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## **CHAPTER 8 – FIRE REGULATIONS**

### **Article 1 – Fire Department**

#### **SECTION 8-101: OPERATION AND FUNDING; MFO**

A. The city operates the Fire Department through the fire chief and firefighters. The fire chief shall manage the Fire Department.

B. The city shall have power to procure fire engines and other apparatus, to organize fire engine companies, and to prescribe rules of duty and the government thereof with such penalties as the City Council may deem proper, not exceeding \$100.00; and to make all necessary appropriations therefor.

C. The City Council may levy a tax annually of not more than \$0.07 on each \$100.00 upon the taxable value of all the taxable property within the city for the maintenance and benefit of the volunteer Fire Department. The amount of such tax shall be established at the beginning of the year and shall be included in the adopted budget statement. Upon collection of such tax, the city treasurer shall disburse the same upon the order of the fire chief with the approval of the City Council.

D. The Fire Department is a member of the Rock County Mutual Finance Organization (MFO) for financing operational and equipment needs including fire protection, emergency response, and training.  
(Neb. Rev. Stat. §§17-147, 17-718, 35-501, 35-530)

#### **SECTION 8-102: DUTIES OF DEPARTMENT**

It shall be the duty of the Fire Department to use all proper means for the extinguishment of fires, to protect property within the city, and to secure the observance of all ordinances, laws, and other rules and regulations with respect to fires and fire prevention.

#### **SECTION 8-103: FIRE CHIEF**

A. The fire chief shall be elected by the members of the Fire Department. He shall manage the Fire Department and it shall be his duty to inform the City Council when any of the fire engines, hose, ladders, or other apparatus needs repair. Upon the written consent and directive of the council, the fire chief shall cause the repair, improvement, or maintenance of the said equipment and shall personally supervise and approve of the same. It shall be the duty of the fire chief to come before the City Council at the regular meeting in January each year to give a report of the general condition and the proposed additions or improvements recommended by him.

B. The fire chief shall, on the first day of April and October each year, file with the city clerk a certified copy of the rolls of all members in good standing in their

respective companies.

C. The chief shall enforce all laws and ordinances covering the prevention of fires, the storage and use of explosives and flammable substances, the installation of fire alarm systems, the regulation of fire escapes, and the inspection of all premises requiring adequate fire escapes. The fire chief shall have the right to enter at all reasonable hours into buildings and upon all premises within his jurisdiction for the purpose of examining the same for fire hazards and related dangers. The chief shall investigate the cause, origin, and circumstances of any fire arising within his jurisdiction. (Neb. Rev. Stat. §§17-505, 35-102, 35-108, 81-506, 81-512)

#### **SECTION 8-104: MEMBERSHIP**

A. The Fire Department shall consist of so many members as may be decided by the City Council. The members may organize themselves in any way they may decide, subject to the review of the council.

B. The volunteer Fire Department shall not have upon its rolls at one time more than 25 persons for each engine company in the Fire Department. Members in good standing are those who keep their dues promptly paid up and are present and render active service when called out for the legitimate purposes of the Fire Department.

C. Volunteer firefighters of the Fire Department shall be deemed employees of the city while in the performance of their duties as members of the department. Members of the volunteer Fire Department, before they are entitled to benefits under the Nebraska Workers' Compensation Act, shall be recommended by the fire chief or some person authorized to act for the chief for membership therein to the mayor and City Council, and upon confirmation shall be deemed employees of the city. After confirmation to membership, members of the department may be removed by a majority vote of the council and thereafter shall not be considered employees of the city. Firefighters shall be considered as acting in the performance and within the course and scope of their employment when performing activities outside of the corporate limits of the city but only if directed to do so by the fire chief or some person authorized to act for the chief.

D. The City Council shall purchase and maintain in force a policy of group term life insurance to age 65 covering the lives of all of the active volunteer fire personnel, except that when any such person serves more than one city or rural fire protection district, the policy shall be purchased only by the first city or district which he or she serves. The policy shall provide a minimum death benefit of \$10,000.00 for death from any cause and shall, at the option of the insured, be convertible to a permanent form of life insurance at age 65. The coverage of such policy shall terminate as to any individual who ceases to be an active volunteer member of the department.

