

CHAPTER VII. FIRE

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ARTICLE 1. FIRE PROTECTION

- 7-101. **EXCLUSIVE RIGHT-OF-WAY.** 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 or fire, and no person or persons shall in any manner obstruct or hinder such apparatus. (Ord. 853, 2009; Ord. 341, 1963)
- 7-102. **DRIVING OVER FIRE HOSE.** It shall be unlawful for any person to drive any automobile, truck, locomotive, railroad car or any other vehicle over any fire hose laid in any street, avenue, alley, bridge or vacant lot. Provided, that this section shall not apply to any apparatus or vehicle belonging to the fire department. (Ord. 853, 2009; Ord. 341, 1963)
- 7-103. **OBSTRUCTING FIRE HYDRANT.** No person shall place or cause to be placed upon or about any fire hydrant any rubbish, building material, fence, or other obstruction of any character whatsoever, in any manner to obstruct, hinder, or delay the fire department in the performance of its duties in case of fire. Nor shall any person hitch or cause to be hitched to any fire hydrant, any animal or animals, nor fasten to same any guy rope or brace, nor back or stand any wagon, truck, automobile or other vehicle within 15 feet either direction of any such hydrant. (Ord. 853, 2009; Ord. 341, 1963)
- 7-104. **FALSE FIRE ALARMS.** It shall be unlawful for any person or persons to make or sound or cause to be made or sounded or by any other means any false alarm of fire without reasonable cause. (Ord. 853, 2009; Ord. 341, 1963)
- 7-105. **USE OF FIRE EQUIPMENT.** No person or persons shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority remove, take away, keep or conceal any tool, appliance or other article used in any way by the fire department. (Ord. 853, 2009; Ord. 341, 1963)

ARTICLE 2. FIRE PREVENTION

- 7-201. **CODE ADOPTED.** The International Fire code, 2000 edition, including all Appendix thereto, as published by the International Code Council be and is hereby incorporated by reference as the fire code of the City of Edgerton. The code shall regulate and govern the safeguarding of life and property from fire and

explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices and from conditions hazardous to life or property in the occupancy of buildings and premises in Edgerton, Kansas. No few than three copies of the International Fire Code shall be kept on file by the city clerk for inspection by and use of the public during reasonable business hours. The filed copies of the code shall be marked with the words "Official Copy as incorporated by the Code of the City of Edgerton, Kansas." (Ord. 853, 2009; Ord. 735, 2001; Ord. 653, 1994; Ord. 588, 1989)

- 7-202. **SAME; CONFLICTING PROVISIONS.** Any provision contained in the International Fire Code, 2000 Edition as published by the International Code Council that are in conflict with any other provisions of this chapter are hereby declared null and void and the express provisions of this chapter as herein set shall be deemed to govern to the extent the same are in actual conflict. (Ord. 853, 2009; Ord. 653, 1994; Ord. 588, 1989)
- 7-203. **VARIANCES.** The governing body or, when circumstances requiring immediate attention arise, the Fire Chief for Fire District No. 1 of Johnson County or his or her designee, shall have the authority to grant a variance to any owner, lessee or person responsible from any of the provisions contained in this article when the person can demonstrate the need for a variance because of weather conditions or for the purpose of eliminating a public or private nuisance, conducting fire or rescue training, promoting public health or safety or because of a demonstrable undue hardship in complying with the provisions of the same. (Ord. 853, 2009; Ord. 653, 1994; Ord. 588, 1989)
- 7-204. **OPEN BURNING UNLAWFUL.** It shall be unlawful for any person, firm, corporation, or other entity, including their agents or employees, to burn, permit or cause to be burned any garbage or refuse or any other heavy smoke producing or combustible materials out of doors at any location within the city limits. (Ord. 853, 2009; Ord. 588, 1989; Ord. 524, 1983)
- 7-205. **SAME; EXCEPTIONS.** It shall be lawful to open burn or burn in any other lawful burning receptacle by permit, tree limbs of less than four feet in length and ten inches in circumference, grass clippings and leaves. All burning herein permitted shall occur no earlier than thirty minutes after sunrise and no more than thirty minutes before sunset. All fires permitted hereunder shall, at all times, be in the presence of an adult who shall undertake to supervise the same. All materials permitted to be burned herein shall not contain any material not otherwise permitted to be burned including, but not limited to, heavy smoke producing material or animal carcasses. (Ord. 853, 2009; Ord. 588, 1989)
- 7-206. **SAME; METEOROLOGICAL CONDITIONS.** No fire or burning herein shall be permitted during inclement or foggy weather conditions or on days with a heavy cloud cover. Heavy cloud cover, as used herein, shall mean an overcast sky with a ceiling of less than 2,000 feet. In addition, burning shall be restricted

to periods when wind surface speeds are more than five miles per hour but less than 15 miles per hour. (Ord, 853, 2009; Ord. 588, 1989)

7-207. PERSONS RESPONSIBLE. It shall be prima facie evidence that the person, or persons, having the right of possession to the property on which any burning, whether lawful or unlawful, occurs has caused or permitted the same; provided the evidence may be rebutted by clear and convincing proof that the burning was caused by another person and that the existence of the fire, or burning, was unknown to the person in possession of the property. (Ord. 853, 2009; Ord. 588, 1989) Previous Code 7-207, Same: Incinerators repealed by Ord. 835; see Ord. 588, 1989 and Ord. 524, 1983)

