

## CHAPTER VII. FIRE

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### ARTICLE 1. FIRE DEPARTMENT

- 7-101. CITY FIRE PROTECTION. Fire protection for the city is hereby conducted by the Cowley County Fire District #4. Membership, supervision and regulations will be established and enforced by the Chief of such department. (Code 2006)
- 7-102. RECORDS. The chief of the fire department shall keep in convenient form a complete record of all fires. Such information shall include the time and location, construction of building, owner, occupancy, how extinguished, value of building and contents, loss on building and contents, insurance on building and contents, members responding to the alarm, and any other information deemed advisable. (Code 2006)
- 7-103. FIRE EQUIPMENT; EMERGENCY RIGHT-OF-WAY AND USE. (a) All fire apparatus and equipment is hereby given and granted the exclusive right-of-way over and through all streets, avenues, alleys and public thoroughfares in the city while enroute to fires or in response to any alarm, and it shall be unlawful for any person or persons to in any manner obstruct or hinder the apparatus or equipment.  
(b) All emergency vehicles of the fire department, while proceeding on official business, shall be operated in strict accordance with the requirements of the Kansas Statutes regarding the operation of emergency vehicles, and each departmental member assigned to the operation of emergency vehicles shall familiarize himself or herself with the requirements of the law and govern himself or herself accordingly. Any operator violating the provisions of the state law shall be liable for disciplinary action.  
(Code 1975, 12-109; Code 1998, 7-108)
- 7-104. SAME; FIRE HOSE. It shall be unlawful for any person or persons to drive any vehicle over any fire hose laid on any street, alley or lot. This section shall not apply to any apparatus or vehicle being driven by members of the fire department.  
(Code 1975, 12-111; Code 1998, 7-109)
- 7-105. OBSTRUCTION OF FIRE HYDRANT. It shall be unlawful for any person to place or cause to be placed upon or about any fire hydrant any rubbish, building material, fence or other obstruction of any character, or in any manner obstruct, hinder, or delay the fire department in the performance of its duties in case of fire. Nor shall any person fasten to any fire hydrant any guy rope or brace, nor stand any vehicle within 15 feet of any such hydrant. (Code 1998, 7-110)
- ~~7-106. FALSE ALARM. It shall be unlawful for any person to knowingly make or sound or cause to be made or sounded, or by any other means, any false alarm.~~

(Code 1975, 12-110; Code 1998, 7-111)

## ARTICLE 2. FIRE PREVENTION

- 7-201. FIRE PREVENTION CODE INCORPORATED. There is hereby adopted by the governing body of the city, for the purpose of prescribing regulations, governing conditions hazardous to life and property from fire or explosion, that certain code and standards known as the Uniform Fire Code, edition of 2003, including all the Appendix chapters, and the Uniform Fire Code Standards, and the National Fire Codes of the National Fire Protection Association (NFPA) 2003 and amendments hereafter, Fire Protection Association (NFPA) 2003 land amendments hereafter, published by the Western Fire Chiefs Association and the International Conference of Building Officials, being particularly the 2003 editions thereof and the whole thereof, save and except such portions as hereinafter deleted, modified or amended by section 7-203 of this article three copies which Code and Standards have been and are now filed in the office of the clerk of the City of Udall, Kansas, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city. (Code 2006)
- 7-202. SAME; ENFORCEMENT. The code hereby adopted shall be enforced by the chief of the fire department. (Code 1998)
- 7-203. SAME; AMENDMENTS. (a) Wherever the word municipality is used in the code hereby adopted, it shall be held to mean the City of Udall.  
(b) All sections of the Uniform Fire Code relating to fireworks are hereby deleted in their entirety.  
(Code 1998)
- 7-204. BURNING WITHIN CITY LIMITS. It shall be unlawful for any person or persons, to burn any trash, rubbish, leaves, lumber, straw, or other combustible materials within the city limits except, upon written permission and supervision by the fire chief; provided, however, the provisions of this article shall not prohibit burning in an approved stove, furnace, fireplace, barbecue, or such other standard device; provided, however, that the chief of the fire department may prohibit the use of any stove, furnace, fireplace, barbecue, or such similar device, if by its construction, condition, location or use, it constitutes a fire hazard.  
(Code 1975, 12-201; Code 1998)
- 7-205. ACCUMULATION OF RUBBISH AND TRASH. It shall be unlawful for any person to allow to accumulate or to keep in any part of any building or outside of and adjacent to any building or in any alley, sidewalk, street or premises within 30 feet of any building any rubbish, trash, waste paper, excelsior, empty boxes, barrels or other combustibles which shall constitute a fire hazard.  
(Code 1975, 12-201; Code 1998)
- 7-206. STACKING OF HAY OR STRAW. It shall be unlawful for any person to deposit, stack or store any hay or straw within 500 feet of any building located inside the fire limits of the city. ~~(Code 1975, 12-203; Code 1998)~~