E. The City Council may compensate or reimburse any member of the Fire Department for expenses incurred in carrying out his or her duties in an amount set by resolution.

F. All members of the Fire Department shall be subject to such rules and regulations and shall perform such duties as may be prescribed or required of them by the fire chief or the City Council. The members of the department shall, during the time of a fire or great public danger, have and exercise the powers and duties of police officers and shall have full power and authority to arrest all persons guilty of any violation of the city code or the laws of the state.

G. Members of the Fire Department may hold meetings and engage in social activities with the approval of the City Council. The secretary shall, upon request, keep a record of all meetings and shall make a report to the council of all meetings and activities of the Fire Department.

(Neb. Rev. Stat. §§33-139.01, 35-101 through 35-103, 35-108, 48-115)

### **SECTION 8-105: EQUIPMENT**

A. It shall be unlawful for any person except the fire chief and the members of the Fire Department to molest, destroy, handle, or in any other way to interfere with the use and storage of any of the fire trucks and other apparatus belonging to the city.

B. Fire equipment may not be removed from the Fire Department without prior approval of department personnel. City employees shall not be involved in the fire actions other than as firemen. Maintenance of the Fire Department building is the responsibility of the City Council.

(Neb. Rev. Stat. §28-519)

### **SECTION 8-106: COMMUNICATIONS EQUIPMENT**

No unauthorized person shall operate any radio or communications equipment of the Fire Department. All persons authorized to operate said equipment shall do so only as authorized by the license granted to that particular piece of equipment and shall strictly comply with all of the rules and regulations established.

### **SECTION 8-107: LAWFUL BURNING OF PROPERTY FOR TRAINING AND SAFETY PROMOTION**

Property may be lawfully destroyed by burning such structures as condemned by law, structures no longer having any value for habitation or business, or no longer serving any useful value in the area in which situated, and any other combustible material that will serve to be used for test fires to educate and train members the Fire Department and promote fire safety. Before any structure may be destroyed by fire for training and educational purposes, it must be reported to the state fire marshal and a permit issued for that purpose. Any expense incurred in burning a structure shall be assumed by the department. (Neb. Rev. Stat. §28-506)

### **SECTION 8-108: IMPERSONATING FIREMAN**

It shall be unlawful for any person to falsely personate a fireman by wearing a badge

or other apparel usually worn by a fireman for the purpose of obtaining any benefit whatsoever. Nothing in this section shall be construed to prohibit the theatrical representation of a fireman for *bona fide* entertainment purposes when there is no intent to defraud. (Neb. Rev. Stat. §28-609)

## Article 2 – Fires

### SECTION 8-201: PRESERVATION OF PROPERTY

Any official of the Fire Department shall have the power during the time of a fire to cause the removal of any private or public property whenever it shall become necessary to do so for the preservation of such property from fire, to prevent the spreading of fire, or to protect adjoining property. The said officials may direct the firemen to remove any building, structure, or fence for the purpose of checking the progress of any fire.

### SECTION 8-202: TRAFFIC

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus have stopped in answer to a fire alarm. (Neb. Rev. Stat. §60-6,183)

### SECTION 8-203: PEDESTRIANS

It shall be unlawful for any pedestrian to enter or remain in any street after a fire alarm has sounded until the fire trucks have completely passed. (Neb. Rev. Stat. §28-908)

### SECTION 8-204: DRIVING OVER HOSE

It shall be unlawful for any person, without the consent of the fire chief or assistant fire chief, to drive any vehicle over unprotected hose of the Fire Department. (Neb. Rev. Stat. §60-6,184)

### SECTION 8-205: FALSE ALARM

It shall be unlawful for any person to raise any false alarm of fire intentionally and without good and reasonable cause. (Neb. Rev. Stat. §§28-907, 35-520)

### SECTION 8-206: MANDATORY ASSISTANCE

Any official of the Fire Department may command the assistance and services of any person present at a fire to help in extinguishing the fire or in the removal and protection of property. Any spectator who refuses, neglects, or fails to assist after a lawful order to do so shall be deemed guilty of a misdemeanor.

