

CHAPTER NINE

HEALTH & SAFETY

ARTICLE 1-Board of Health

9.0101 Members

9.0102 Regulations, Notice of

9.0103 Powers and Duties of Local Boards of Health

ARTICLE 2-Contagious Diseases

9.0201 Appointment of Health Officer

9.0202 Duty of Health Officer

9.0203 Report Required of Disease

9.0204 Quarantine

9.0205 Penalties

ARTICLE 3-Garbage, Refuse, Rubbish

9.0301 Definitions

9.0302 Accumulation of Refuse Prohibited

9.0303 Containers

9.0304 City Collection

9.0305 Fees

9.0306 Fees Payment Collection

9.0307 Disposal of Refuse not Collected by the City

9.0308 Supervision

9.0309 Rules and Regulations

9.0310 Commercial Haulers

9.0311 Commercial Haulers-License

9.0312 Commercial Hauler-Application

9.0313 Commercial Hauler-Fee

9.0314 Commercial Hauler-Duration

9.0315 Commercial Haulers- Suspension/Renovation

- 9.0316 Disposal Grounds
- 9.0317 Unlicensed Haulers
- 9.0318 Regulations-Commercial Haulers
- 9.0319 Littering
- 9.0320 Penalty

ARTICLE 4-Building Inspector

- 9.0401 Duties of Building Inspector
- 9.0402 Duties of Governing Board
- 9.0403 Failure to Comply with Decision of the Board
- 9.0404 Violations: Penalty for Disregarding Notice of Orders
- 9.0405 Where Owner Absent from the City
- 9.0406 Duties of Fire, Police and Health Department
- 9.0407 Appeal
- 9.408 Form of Notices

ARTICLE 5- Fireworks: Discharge, Sales and Displays

- 9.0501 Definitions
- 9.0502 Permit Required
- 9.0503 Permit Approval
- 9.0504 Location of Stand
- 9.0505 Fire Extinguishers, Signs Required
- 9.0506 Hours, Days of Operation and Age of Customers
- 9.0507 Discharges of Fireworks Prohibited: Location, Hours
- 9.0508 Penalty

ARTICLE 6-Dangerous Fences

- 9.0601 Dangerous Fences
- 9.0602 Refusal

ARTICLE 7- Sale Possession of Tobacco Products in the City of Hazen

9.0701 Definitions

9.0702 Purchase or use of Tobacco Products by Minors

9.0703 Point of Sale of Tobacco Products

Article 1 Board of Health

9.0101 Members

The Board of Health is the Board of City Commissioners and the City Health Officer. The City Health Officer is the executive officer of the board.

9.0102 Regulations, Notice of

Notice must be given by the Board of Health, pursuant to the laws of the State of North Dakota, of all general orders and regulations made by such board, by publishing them in the official newspaper within the jurisdiction of the board, which publications are deemed a legal notice to all persons.

9.0103 Powers and Duties of Local Boards of Health

The Board of Health has the following powers and duties within its jurisdiction:

1. To employ persons as may be necessary to carry into effect the regulations established by it and the provisions of state law.
2. To inquire into all nuisances, sources of filth, and causes of sickness, and make regulations regarding the same as are necessary for the public health and safety.
3. To adopt such quarantine and sanitary measures as are necessary when an infectious or contagious disease exists in its jurisdiction, but quarantine measures must be in compliance with chapter 23-07.6 NDCC.
4. To enter into and examine at any time all buildings, lots, and places of any description within its jurisdiction for the purpose of ascertaining the conditions thereof insofar as public health may be affected.
5. To recommend to the City Commission ordinances for the protection of public health and safety.
6. To keep records and make reports as may be required by the State Department of Health.
7. To prepare a budget for the next fiscal year. The budget must be submitted to the governing body of the city for approval.

Article 2 Contagious Diseases

9.0201 Appointment of Health Officer

The Board of Health must appoint, as Health Officer, a person licensed to practice medicine within this state. The Health Officer will hold office for two years and until a successor is appointed and qualified.