- 7-207.           KEEPING OF PACKING MATERIALS. It shall be unlawful to keep excelsior or other packing material in any other than metal or wood metal line boxes or bins having selfclosing or automatic covers. All refuse and trash from rooms where packing or unpacking is done shall be removed daily.  
(Code 1975, 12-204; Code 1998)
- 7-208.           STORAGE OF ASHES. It shall be unlawful to store ashes inside of any nonfireproof building unless they are stored in a noncombustible container or receptacle, and a clearance of at least five feet shall be maintained between such container or receptacle and any combustible materials not placed therein. Ashes shall not be stored outside of any building in wooden, plastic, or paper product receptacles or dumped in contact with or in close proximity to any combustible materials. (Code 1975, 12-205; Code 1998)
- 7-209.           FILLING GASOLINE TANKS OF MOTOR VEHICLES. The engines of motor vehicles shall be stopped when the gasoline tanks of such vehicles are being filled with gasoline at service stations or other places where gasoline is supplied to motor vehicles. The driver or person in control of such vehicle when the gasoline tank of same is being filled who refuses, neglects or fails to stop the engine of such vehicle shall likewise be guilty of a violation of this code. (Code 1998)
- 7-210.           FIRE HAZARDS GENERALLY. It is unlawful for any person to cause or create anywhere within the city, or to permit on any premises under his or her control, any situation or condition that is conducive to or likely to cause or permit the outbreak of fire or the spreading of fire. Any situation or condition conducive to the outbreak of or spreading of fire, is declared to be a fire hazard. The violation of or failure to comply with any law pertaining to the storage, handling or use of inflammable oils, explosives, liquefied petroleum gases, or fertilizers and all wires and other conductors charged with electricity, is declared to be a fire hazard. The placing of stools, chairs or any other obstruction in the aisles, hallways, doorway, or exit of any theater, public hall, auditorium, church or other place of indoor public assemblage, or the failure to provide any such place of public assemblage with sufficient, accessible and unobstructed fire exits and escapes is also declared to be a fire hazard. The obstruction of any street, avenue, alley, fire hydrant or any other condition that might delay the fire department in fighting fire is declared to be unlawful. (Code 1975, 12-206; Code 1998)
- 7-211.           SAME; INSPECTIONS TO DISCOVER. It shall be the duty of the fire chief to inspect or cause to be inspected by fire department officers or members, as often as may be necessary all buildings, particularly all mercantile buildings, manufacturing plants, warehouses, garages, hotels, boarding houses, rooming houses, theaters, auditoriums and all places of public assemblage, for the purpose of discovering the violation of any fire preventive law or any fire hazard and ascertaining and causing to be corrected any conditions liable to cause fires and to see that all places of public assemblage, hotels and rooming houses have sufficient and unobstructed facilities for escape therefrom in case of fire.  
(Code 1975, 12-208; Code 1998)
- 7-212.           ABATEMENT OF FIRE HAZARDS; ISSUING ORDER. Whenever any officer or member of the fire department shall find or discover any fire hazard or shall find in any building or upon any premises combustible or explosive material or dangerous

accumulation of rubbish or unnecessary accumulation of paper, boxes, shavings or any other inflammable material, so situated as to endanger property by the probability of fire, or shall find or discover any violation of this chapter or any other law hazardous to public safety from fires, the fire chief shall order the fire hazard or danger from the fire forthwith abated and remedied and such order shall be complied with immediately by the owner or occupant of such buildings or premises. If the hazard or condition ordered abated and remedied is a violation of, or a failure to comply with any law, the fire chief shall report the matter to the city attorney and he or she shall, if he or she deems it advisable, prosecute the offender. (Code 1975, 12-206; Code 1998)

7-213.