### SECTION 8-207: INTERFERENCE

It shall be unlawful for any person or persons to hinder or obstruct the fire chief or the members of the Fire Department in the performance of their duties. A person commits the offense of interfering with a fireman if at any time and place where any fireman is

discharging or attempting to discharge any official duties he or she willfully:

A. Resists or interferes with the lawful efforts of any fireman in the discharge or attempt to discharge an official duty;

B. Disobeys the lawful orders given by any fireman while performing his duties;

C. Engages in any disorderly conduct which delays or prevents a fire from being extinguished within a reasonable time; or

D. Forbids or prevents others from assisting or extinguishing a fire or exhorts another person, as to whom he has no legal right or obligation to protect or control, not to assist in extinguishing a fire.

(Neb. Rev. Stat. §28-908)

### **SECTION 8-208: FIRE INVESTIGATION**

It shall be the duty of the Fire Department to investigate or cause to be investigated the cause, origin, and circumstances of every fire occurring in the city in which property has been destroyed or damaged. Any fire of unknown origin shall be reported and such officers shall especially make an investigation and report as to whether such fire was the result of carelessness, accident, or design. Such investigation shall be in compliance with the rules and regulations of the state fire marshal. The officer making the investigation of fires occurring within the city shall immediately notify the state fire marshal and shall, within one week of the occurrence of the fire, furnish him or her with a written statement of all the facts relating to the cause and origin of the fire and such further information as he or she may call for. (Neb. Rev. Stat. §81-506)



## **Article 3 – Fire Prevention**

### **SECTION 8-301: FIRE CODE**

All of the provisions of the most recent edition of the Fire Code, as published by the National Fire Protection Association and recommended by the American Insurance Association, are hereby adopted by reference as part of this chapter. In the event that any of the provisions of said code are in conflict with any of the provisions of the municipal code, the provisions of the municipal code shall prevail. (Neb. Rev. Stat. §§18-132, 19-902, 19-922, 81-502)

### **SECTION 8-302: LIFE SAFETY CODE**

Incorporated by reference into this municipal code are the standards recommended by the National Fire Protection Association known as the Life Safety Code, most recent edition, and all subsequent amendments. (Neb. Rev. Stat. §§18-132, 19-902, 81-502)

### **SECTION 8-303: CODE ENFORCEMENT**

It shall be the duty of all city officials to enforce the incorporated fire code provisions as provided in Sections 8-301 and 8-302, and all infractions shall be immediately brought to the attention of the fire chief.

### **SECTION 8-304: OPEN BURNING BAN; WAIVER; PERMIT**

A. There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

B. The fire chief may waive an open burning ban under subsection (A) of this section for an area under the fire department's jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. Said person shall make application on a form provided by the state fire marshal. The permit shall be signed by the fire chief. He or she may adopt standards listing the conditions acceptable for issuing a permit to conduct open burning under this section.

C. The fire chief may waive an open burning ban under the local fire department's jurisdiction when conditions are acceptable to the chief. Anyone intending to burn in such jurisdiction when the open burning ban has been waived shall notify the fire chief beforehand of his or her intention to burn.

D. The Fire Department may set and charge a fee not exceeding \$10.00 for each such permit issued. Such fees shall be remitted to the City Council for inclusion in the general funds allocated to the Fire Department. Such funds shall not reduce the tax requirements for the Fire Department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (B) of this section in the course of such state's or political subdivision's

official duties.

(Neb. Rev. Stat. §81-520.01) (Ord. No. 280, 12/4/90)

## **SECTION 8-305: OUTDOOR FIRE PITS AND FIREPLACES**

A. The following definitions shall apply in this section:

1. "Outdoor fireplaces" shall include fire pits, portable fire pits, and chimineas. These residential outdoor fireplaces use wood as a fuel and are used for containing recreational fires located at a private residence for the purpose of outdoor cooking and personal enjoyment. Outdoor fireplaces do not include barbeque grills that use propane or charcoal as a fuel and are used primarily for outdoor cooking.
2. "Portable fire pits" are defined as being commercially designed and intended to confine and control outdoor wood fires.
3. "Chimineas" are defined as outdoor patio fireplaces, usually made from clay, intended to confine and control outdoor wood fires.
4. "Fire pits" are usually constructed of steel, concrete and/or stone, and constructed above ground with a heavy steel screen cover.