9.0202 Duty of Health Officer

The Health Officer shall:

1. Keep a record of the proceedings of the City Board of Health and of the Health Officer's official acts.
2. Enforce within the Health Officer's jurisdiction the health ordinances of the city, the rules of the State Department of Health and of the City Board of Health, and the health laws of the State.
3. Exercise the powers and duties of the City Board of Health under the supervision of such board and of the State Department of Health.
4. Make sanitary inspections of such places as the Health Officer deems advisable when the Health Officer believes there is a probability that a health-threatening condition exists within the jurisdiction and take such action as the Health Officer deems necessary for the protection of the public health.
5. Investigate, subject to the supervisory control of the State Department of Health, public water and ice supplies which are suspected of being contaminated, and cause them to be condemned when the Health Officer finds it necessary.
6. Enforce cleanliness in schools, and inspect overcrowded, poorly ventilated, and unsanitary schoolhouses and, when necessary, report cases of unsanitary or unsafe school buildings to the City Board of Health for investigation.
7. Perform such other duties as required by state law.

9.0203 Report Required of Disease

The city recognizes the State Department of Health and consolidated laboratories designates diseases and conditions which may have a significant impact on public health and which must be reported. The following persons shall report to the Health Officer any such reportable disease or condition coming to their knowledge:

1. All physicians.
2. All persons who treat or administer to the sick by whatever method.
3. Householders.
4. Keepers of hotels, boarding houses, or lodging houses.
5. Nurses.
6. School teachers.
7. All other persons treating, nursing, lodging, caring for, or having knowledge of the existence of any reportable disease or condition.

9.0204 Quarantine

The Board of Health has charge of the enforcement of quarantine rules. It has the power and the authority to place any premises within which a contagious or epidemic disease occurs under quarantine, and it determines the time and conditions for termination of the quarantine.

9.0205 Penalties

A person is guilty of an infraction:

1. Who violates or fails to obey any order issued by the Health Officer or board;
2. Who violates any quarantine regulation or order, or who leaves a quarantined area without being discharged; or
3. Who, knowing that the person is infected with a sexually transmitted disease, willfully exposes another person to infection.

Article 3 Garbage, Refuse, Rubbish

9.0301 Definitions

For the purpose of this article the following words have the meanings given herein.

1. **Construction Refuse**, as the term is used in this article, means all building materials, waste or rubble resulting from the private construction, remodeling, repair or demolition of houses, commercial buildings, sidewalks, streets, pavements and other structures.
2. **Garbage** is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food and any other matter of any nature whatsoever which is subject to decay, putrefaction, or the generation of noxious or offensive gases or odors, or which may serve as a breeding or feeding material for rodents, flies or other germ-carrying animals and insects.
3. **Refuse** is all putrescible and nonputrescible solid wastes (except body wastes) including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.
4. **Rubbish** is nonputrescible solid wastes (excluding ashes) consisting of both combustible and non-combustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials.

9.0302 Accumulation of Refuse Prohibited

No person may permit or suffer to accumulate in or about any yard, lot, place or premises; or upon any street or sidewalk, adjacent to or abutting upon any lot, block or place, or premises owned and occupied by him, or for which he may be agent, within the city limits, any and all refuse, nor suffer such yard, lot, place or premises to be or remain in such condition.

9.0303 Containers: Removed and Replaced: Amended June 18, 2007

The city will provide residential customers with a 95 gallon garbage container of the city's choosing. After the container is received by the resident, the resident user is responsible for the care and maintenance of the container, but ownership will remain with the city. Each container has a serial number that will be registered by the city for the resident at a specific address. The registered user is responsible for the cost of repairs and replacement of the container, which will be completed by the city.

Additional containers may be leased from the city. There will be an additional monthly garbage collection fee for each additional container. Users may not decorate or deface their container. If the resident relocates, the container must remain at the address it is registered.

Garbage placed in the container must be bagged or wrapped. Users are required to clean the container regularly to prevent odors and residue, which causes garbage or bags to stick to the inside of the container and attract unwanted animals.

The city will not collect garbage from any container except the ones provided by the city, or meets city specifications.

The number and size of containers/dumpsters required at a household or business is up to the discretion of the public works director. Additionally required maintenance on containers/dumpsters is at the discretion of the public works director.

All dumpsters must be placed on a hard level surface such as concrete or asphalt.

9.0304 City Collection

1. Except as provided in the next paragraph, all garbage and rubbish as defined herein will be collected by the city or their duly designated agents pursuant to any valid service contract or contacts by and between the City of Hazen and any commercial hauler as frequently as is necessary to maintain and preserve community cleanliness and sanitation, except that this section does not require the collection of garbage and rubbish where streets and alleys are in a temporary condition which makes it impossible so to do and in case of the failure to collect such garbage and rubbish, such failure does not relieve the occupant of the premises from the payment of the garbage and rubbish collection fees hereinafter provided for. No resident may refuse garbage collection service and failure to use this service does not exempt any person from payment of the charges established herein.