SAME; SERVICE OF ORDER; RECORDS. Any order made under section 7-212 shall be in writing and may be served personally upon the owner or occupant of the premises or by leaving it with any person in charge of the premises or if the premises are unoccupied and the owner is a nonresident of the city, then by mailing a copy to the owner's last known post-office address. One notice to either the occupant or owner shall be sufficient. The fire chief shall keep a record of and copies of all such orders and notices and shall follow up such notices at the expiration of the time for compliance therewith and when complied with make proper entry, and if not complied with, file complaint with the municipal court against the property owner and/or occupant. (Code 1975, 12-207; Code 1998)

### ARTICLE 3. FIREWORKS

7-301.

FIREWORKS DEFINED. (a) For purposes of this article, the term fireworks shall mean those items as defined by the rules and regulations of the Kansas state fire marshal, and shall include but not be limited to: firecrackers, torpedoes, sparklers, Roman candles, sky rockets, pin wheels, cap or toy pistols (except such pistols or any like device designed to discharge paper caps containing not more than .25 grains of explosive mixture), canes, bombs, cannons or other like devices and all classes of fireworks that may be shot into the air or propelled over the ground by explosive discharges or any device using blank cartridges.

(b) Retail Sale of Fireworks - shall mean all sales of fireworks within the corporate limits of the city to an individual, firm, partnership, corporation or association.

(c) City - shall mean the City of Udall, Cowley County, Kansas, and its duly authorized and designated representatives.

(d) Public Display - shall mean any fireworks display of aerial and/or ground display pieces sponsored by the city.

(e) Bottle Rocket - shall mean any pyrotechnic device which is classified as a Class C explosive by the United States Department of Transportation under 49 C.F.R. 173.100, or amendments thereto, that is mounted on a stock or wire and projects into the air when ignited, with or without report, and includes any devices with the same configuration, with or without report, which may be classified as a pipe or trough rocket. Bottle Rocket does not include helicopter-type rockets.

(f) Resident - shall mean any individual, firm, partnership, corporation or association whose principal place of residence or principal place of business is situated within the corporate limits of the city.

(Ord. 455, Sec. 1; Code 1998)

7-302.

PERMITS. (a) No fireworks shall be possessed, stored, offered for sale, exposed for sale or sold at retail within the city limits of the city, other than pursuant to the terms of the applicable ordinances and resolutions of the governing body of the city.

Every person, corporation, partnership, or other entity engaged in the storage, offering for sale, exposure for sale, or sale of fireworks at retail within the city limits shall obtain a permit from the clerk of the city before engaging in any such activities within the city limits.

(b) Permits shall be issued to authorize the storage, offering for sale, exposure for sale and sale at retail of fireworks within the city limits of the city for the period through and including July 1st to July 4th of the year in which the permit is issued by the city.

(c) Applications for permits shall be accepted by the city clerk only during regular office hours during the period from May 27th through June 30th during the 1995 calendar year, and from May 1st through and including June 1st of all succeeding calendar years. If the last day on which a permit application can be filed with the city clerk, as aforesaid, falls on a Saturday or Sunday, the last day to file an application for a fireworks permit shall be the last Friday immediately preceding the last day otherwise set forth above for filing a fireworks permit application with the city clerk.

~~(d) No permit shall be issued to any person, corporation, partnership or other entity that has been convicted in any court of competent jurisdiction of violating any~~

fireworks ordinance or statute for the city, the State of Kansas, any other municipality or state within five years preceding the date on which the application for fireworks permits is filed with the city clerk.

(e) No person shall be permitted to work, with or without compensation, at any fireworks stand for which a fireworks permit is issued under the ordinances and resolutions of the city if that person has been convicted by a court of competent jurisdiction of any violations of any fireworks ordinance or statute of the city, the State of Kansas, or any other municipality or state within the five years preceding the 4th day of July of the year in which the application for fireworks permit is filed with the city clerk.