B. All outdoor fireplaces shall meet the following requirements:

1. *Clearances.* A minimum ten-foot clearance shall be maintained between the outdoor fireplace and combustible structure or materials such as walls, roofs, fences, decks, wood piles, and other combustible material.
2. *Construction.* Outdoor fireplaces shall be constructed of concrete or approved non-combustible materials. Not permitted are drums, barrels, half-barrels, or similarly constructed devices.
3. *Size.* The fuel area for a fire pit shall not be larger than 3 feet in diameter and not more than 3 feet in height.
4. *Location.* An outdoor fireplace shall be placed on a stable non-combustible surface such as a concrete pad and only at grade level and shall not be located on a combustible balcony or deck nor under any combustible balcony or any overhanging portion of a structure.
5. *Type of Materials Being Burnt.* Materials allowed by this section shall be limited to untreated wood or approved fireplace starter logs. Petroleum products, rubbish, grass, leaves, cardboard, plastics, rubber, or any material that may flow out of the containment or cause excessive heat, smoke, or offensive smell shall not be permitted.

6. *Amount of Materials Being Burnt.* Users must (a) limit the amount of material being burnt to ensure the flames are confined inside the fuel area of the outdoor fireplace and the flames do not extend above the pit or into the chimney and (b) follow the manufacturer's recommendation on the maximum amount of fuel to be used at one time with the spark guard in place.
7. *Supervision.* Every outdoor fireplace shall be under constant supervision by at least one responsible person age 18 or older from the ignition of the fire until the fire is completely extinguished and embers are cooled so as to prohibit the fire from rekindling.
8. *Provisions for Protection.* A garden hose connected to a water supply or other approved fire extinguishing equipment shall be readily available for use.
9. *Weather Conditions.* Outdoor fireplaces shall not be operated when weather conditions are extremely dry.
10. *Hazard.* Outdoor fireplaces shall be completely extinguished and/or not be operated when breezes or winds are blowing which will cause smoke, embers, or other burning materials to be carried toward any building or other combustible materials. The fire chief or an authorized representative shall have the authority to require that use of the outdoor fireplace be immediately discontinued if such use is determined to constitute a hazardous condition to occupants of surrounding property.
11. *Nuisance to Neighbors.* Smoke from any outdoor fireplace shall not create a nuisance for neighboring property owners. The fire shall be extinguished immediately upon the complaint of any neighboring property owner of any smoke nuisance.
12. *Maintenance.* The owner is responsible to ensure proper maintenance and care is accomplished in accordance with manufacturer's instructions. At a minimum, the outdoor fireplace will be checked regularly for the appearance of cracks and other physical deterioration or loose parts.

(Neb. Rev. Stat. §§17-549, 17-556, 81-520.01)

## **SECTION 8-306: INSPECTIONS; VIOLATION NOTICE**

A. It shall be the duty of the fire chief, when directed to do so by the City Council, to inspect or cause to be inspected by a Fire Department officer, member, or some other official as often as may be necessary all buildings, premises, and public thoroughfares, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to create a fire hazard. It shall be the duty of the owner, lessee, or occupant of any building or structure, except the interiors of private dwellings, to allow the fire inspector to inspect the structure for purposes of

ascertaining and enumerating all conditions therein that are likely to cause fire or any other violations of the provisions of the city ordinances affecting the hazard of fire.

B. The inspection shall be of the storage, sale, and use of flammable liquids, combustibles, and explosives; electric wiring and heating; and the means and adequacy of exits in case of fire in schools, churches, hotels, halls, theaters, factories, hospitals, and all other buildings in which numbers of persons congregate from time to time for any purpose, whether publicly or privately owned; the design, construction, location, installation, and operation of equipment for storing, handling, and utilizing of liquefied petroleum gases, specifying the odorization of said gases and the degree thereof; and chemicals, prozylin plastics, nitrocellulose films, or any other hazardous material that may now or hereafter exist.