2. From and after May 1, 1993, the city will not collect, and the county landfill will not accept, tree branches, leaves, grass clippings, lead-acid batteries, infectious wastes or used motor oil. Neither will the city pick up major household appliances or other "white goods" such as sinks, tubs and toilets, but they may be disposed of at the landfill for a charge set from time to time by resolution of the Board of County Commissioners. By resolution, the board may except from collection other recyclable refuse as markets become available:

3. The city may, by resolution, enact such rules and regulations as deemed necessary to aid and implement the collection of garbage, rubbish, and trash.

9.0305 Fees

The schedule of monthly fees and charges for the collection of garbage and rubbish by the city and the disposal thereof shall be as established from time to time by resolution of the Board of City Commissioners.

9.0306 Fees Payment Collection

In all places where water service is provided, the monthly charge set established by Resolution of the Board, will be added to and collected as a part of the water bill and collected by the water department, but will be separately stated on the bill. Garbage and rubbish collection bills are due and payable monthly at the same time as the water bill. If such charges is not paid when due, the water service to such premises may be shut off by the water department in the same manner as is now provided for in the case of delinquency in payment of water bills and such service will not be restored without the payment of the penalties now provided for.

In all places where water service is not provided, the charges set forth must be paid to the water department of the city upon monthly bills from the water department.

If the garbage and rubbish charge so established is not paid when due, such sum may be recovered by the city, in an action at law against the owner or occupant, or both, of the property so served and may be assessed against the premises served, and collected and returned in the same manner as other county and municipal taxes are assessed, certified, collected and returned.

The proceeds from the collection of the fees and charges must be placed in the general fund, and all of the expense of the city, in the purchase and maintenance of equipment and in the collection and disposal of garbage and rubbish, will be paid out of the general fund.

RESOLUTION

Whereas, the City of Hazen sets the rates for certain city services by resolution; and

Whereas, the City of Hazen has determined that expenses related to the city dumpster services have increased; and

Whereas, the City of Hazen has determined that the following rate change is necessary to address the increased costs;

1. **Delivery/Return fee:** For any rental dumpster, 2 yards or larger, a fee of \$35.00 for delivery and/or return of each dumpster is hereby assessed.
2. **Refuse Pickup:** For any rental dumpster a fee of \$10/pickup of each rental dumpster until such time as the dumpster is returned is hereby assessed.
3. All other fees remain as previously approved.

Therefore, be it resolved that the City of Hazen, adjusts the rates for dumpsters as shown above effective October 1, 2014, and continuing until modified by further action of the Hazen City Commission.

Approved this 2nd day of September, 2014

RESOLUTION

Whereas, the City of Hazen sets the rates for city utility services by resolution; and

Whereas, the City of Hazen has determined that expenses related to the city garbage collection have increased due to increased wages and fuel charges; and

Whereas, the City of Hazen has determined that the following rate changes are necessary to address the increased costs;

See Exhibit A, incorporated herein by reference.

Therefore, be it resolved that the City of Hazen, adjusts rates for garbage collection as shown on the attachment hereto effective June 20, 2011, and continuing until modified by further action of the Hazen City Commission.

Approved this 6th day of June, 2011

RESIDENTIAL GARBAGE RATES

WITHIN CITY LIMITS	\$13.00
RURAL	\$19.00

COMMERCIAL GARBAGE RATES

DUMPSTER SIZE	NUMBER OF WEEKLY PICKUPS	RATE
3YDS OR LESS	1	\$22.25
3YDS OR LESS	2	\$44.50
3YDS OR LESS	3	\$66.75
4YDS	1	\$33.00
4YDS	2	\$66.00
4YDS	3	\$99.00
6YDS	1	\$49.00
6YDS	2	\$98.00
6YDS	3	\$147.00
8YDS	1	\$65.00
8YDS	2	\$130.00
8YDS	3	\$195.00
10YDS	1	\$81.00
10YDS	2	\$162.00
10YDS	3	\$243.00

9. 0307 Disposal of Refuse not Collected by the City

All other wastes as defined, and not collected by city, must be disposed of by the person creating such waste, by hauling such waste for disposal to such points as are designated or approved by the Board of City Commissioners; or, such person may arrange with another person to collect or haul such wastes to such points as are designated by the Board.