(f) The city council of the city with the consent of the mayor of the city, shall, from time to time, establish by resolution the amounts to be paid for fireworks permits, which sums shall be paid at the time an application for fireworks permit is filed with the city clerk. Provided, however, that all such sums shall be returned to the applicant in the event that an application for fireworks permit is denied.

(g) A fireworks permit issued pursuant to the ordinances and resolutions of the city shall be revoked by resolution of the city council, or by the chief of police or city marshal (whichever may be serving), if any provisions of any ordinance or resolution of the city or any statute or administrative rule or regulation of the State of Kansas regarding the possession, storage, offering for sale, exposure for sale, sale at retail, or use of any fireworks is violated by the permit holder or any of its agents or employees, between the date on which the application for fireworks permit is filed with the city clerk and the 4th day of July of the calendar year for which the fireworks permit is issued.

(h) All applications of fireworks permits shall designate within the body of the application the proper legal description, including the lot or lots on which possession, storage, offering for sale, exposure for sale or sale at retail of fireworks are to be conducted, and the street address, if any, of such location.

No sale at retail, storage, offering for sale or exposure for sale of fireworks shall take place at any location within the city limits which is outside the boundaries set forth in the fireworks permit application and for which a permit is actually issued. Any fireworks stored, offered for sale, exposed for sale, or sold at retail at any location within the city limits which is not included in the location for which a fireworks permit is issued shall be subject to seizure and the owner thereof, and the owners agents and employees, shall each be subject to fine and/or incarceration as hereinafter established by this article.

(i) Fireworks permits shall not be transferable either with respect to the permit holder or with respect to the premises for which the fireworks permit is issued.

(j) If a fireworks permit is revoked for any reason whatsoever, no new fireworks permit shall be issued during the calendar year either to the holder of the revoked permit, or such holders agents or employees, or for the premises for which the revoked fireworks permit was issued.

(k) All applications for fireworks permits shall include the name, address and telephone number of all record owners of the premises for which the fireworks permit is requested and the name, address and telephone number of each and every person with a pecuniary interest in the fireworks to be sold. All applications for fireworks permits shall include the witnesses signatures of each record owner of the subject premises and of every person with a pecuniary interest in such fireworks.

(l) All applications for fireworks permits shall have attached thereto any approved applications, approvals or other documents showing that the fireworks stand and all matters pertaining thereto are in conformity with all zoning laws and

ordinances, building, fire and other codes and regulations, whether enacted by the city or any other governing entity, Which apply to any and all uses of the premi-es for which a fireworks permit is sought.  
(Ord. 496, Sec. 2; Code 1998)

7-303.

SALE, HANDLING, STORAGE AND HOURS. (a) No fireworks shall be stored, offered for sale, exposed for sale or sold at retail within the city limits before the 1st day of July or after the 4th day of July in each calendar year.

(b) It shall be unlawful to sell, offer for sale, or to possess a bottle rocket within the city.

(c) Fireworks shall not be discharged or exploded within the city limits, except on the following dates during the hours indicated:

July 1st through July 3rd - Between the hours of 10:00 a.m. and 10:00 p.m.

July 4th - Between the hours of 10:00 am. and midnight.

July 5<sup>th</sup> - Between the hours of 10:00 a.m. and 10:00 p.m.

If one of the aforesaid days falls on a Sunday, the mayor, with consent of the city council, may designate appropriate hours during which fireworks may be discharged or exploded, which hours may be a shorter duration than the hours set forth above.

(d) All fireworks exploded within the city limits shall meet guidelines established by local, state and federal regulation.

(e) No fireworks shall be ignited or exploded within 100 yards of the city park on the night of the public display, from 9:15 p.m. until the public display is completed.

(f) All firework stands and places maintained for the purpose of sale or storage of fireworks shall comply with all rules and regulations established by the city, the district fire chief, the state fire marshal and all other applicable local, state and federal rules, regulations and statutes.

(g) No fireworks shall be exploded within 50 yards of any fireworks stand.

(h) Fireworks shall not be sold or displayed within the fire district of the city.  
(Ord. 496, Sec. 3; Code 1998)

7-304.

