City limits of Hutchinson, Kansas.

Section 5806.2 (geographic limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited): City limits of Hutchinson, Kansas.

Section 6104.2 (geographic limits in which the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas): City limits of Hutchinson, Kansas.

**Section 3.** The following sections of the International Fire Code, 2018 Edition, are hereby declared to be omitted and deleted: Sections 108, 1103.4, 1103.4.1, 1103.4.2, 1103.4.3, 1103.4.4, 1103.4.5, 1103.4.6, 1103.4.7, 1103.4.8, 1103.4.9, 1103.4.9.1, 1103.4.9.2, 1103.4.9.2.1, 1103.4.9.2.2, 1103.4.9.3, 1103.4.9.4, 1103.4.9.5, 1103.4.10, 1103.5, 1103.5.1, 1103.5.2, 1103.5.3, 1103.5.4, 1103.6, 1103.6.1, 1103.6.2, 1103.7, 1103.7.1, 1103.7.2, 1103.7.3, 1103.7.4, 1103.7.5, 1103.7.5.1, 1103.7.5.1.1, 1103.7.5.2, 1103.7.5.2.1, 1103.7.6, 1103.8, 1103.8.1, 1103.8.2, 1103.8.3 and 1103.9.

**Section 4.** That the existing Article I Fire Protection of Chapter 25 of the Hutchinson City Code relating to Fire Protection and all other ordinances or parts of laws in conflict herewith are hereby repealed effective May 1, 2020.

**Section 5.** This ordinance after its passage and publication once in the official City newspaper shall take effect and be in force from and after May 1, 2020.

**PASSED BY THE GOVERNING BODY**, this 4<sup>th</sup> day of February, 2020 , for the City of Hutchinson, Kansas.

Jade Piros de Carvalho, Mayor

ATTEST:

Karen Weltmer, City Clerk