9.0308 Supervision

The collection, removal and disposal of garbage, and rubbish under the provisions of this article, will be under the supervision, direction and control of the Commissioner holding the portfolio for garbage collection, with assistance of the City Health Officer. Said Commissioner shall appoint such employees as are necessary to carry out the purposes of this article, which appointments are subject to the approval of the governing body.

9.0309 Rules and Regulation

The Health Officer of the City may prescribe and publish such reasonable rules and regulations in connection with the preparation, handling and disposition of garbage and rubbish as may be necessary to regulate, enforce and carry out the provisions of this chapter. He may direct that the city garbage and rubbish collection crews not collect garbage and rubbish from any premises where such rules and regulations are not complied with and the failure to collect the same does not relieve the owner or occupant of the premises from the payment of fees nor from the enforcement of the penalties of this code.

9.0310 Commercial Haulers

All construction refuse, rubbish, ashes and other wastes, including kitchen garbage not collected and removed by the city garbage haulers, until such time as the city provides for the collection and disposal thereof by contract or by municipal employees, may be collected, removed, transported and disposed of by commercial haulers as hereinafter provided.

9. 0311 Commercial Haulers – License

No person may engage in the business of removing, collecting, transporting or disposing of rubbish, ashes and other wastes in the city for compensation or hire without first securing a license therefore from the city.

9.0312 Commercial Haulers - Application

Application for the license required by this article must be made to the City Auditor upon forms provided by him and such application must contain, among other things, the following information: The name, place of residence of the applicant and a description of the vehicle in which such wastes are to be hauled and a general description of the particular areas or premises in the city where such applicant expects to obtain the wastes to be hauled.

9.0313 Commercial Haulers – Fee

Upon approval of the application and approval of the vehicle and the payment of an annual license fee in a sum set by resolution of the Board of City Commissioners, for each vehicle used by the applicant, the City Auditor shall issue a license which shall describe such vehicle and must contain the name of the licensee.

9.0314 Commercial Haulers – Duration

The license required by this article is valid until such time as the city provides for the collection of such wastes by contract or by municipal employees.

9.0315 Commercial Haulers-Suspension/Revocation

The license required by this article may be temporarily suspended or permanently revoked, by the Board of City Commissioners for a violation of any of the provisions of this article or any regulations issued hereunder. No such revocation is effective until notice is given to the holder thereof by registered mail, stating the reasons for such revocation.

A revocation becomes final, unless within five days from the date of mailing such notice the holder of such permit requests, in writing, a hearing thereon. The hearing must be held before the City Commission within five days thereafter and the decision of the Board, following hearing, is final.

9.0316 Disposal Grounds

The City Commission may, by a separate resolution, designate the location or places to which all wastes referred to in this article shall be hauled, deposited or disposed of by commercial haulers.

9.0317 Unlicensed Haulers

It is unlawful for any person or any agent or employee thereof to collect or transport or carry on or convey through, along or upon any public street, alley or sidewalk with the city, any rubbish, ashes and other wastes, except such person as may be authorized, licensed or permitted so to do under the provisions of this article.

Nothing herein contained may be construed as prohibiting the hauling of such wastes by authorized city employees or by persons from their own premises and not for hire or compensation; provided, however, that all such wastes must be hauled and disposed of in accordance with this ordinance and any regulations that may hereafter be adopted to carry out the provisions of this ordinance.

9.0318 Regulations - Commercial Haulers

The City Health Officer is hereby authorized from time to time to issue regulations governing the type of vehicle and equipment used, the hours of collection, sanitary provisions and such other regulations which he may deem necessary to regulate, enforce and carry out the provisions of this article with regard to commercial haulers.

9.0319 Littering

No person, firm or corporation may willfully throw or deposit or cause to be thrown or deposited any garbage, ashes, refuse or rubbish of any kind upon any public streets or sidewalks or other public or private property within the city limits of the City of Hazen.

9.0320 Penalty

Any person violating this article is punishable by a penalty not to exceed five hundred dollars for each offense, in addition to any past due fees and charges provided herein. After notice by the city of an existing, ongoing violation, each day that the violation continues may be considered a separate offense for purposes of this penalty.