RULES AND REGULATIONS. (a) The governing body of the city shall have the power to adopt, from time to time, reasonable rules and regulations applicable to granting permits for the sale, display and discharge of fireworks. Any such rules and regulations shall be adopted by resolution. A copy of all such rules and regulations shall be delivered to each permit holder at the time their permit is issued, and the permit holder shall at all times maintain a legible posted copy thereof in a conspicuous place on the licensed premises.

(b) Any permit holder who advertises fireworks by any media shall clearly state, either by explicit verbal disclaimer or conspicuous written statement, that the possession, sale or use of fireworks with the city is subject to city ordinances, rules

and regulations and that violation of such ordinance, rules or regulations may subject the violator to seizure of fireworks, fines and/or incarceration. Violation of this section by the permit holder shall result in automatic revocation of the licensee's permit. (Ord. 455, Sec. 4; Code 1998)

7-305. PENALTY FOR VIOLATION. (a) Violation of any provisions of this article or any rules or regulations of the city concerning fireworks shall result in termination of the fireworks permit and seizure of all the licensee's fireworks situated within the city. Upon service of a complaint alleging violation of this article, the city marshal shall seize the fireworks of the suspected violator and shall hold such fireworks in a safe place until the charges against the violator have been disposed of. Stocks of fireworks seized hereunder shall not be subject to replevin. Fireworks shall be disposed of by the city marshal in accordance with appropriate court orders.

(b) Any person who shall be found guilty of violating the provisions of this article shall be deemed guilty of a municipal offense and shall, upon conviction thereof, be punished by a fine of not more than \$500, or sentenced up to 60 days of incarceration, or both such fine and incarceration. (Ord. 455, Sec. 5; Code 1998)

7-306. FIREWORKS PROHIBITED. (a) Except as provided in sections 7-307:310; it shall be unlawful for any person to keep, store, display for sale, fire, discharge or explode any fireworks.

(b) Nothing in this article shall be construed as applying to:

(1) Toy paper caps containing not more than .25 of a grain of explosive composition per cap;

(2) The manufacture, storage, sale or authorized use of signals necessary for the safe operation of railroads or other classes of public or private transportation;

(3) The military or naval forces of the United States or of this state while in the performance of official duty;

(4) Law enforcement officers while in the performance of official duty; or

(5) The sale or use of blank cartridges for ceremonial, theatrical or athletic events.

(Code 1998)

7-307. SAME: EXCEPTIONS; DISCHARGES. (a) Section 7-306 of this article shall not apply to the firing or discharge of fireworks in the city between the hours of 8:00 am. and 12:00 p.m. on July 1st through July 4th.

(b) The governing body of the city may, in its discretion, grant permission at any time for the public display of fireworks by responsible individuals or organizations when such display or displays shall be of such a character and so located, discharged and fired as shall not be a fire hazard or endanger persons or surrounding property.

(c) It shall be unlawful for any person, firm or corporation to give any public display of fireworks without having first obtained a permit thereof.

(Code 1998)

7-308. SAME: EXCEPTION; SALE OF FIREWORKS. Any person who has first obtained a valid permit to sell fireworks within the city may do so between the hours of 8:00 a.m. and 12:00 p.m. commencing July 1st and through July 4th of each year. (Code 1998)

7-309. PERMIT FOR SALE OF FIREWORKS REQUIRED; FEE; ISSUANCE. (a) It shall be unlawful for any person to sell, display for sell, offer to sell or give away any type of fireworks within the city without first paying a fee of \$500.00 per establishment or premises to the city clerk and applying for and securing a permit therefor on or before June 25th of the permit year.

(b) No permit shall be issued for any location where retail sales are not permitted under the zoning laws. Prior to the issuance of the permit, an inspection will be made of the applicant's facility for compliance with this chapter and other pertinent laws, and no permit shall be issued for any premises not in compliance with such laws. Upon qualifying for the permit, the permittee shall prominently display the same at the establishment or premises where fireworks are to be sold or displayed for sale. The permit fee shall not be refundable upon failure to qualify for the permit or withdrawal or cancellation of the application or permit.  
(Code 1998).