C. It shall be the duty of the owner, lessee, or occupant of any building or structure that was lawfully inspected as herein prescribed and who receives written or verbal notice of a violation of any of the provisions of the city ordinances to correct such condition within five days from the receipt of such notice.

(Neb. Rev. Stat. §81-512)

## **Article 4 – Hazardous Materials**

### **SECTION 8-401: EXPLOSIVES; STORAGE; REGISTRATION**

A. Any person, firm, or corporation storing or keeping dynamite, gunpowder, nitroglycerine, or other high explosives within the city for any period of time shall register such information with the city clerk 24 hours prior to being brought into the city. The clerk shall forward such information to the fire chief and to the City Council. Transfer of explosives to another individual within the city shall require the recipient to register the transfer and the new location of the explosives with the clerk. Also, moving explosives to a new location by the owner shall require registration of that fact to the clerk.

B. Any high explosives including dynamite, gunpowder, and nitroglycerine shall be stored in a proper receptacle which shall be closed at all times except when actually in use. Such concrete, metal, or stone receptacle shall not be located in any room where there is a flame or flammable materials. The area surrounding the storage facility shall be kept clear of rubbish, brush, dry grass, or trees for not less than 25 feet in all directions. Any other combustible materials shall be kept a distance of not less than 50 feet from outdoor storage facilities.

(Neb. Rev. Stat. §§17-549, 17-556, 28-1213, 28-1229, 28-1233)

### **SECTION 8-402: EXPLOSIVES; BULLETS**

Cartridges, shells, and percussion caps shall be kept in their original containers away from flame, flammable materials, and high explosives.

### **SECTION 8-403: EXPLOSIVES; BLASTING PERMITS**

Any person wishing to discharge high explosives within the city must secure a permit from the City Council and shall discharge such explosives in conformance with its direction and under its supervision. In no case shall any person perform blasting operations unless operating under the direct supervision of a person in possession of a valid user's permit issued by the Nebraska State Patrol. (Neb. Rev. Stat. §§17-556, 28-1229)

### **SECTION 8-404: POISONOUS OR FLAMMABLE GASES**

Any person, firm, or corporation desiring to store or keep in the city any form of poisonous or flammable gas or liquefied petroleum gas in excess of 100 gallons or to add to, enlarge, or replace any facility used for the storage of such gases must first get a permit from the City Council, which shall require the name of the gas, the place of storage, and the amount of gas stored. If permission is granted, the council shall prescribe such rules, regulations, and precautionary actions as it may deem necessary. (Neb. Rev. Stat. §17-549)

**SECTION 8-405: PETROLEUM PRODUCTS; FACILITIES; PERMIT**

A. No person shall hereafter build or construct any curb pump, filling station, bulk storage plant or any other facility or device used or useful for the dispensing, either at retail or wholesale, of gasoline, kerosene, distillate, oil, fuel oil or other petroleum products, without first making written application to and receiving a written permit from the mayor and City Council so to do.

B. It shall be unlawful for any person to construct any curb pump used for the sale or storage of any petroleum products within the boundaries of any street.

## Article 5 – Fireworks

### SECTION 8-501: REGULATION OF USE, SALE, POSSESSION

The use, sale, offer for sale, and possession of permissible fireworks in the city as defined by Neb. Rev. Stat. §28-1241 shall be governed and regulated by Neb. Rev. Stat. §§28-1241 to 28-1252, including any and all amendments thereto, together with any rules and regulations adopted by the state fire marshal for the enforcement of said sections.

### SECTION 8-502: DEFINITIONS

A. “Consumer fireworks” means any of the following devices that (i) meet the requirements set forth in 16 C.F.R. Parts 1500 and 1507, as such regulations existed on January 1, 2010, and (ii) are tested and approved by a nationally recognized testing facility or by the state fire marshal:

1. Any small firework device designed to produce visible effects by combustion and which is required to comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission set forth in 16 C.F.R., as such regulations existed on January 1, 2010;
2. Any small device designed to produce audible effects such as a whistling device;
3. Any ground device or firecracker containing 50 milligrams or less of explosive composition; or
4. Any aerial device containing 130 milligrams or less of explosive composition.