Article 4 Building Inspector

9.0401 Duties of Building Inspector

The Building Inspector shall:

- a. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be unsafe.
- b. Inspect any building, wall or structure reported (as hereinafter provided for) by the Fire or Police Departments of this city as probably being unsafe.
- c. Notify in writing the owner, occupant, lessee, mortgagee, and all other persons having an interest in said building, as shown by the records in the Office of the Register of Deeds of the County of Mercer, of any building found by him to be an unsafe building of actions required to remedy the situation.
- d. Set forth in the notice provided for in subsection c. hereof, a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure unsafe and an order requiring the same to be put in such condition as to comply with the terms of the building code within such length of time, not exceeding thirty (30) days, as is reasonable.
- e. Report to the governing board of the city any noncompliance with the "notice" provided for in subsection c. and d. hereof.
- f. Appear at all hearings conducted by the Board and testify as to the condition of unsafe buildings.
- g. Post notice of the condition of the building upon an unsafe building.

9.0402 Duties of the Governing Board

The Board Shall:

- a. Upon receipt of a report of the Building Inspector as provided for in section 9.0401, subsection e. hereof, give written notice to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the Register of Deeds of the County of Mercer, to appear before it on the date specified in the notice to show cause why the building or structure reported to be an unsafe building should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the Building Inspector's notice provided for herein in Section 9.0401, Subsection d.
- b. Hold a hearing and hear such testimony as the Building Inspector or the owner, occupant, mortgagee, lessee, or any other person having an interest in said buildings as shown by the records of the Register of Deeds of the County of Mercer shall offer relative to the unsafe budding.
- c. Make written findings of fact from the testimony offered pursuant to subsection b. as to whether or not the building in question is an unsafe building.
- d. Issue an Order based upon findings of fact made pursuant to Subsection c. commanding the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown by the records of the Register of Deeds of the County of Mercer, to repair, vacate, or demolish any building found to be a "dangerous building" within the terms of this article and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said unsafe building.
- e. The above procedures are in lieu of the Board of Appeals proceedings set forth in the state building code.

9.0403 Failure to Comply with Decision of the Board

If the owner, occupant, mortgagee, or lessee fails to comply with the order of the Board or fails to appeal to the District Court within thirty (30) days as provided herein, the city through its officers and employees may cause such building or structure to be repaired, vacated or demolished as ordered by the board and cause the costs of such repair, vacation, or demolition to be charged against the land on which said building existed by special assessment, or as a municipal lien, or may cause said cost of removal to be levied as a special tax against the land upon which said building stands or did stand or to be recovered in a suit at law against the owner.

9.0404 Violations; Penalty for Disregarding Notice of Orders

The owner of any unsafe building who fails to comply with any notice or order to repair, vacate, or demolish said building given by any person authorized by this article to give such Notice of Order is guilty of an infraction and upon conviction thereof may be fined not exceeding five hundred dollars (\$500.00) for each offense and every day subsequent to such notice in which the said occupant or lessee fails to comply with any notice or order as above stated, may be deemed a separate offense.

Any person removing the notice provided for in Section 9.0404, Subsection g. hereof is guilty of an infraction and upon conviction may be fined not exceeding five hundred dollars (\$500.00) for each offense.

9.0405 Where Owner Absent from the City

In cases, except emergency cases, where the owner, occupant, lessee, or mortgagee is absent from the city all notices or orders provided for herein must be sent by registered or certified mail to the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the land records of the Register of Deeds of the County of Mercer to the last known address of each, and a copy of such notice must be posted in a conspicuous place on the unsafe building to which it relates. Such mailing and posting are deemed adequate service.

9.0406 Duties of Fire, Police and Health Departments

All employees of the Fire, Police and Health Departments must make written reports to the Building Inspector of all buildings or structures which are, may be, or are suspected to be unsafe buildings.

9.0407 Appeal

The Governing Board must serve upon the owner, occupant, mortgagee, lessee and all other persons having an interest in any such building so ordered repaired, vacated or demolished, a copy of its order, such copy to be served upon such owner, occupant, mortgagee or lessee within ten (10) days after the issuance of such order.

The owner, occupant, mortgagee or lessee thereafter has thirty (30) days from the date of the service of the order in which to appeal from the order to the District Court of Mercer County, North Dakota, or to take other legal steps to enjoin the enforcement of the order as deemed proper.

Any person desiring to appeal from any order issued by the board under and by virtue of the article must file an undertaking in the sum of at least five hundred dollars (\$500.00) to be approved by the City Auditor and conditioned that the appellant will prosecute the appeal without delay and will pay all costs that may be adjudged against him in the District Court. Such undertaking must be payable to the city.