7-310. PERMIT FOR PUBLIC FIREWORKS DISPLAY REQUIRED. (a) It shall be unlawful for any person to give or provide a fireworks display for the public or for organized groups without first obtaining a permit to do so by making application at least 30 days in advance of the desired display. Approval of the permit shall be by the governing body. No permit shall be approved unless the applicant furnishes a certificate of public liability insurance for the display in a minimum amount of \$600,000.00, written by an insurance carrier licensed to do business in Kansas, conditioned as being non-cancellable except by giving 10 days advance written notice to the city clerk. In the event of cancellation of the insurance prior to the display, the permit shall automatically be revoked and void. The application for the permit shall clearly state:

- (1) The name of the applicant.
- (2) The group for which the display is planned.
- (3) The location of the display.
- (4) The date and time of the display.
- (5) The nature or kind of fireworks to be used.
- (6) The name of the person, firm or corporation that will make the actual discharge of the fireworks.

(7) Anticipated need for police, fire or other municipal services.  
(b) No permit shall be issued if the location, nature of the fireworks or other relevant factor is such as to create an undue hazard or risk of harm or damage to persons or property.  
(Code 1998)

7-311. APPROVED FIREWORKS; BOTTLE ROCKETS PROHIBITED. (a) All fireworks offered for sale and discharged within the city shall be of a type that has been tested and approved for sale and use within the state by the state fire marshal.

(b) Bottle rockets and other similar self-propelled firework or fireworks devices consisting of a tube and attached guiding stock or rod shall not be sold or discharged in the city.  
(Code 1998)

7-312. DISCHARGE ON STREETS AND PUBLIC PROPERTY PROHIBITED. It shall be unlawful for any person to discharge, ignite or fire any fireworks upon any public

street, alley or avenue or in any park non-designated area of the City Park or public place within the city. (Code 2006)

- 7-313.           **THROWING PROHIBITED.** It shall be unlawful for any person to throw, cast or propel fireworks of any kind in the direction of or into the path of any animal, person or group of persons, or from, in the direction of or into any vehicle of any kind. (Code 1998)
- 7-314.           **SALE OF FIREWORKS; WHERE PROHIBITED.** (a) It shall be unlawful for fireworks to be stored, sold or displayed for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable substances are kept, unless such fireworks are in a separate and distinct section or department of the premises.  
                  (b) Where the fire chief deems there is a fire hazard, he or she is hereby authorized to have such hazard abated.  
(Code 1998)
- 7-315.           **RETAIL DISPLAY OF FIREWORKS.** (a) All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where such fireworks are in the original package.  
                  (b) All fireworks displayed for sale must remain in original packages, except where an attendant is on constant duty at all times where such fireworks are on display; provided, that fireworks in open stock may be kept in show cases or counters out of the reach of the public without an attendant being on duty.  
                  (c) Signs reading "Fireworks for Sale-No Smoking Allowed shall be displayed in the section of a store or premises set aside for the sale of fireworks.  
(Code 1998)
- 7-316.           **FIRE EXTINGUISHES REQUIRED.** (a) Two functioning and approved fire extinguishes must be provided and kept in close proximity to the stock of fireworks in all permanent buildings where fireworks are stored, sold or displayed for sale.  
                  (b) Small stands, temporarily erected to be used as a place for storing and selling fireworks only, shall have one such fire extinguisher, or in lieu of the fire extinguisher, a pressurized water hose with nozzle end within five feet of the fireworks stand.  
(Code 1998)
- 7-317.           **RESTRICTIONS AS TO GASOLINE INSTALLATIONS.** It shall be unlawful to store, keep, sell, display for sale or discharge any fireworks within 50 feet of any gasoline pump, gasoline filling station, gasoline bulk station or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon, except in stores where cleaners, paints and oils are handled in sealed containers only.  
(Code 1998)
- 7-318.           **AUTHORITY OF FIRE CHIEF.** The chief of the fire department or his or her designee is authorized to seize and confiscate all fireworks which may be kept, stored or used in violation of any section of this article, and all of the rules of the state fire marshal. He or she shall dispose of all such fireworks as may be directed by the governing body. (Code 1998)