Class C explosives as classified by the United States Department of Transportation shall be considered consumer fireworks.

B. “Consumer fireworks” does not include:

1. Rockets that are mounted on a stick or wire and project into the air when ignited, with or without report;
2. Wire sparklers, except that silver and gold sparklers are deemed to be consumer fireworks until January 1, 2014;
3. Nighttime parachutes;

4. Fireworks that are shot into the air and after coming to the ground cause automatic ignition due to sufficient temperature;
5. Firecrackers that contain more than 50 milligrams of explosive composition; and
6. Fireworks that have been tested by the state fire marshal as a response to complaints and have been deemed to be unsafe.

(Neb. Rev. Stat. §28-1241)

### **SECTION 8-503: SALE; LICENSES; FEES**

A. It shall be unlawful for any person to sell, hold for sale, or offer for sale any fireworks as a retailer unless such person has first obtained a license as a retailer from the city and from the state. Application for each such license shall be made to the city clerk and to the state fire marshal.

1. Each city application for a retailer's license shall be accompanied by the required fee as set by resolution by the City Council and kept on file in the office of the city clerk. The application for a license shall be referred to the City Council at the next regular meeting.
2. Each state application, with the \$25.00 state fee, shall be received by the fire marshal at least ten business days prior to the sales period in which the retailer wishes to sell consumer fireworks, as set forth in Neb. Rev. Stat. §28-1249.

B. A retailer's license shall be good only for the specific sales period listed on the application and within the calendar year in which issued. The retailer's license shall at all times be displayed at the place of business of the holder thereof.

C. Consumer fireworks may be sold at retail only between June 24 and July 5 each year.

(Neb. Rev. Stat. §§17-556, 28-1246, 28-1249)

### **SECTION 8-504: DISCHARGE; HOURS; RESTRICTION; POSTING**

A. Permissible fireworks may be used, discharged or caused to be discharged only between June 24 and July 5 each year and then only between the hours of 9:00 a.m. and 11:00 p.m. in that time period, with the exception that fireworks may be used, discharged or caused to be discharged between the hours of 9:00 a.m. and 11:45 p.m. on July 4.

B. It shall be unlawful to use, discharge or cause to be discharged any fireworks within 25 feet of any fireworks stand, fireworks storage area, or other fireworks retail outlet. Each licensed retailer is required to post and prominently display a sign no smaller than 8½ inches by 11 inches stating that no fireworks are to be discharged



within 25 feet of any fireworks stand, fireworks storage area or any fireworks retail outlet.

**SECTION 8-505: UNLAWFUL ACTS; EXCEPTIONS**

A. Except as provided in subsection (B), it shall be unlawful for any person to possess, sell, offer for sale, or discharge any fireworks other than consumer fireworks, as defined in Section 8-502.

B. Subsection (A) shall not apply to:

1. Any display fireworks purchased from a licensed distributor; or
2. Any display fireworks purchased by the holder of a display permit issued pursuant to Neb. Rev. Stat. §28-1239.01; or
3. Toy cap pistols or toy caps, each of which does not contain more than .25 of a grain of explosive material.

(Neb. Rev. Stat. §§17-556, 28-1244, 28-1245)

**SECTION 8-506: UNLAWFUL THROWING OF FIREWORKS**

A person commits the offense of unlawful throwing of fireworks if he or she throws any firework or any object which explodes upon contact with another object:

- A. From or into a motor vehicle;
- B. Onto any street, highway, or sidewalk;
- C. At or near any person;
- D. Into any building; or
- E. Into or at any group of persons.

(Neb. Rev. Stat. §§17-556, 28-1242)

**SECTION 8-507: POSSESSION; PROHIBITION**

No person shall have in his or her possession or physical control any pyrotechnics, commonly known as fireworks, of any description whatsoever except in his or her permanent place of residence or licensed business establishment or except between and including the dates of June 24 through July 5 each year. Violation of this provision shall constitute a misdemeanor as provided elsewhere in this code. (Ord. No. 249, 5/3/88)



## **Article 6 – Penal Provision**

### **SECTION 8-601: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.