9.04.08 Form of Notices

Notices provided in Sections 9.04.01 must be in substantially the following forms:

IN THE MATTER OF UNSAFE BUILDINGS LOCATED AT _____
_____, HAZEN, NORTH DAKOTA, UNDER ARTICLE 4

NOTICE OF HEARING

You are hereby notified that the Building Inspector of Hazen, North Dakota, has filed with the Board a report that you have not complied with a Notice and Order issued by him that dwellings located at _____ were unsafe buildings and were to be demolished by you prior to _____.

You are further notified to appear before the Board of City Commissioners at _____

On the _____ day of _____ at the hour of _____ p.m., to show cause, if any you have, why said building reported to be an unsafe building should not be demolished in accordance with the statement of particulars set forth in the Building Inspector's Notice.

Dated _____, 20_____.

BOARD OF CITY COMMISSIONERS OF THE CITY OF HAZEN, ND

By:

President

ATTEST:

Auditor

IN THE MATTER OF UNSAFE BUILDINGS LOCATED AT _____
_____, HAZEN, NORTH DAKOTA, UNDER ARTICLE 4

NOTICE AND ORDER

You are hereby notified that the undersigned, Building Inspector of Hazen, North Dakota, acting pursuant to Article 4 and Chapter 9 of the Code of the City of Hazen, 20____ has made an inspection of the following described building in which you are, or appear to be, interested, to-wit:

You are further notified that the undersigned Building Inspector deems the foregoing described building to be unsafe within the meaning of said Ordinances of the City of Hazen, in the following particulars:

YOU ARE THEREFORE ORDERED TO _____

the said building on or before the _____ day of _____, 20_____

Dated _____, 20_____

Building Inspector

Article 5 FIREWORKS DISCHARGE, SALES AND DISPLAYS

9.0501 Definitions

1. **Fireworks stand:** Any shelter used to store and/or sell fireworks.
2. **Fireworks:** 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, and includes 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, skyrockets, 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. Nothing in this regulation may be construed as applying to toy paper caps containing not more than twenty-five (25) hundredths of a grain (16.20 milligrams) of explosive composition per cap.

9.0502 Permit Required

1. Any individual, company, firm or organization, resident in Hazen on April 1 in the year of application, and wishing to sell fireworks must obtain and display a current Hazen Fireworks Sales permit. The permit fee will be established from time to time by the Hazen City Commission.
2. Any individual, company, firm or organization, resident in Hazen on April 1" in the year of application, and wishing to discharge fireworks for public display must obtain a permit as provided by Section 23-15-03 N. D.C.C., and upon approval of any such permit, must pay the fee provided in that section.

9.0503 Permit Approval

Applications for permits may be obtained from the office of the City Auditor. Final approval of any such application will be made by the Hazen City Commission and must be based upon the recommendation of the Hazen Fire Chief, or his representative, as well as all of the conditions or requirements, herein stated, relating to the proposed site. All applications must be submitted to the City Auditor with the Fire Chief's recommendation at least 15 days in advance of the commencement of sales or display.

9.0504 Location of Stand

1. No fireworks stand or other sales location can be situated within three hundred (300) feet of a bulk fuel plant, fuel dispensing plant, or other explosive or flammable storage area.
2. No fireworks stand can be located less than fifteen (15) feet from the curb of any roadway.

9.0505 Fire Extinguishers, Signs Required

1. All fireworks display/sales sites must be equipped with a ten (10) pound ABC or other approved fire extinguisher, which must be currently certified as operational by the proper authority.
2. Signs stating NO SMOKING within 50 feet and NO DISCHARGE within 1.00 feet must be displayed at all fireworks display/sales points.

9.0506 Hours, Days of Operation and Age of Customers: Amended Dec 15, 2014

1. Fireworks may be offered for sale and sold at retail only during the period beginning June 27 through July 5 and December 26 through January 1st.
2. The sale of fireworks is prohibited after 10:00 p.m.
3. The sale of fireworks is limited to persons of 13 years of age or more, and it is the responsibility of the permit holder or his employees or agents to determine the age of any such purchaser.
4. The sale of fireworks is limited to those types of fireworks which may legally be sold under state law except that the sale, use, explosion or discharge of those fireworks known as bottle rockets is prohibited within the city limits of the City of Hazen.

9.0507 Discharges of Fireworks Prohibited; Location, Hours: Amended July 19, 2021

1. The discharge of fireworks is prohibited in any public area including public roadways, public parks, or other recreational area, as well as any property on which public buildings are situated.
2. The discharge of fireworks is permitted by this ordinance on those days and between the hours listed:
 - a. The discharge of fireworks is permitted on December 31st between the hours of 10:00 AM and 12:00 Midnight.
 - b. If the 4th of July falls on a Sunday, the discharge of fireworks is permitted on July 1st and 2nd between the hours of 10:00 AM and 11:00 PM and on July 3rd and 4th between the hours of 10:00 AM and 12:00 Midnight.
 - c. If the 4th of July falls on a Monday, the discharge of fireworks is permitted on July 1st and 2nd between the hours of 10:00 AM and 11:00 PM and on July 3rd and 4th between the hours of 10:00 AM and 12:00 Midnight.
 - d. If the 4th of July falls on a Tuesday, the discharge of fireworks is permitted on July 1st and 2nd between the hours of 10:00 AM and 11:00 PM and on July 3rd and 4th between the hours of 10:00 AM and 12:00 Midnight.
 - e. If the 4th of July falls on a Wednesday, the discharge of fireworks is permitted on July 1st and 2nd between the hours of 10:00 AM and 11:00 PM, and on July 3rd and 4th between the hours of 10:00 AM and 12:00 Midnight.

- f. If the 4th of July falls on a Thursday, the discharge of fireworks is permitted on July 2nd and 5th between the hours of 10:00 AM and 11:00 pm and on July 3rd and 4th between the hours of 10:00 AM and 12:00 Midnight.
- g. If the 4th of July falls on a Friday, the discharge of fireworks is permitted on July 2nd and 5th between the hours of 10:00 am and 11:00 pm, and on July 3rd and 4th between the hours of 10:00 am and 12:00 Midnight.
- h. If the 4th of July falls on a Saturday, the discharge of fireworks is permitted on July 2nd and 5th between the hours of 10:00 AM and 11:00 PM, and on July 3rd and 4th between the hours of 10:00 AM and 12:00 Midnight.

3. Repealed

First Reading of Ordinance App'd – 7/6/2021 - (Aye – Wolf, Pillar, Obenauer) (Nay-Stern) Haack absent
Second Reading of Ordinance App'd – 7/19/2021 (Aye-Pillar, Haack, Wolf) (Nay-Stern) Obenauer absent
Effective Upon Publication

9.0508 Penalty

Any person who is convicted of violating or failing to comply with any of the provisions of this ordinance may be punished by a fine of not more than \$500.00 or by imprisonment not to exceed 30 days, or both. The Hazen Fire Chief or the Hazen Police Department shall seize, take, remove or cause to be removed at the expense of the owner, all fireworks offered or exposed for sale, stored or held for use in violation of this ordinance, and any such action will cause a revocation of any permit previously issued.

HAZEN FIREWORKSALES APPLICATION/SALES PERMIT

NAME OF APPLICANT: _____

DATE: _____

ADDRESS: _____

PHONE: _____

STAND/SELLING LOCATION: LOT: _____ BLOCK _____:

_____ ADDITION

ZONING: _____

SIZE OF STAND: _____

TYPE OF CONSTRUCTION: _____

DISTANCE TO FIRE HYDRANT: _____ FEET

USES OF ADJACENT PROPERTY:

- 1.
- 2.
- 3.

DAYS OF OPERATION: _____

HOURS OF OPERATION: _____

APPLICANTS SIGNATURE: _____

FIRE CHIEF RECOMMENDATION: APPROVED _____ DISAPPROVED _____

FIRE CHEF SIGNATURE: _____

APPROVED

PRESIDENT: _____ DATE: _____

AUDITOR: _____ DATE: _____

\$10.00 FEE COLLECTED: YES: _____ NO: _____

Article 6 Dangerous Fences

9.0601 Dangerous Fences

No person may construct, or otherwise erect, temporarily or permanently, any fence, or any portion thereof, composed of wire material, including, but not limited to, barbed wire and chicken wire, except chain link-type fencing material designed for residential use or security fences.

For temporary construction situations, wire fencing, except barbed wire, may be used during such construction period, upon prior approval by the Hazen Building Inspector.

If the Building Inspector determines that any fence is a dangerous structure, the inspector shall order the property owner to remove it within 7 days. A property owner wishing to contest the Building Inspector's determination must, within the 7 days, file a written request for hearing with the City Auditor. The Auditor will schedule a hearing before the City Board at or before the next regular meeting and notify the property owner of the date and time of the hearing. At the hearing the Building Inspector and property owner may present evidence, and thereafter the Board shall determine whether the fence is a dangerous structure and, if so, shall order its removal.

9.0602 Refusal: Amended March 6, 1997

Refusal to follow an order of the Building Inspector, where no hearing is requested, or an order of the Board entered after hearing is an offense punishable by a fine of up to \$.500.00.

Article 7-The Sale and Possession of Tobacco Products in the City of Hazen

AN ORDINANCE GOVERNING THE SALE AND POSSESSION OF TOBACCO PRODUCTS IN THE CITY OF HAZEN

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HAZEN, NORTH DAKOTA, that Chapter IX and a new Article 7, be enacted as follows:

9.0701 Definitions

The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. **Business** means a sole proprietorship, partnership, association, joint venture, corporation, or other business entity, either for profit or not for profit, including retail establishments where goods or services are sold and professional corporations and other entities where professional services are delivered.

2. **Electronic smoking device** means any electronic product, such as one composed of a heating element and battery or electronic circuit which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking.

The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-hookah, e-cigar, e-pipe or under any other product name, or descriptor and also includes any cartridge or other component of the device.

3. **Employee** means an individual who is employed by an employer in consideration for direct or indirect monetary wages or profit, or an individual who volunteers services for an employer.

4. **Minor** means a person under the age of 18 years.

5. **Smoking** means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. Smoking also includes the use of an electronic smoking device which creates a vapor, in any manner or any form, or the use of any oral smoking device for the purposes of circumventing the prohibition on smoking in this article.

6. **Tobacco products** means any product that is made from or derived from tobacco, which contains nicotine or a similar substance, and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, snus, or an electronic smoking device. Tobacco product also includes pipes and rolling papers, but does not include any product specifically approved by the U.S. Food and Drug Administration for legal sale as a tobacco cessation product and is being marketed and sold solely for that approved purpose.

9.0702 Purchase or use of Tobacco Products by Minors

It is an infraction for any person to sell or furnish to a minor, or procure for a minor, tobacco products in any form in which it may be smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means. As used in this subsection, the term "sell" includes dispensing from a vending machine under the control of the actor. A violation of this subsection is an infraction with a maximum penalty of \$500.00.

It is a misdemeanor for a minor to smoke or use tobacco products in any form in which it may be smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means in the city. However, an individual under 18 years of age may purchase and possess tobacco as part of a compliance survey program when acting with the permission of the individual's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco retailer, or association of tobacco retailers may also conduct compliance surveys, after coordination with the appropriate local law enforcement authority.

It is unlawful for any minor to sell, possess, purchase, attempt to purchase, smoke or use tobacco products in any form in which such products may be smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means. However, an individual under 18 years of age may purchase and possess tobacco products as part of a compliance survey program when acting with the permission of the individual's parent or guardian and while acting under the supervision of any law enforcement authority.

A state agency, city, county, board of health, tobacco retailer, or association of tobacco retailers may also conduct compliance surveys, after coordination with the appropriate local law enforcement authority. A minor may sell tobacco products as a bona fide employee of a licensed tobacco retailer.

It is unlawful for a minor to present or offer to another individual a purported proof of age which is false, fraudulent, or not actually the minor's own proof of age, for the purpose of attempting to purchase or possess tobacco products in any form in which it may be smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means. A violation of this section (d) is a civil violation and there is a fee of \$25.00 for a minor 14 years of age or older who has been charged with a violation of this section.

9.0703 Point of Sale of Tobacco Products: Amended July 31, 2014

No person operating a place of business wherein tobacco products are sold or offered for sale may sell, permit to be sold, offer for sale or display for sale any tobacco products in any manner, unless such products are stored for sale:

- (a) Behind a counter in an area accessible only to the personnel of the business, or
- (b) In a locked container, provided, however, this restriction does not apply to:
 - (1) Retail stores which derive at least 90 percent of their revenue from tobacco and tobacco-related products and where that retailer ensures that no person younger than 18 years of age is present, or permitted to enter, at any time; and
 - (2) Any places to which admission is restricted to persons eighteen years of age or older.