7-208. PENALTY. Any person who shall violate any of the provisions of the code incorporated by reference in section 7-210 of this article or any other provision of this article, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder, and from which no variance has been granted or appeal taken or who shall fail to comply with such an order as affirmed or modified by the governing body of the city, or by a court of competent jurisdiction, within any prescribed time for doing so, shall severally for each and every such violation and noncompliance respectively, be punished by a fine of not less than \$25 nor more than \$500. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such responsible persons shall be required to correct or remedy such violations or defects within the time prescribed by the court levying such fine, and when not otherwise specified, each 10 days that prohibited conditions are maintained or remitted to exist shall constitute a separate offense. The imposition of any penalty hereunder shall not be held to prevent the removal of prohibited condition. (Ord. 853, 2009; Ord. 588, 1989; Ord. 524, 1983)

ARTICLE 3. FIREWORKS

7-301. FIREWORKS DEFINED. 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. (Ord. 862, 2009; Ord. 853, 2009; Ord. 837, 2008; Ord. 487, 1980)

- 7-302. FIREWORKS PROHIBITED. (a) It shall be unlawful for any person to keep, store, sell, display for sale, fire, discharge or explode any fireworks. No person shall allow or permit fireworks to be used or exploded on his or her premises or premises under his or her control.
- (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. (Ord. 862, 2009; Ord. 853, 2009; Ord. 837, 2008; Ord. 487, 1980)
- 7-303. SAME: EXCEPTIONS. (a) 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.
- (b) It shall be unlawful for any person, firm or corporation to give any public display of fireworks without having first obtained a permit thereof.
- (c) Provided that the foregoing prohibition in Subsection (a) of Section 7-302 shall not apply to the keeping, storage, or discharge of fireworks, as authorized under Kansas state law, on the 3rd day of July of each year, between the hours of 10:00 o'clock a.m. and 10:00 o'clock p.m., and on the 4th day of July of each year between the hours of 10:00 o'clock a.m. and midnight. Notwithstanding the foregoing, it shall be unlawful for any person to discharge, fire off, or explode any bottle rocket, as defined in K.S.A. 31-155, within the city limits of the City of Edgerton, Kansas, at any time. The Mayor, after consultation with the City Council, the Fire Chief, and such other persons as he deems appropriate, may, in his/her discretion, suspend the discharge of any fireworks when, in his/her opinion, the discharge poses an unreasonable risk to the safety of the public due to fire as a result of climate or other natural conditions. To the extent practical, such suspension of permitted discharge of fireworks shall be published in the official city newspaper prior to the suspension going into effect. The following prohibitions shall apply to the discharge of fireworks as permitted by this subsection:
- (1) Except if specifically authorized as a public fireworks display pursuant to Sections 7-304 and 7-305 hereof, no person shall ignite or discharge any fireworks within one thousand (1,000) feet of any medical building, home for the aged, City public building, or school building containing classrooms.

- (2) No person shall ignite or discharge any fireworks into, under, on, or from a car or vehicle, whether it is moving or standing still.
 - (3) No person shall ignite or discharge any fireworks within one hundred fifty (150) feet of any retail stand, premises, or facility where fireworks are stored, or within one hundred fifty (150) feet of any gasoline pump or building in which gasoline or volatile liquids are sold in quantities in excess of one gallon.
 - (4) No person shall throw or place any fireworks in any assembly or gathering of persons.
 - (5) No person shall throw, place, ignite, or discharge any fireworks on any public property, including, but not limited to, parks, sidewalks, streets, or alleys.
 - (6) No person shall ignite or discharge any fireworks in any building.
- (d) Provided that the foregoing prohibition in Subsection (a) of Section 7-302 shall not apply to the temporary retail sale of fireworks during the hours of 8:00 o'clock a.m. and 12:00 o'clock midnight on June 27th through July 4th of each year and in accordance with regulations promulgated by the Kansas State Fire Marshal and the following requirements:
- (1) On or before the Third Friday in November of each year, an application for such sales (via the City's approved form) has been submitted to the City Clerk together with a non-refundable \$500 application fee.
 - (2) If application is made by an individual, applicants must have a physical mailing address within the City of Edgerton Zip Code (i.e. a Post Office box is not sufficient) and be at least eighteen (18) years of age. If application is made by a business, the person or persons submitting the application must be at least eighteen (18) years of age and have at least a 50-percent (50%) ownership interest in an established business located within the City of Edgerton Zip Code.
 - (3) A sketch drawing of the location where the temporary sales will occur, with the signature of the owner of the location on the sketch indicating they approve of such sales from the designated location, shall be submitted with the application.
 - (4) Provided all requirements as established herein and on the permit are complied with after an inspection by the City Building Inspector and Fire Chief of Fire District No. 1 of Johnson County, a permit for the retail sale of fireworks shall be issued to the applicant.
 - (5) A permit must be obtained for each location where sales will occur.
 - (6) Proposed locations for sale must be located on land zoned for commercial uses.
 - (7) The City Governing Body may consider reimbursing the permit fee to the applicant if profits from such sales are given to a legally designated Not for Profit Corporation.
 - (8) If the application is approved, the City Building Inspector and City Fire Chief must inspect the sale premises, and any structures to be used for the sales, to ensure compliance with all requirements stated herein, and any

- other requirements reasonably imposed by the Inspector and Chief to insure the health and safety of residents in, on, or around the premises.
- (9) All permit holders shall conspicuously display at the location for sales the foregoing Subsection (c) of this Section pertaining to the discharge of fireworks.
 - (10) If such sales will be made from a temporary structure or premises, the structure and any other temporary materials, debris, or litter remaining at the site shall be removed on or before July 7th. A bond, or check made payable to the City, in the amount of one thousand dollars (\$1,000) shall be submitted no later than June 1st, which bond or check shall serve as an assurance that the permit holder complies with the removal requirement.
 - (11) Any approved permit will be conditioned on the applicant filing with the City Clerk a certificate of liability insurance covering such sales approved by the City Attorney stating that the applicant has a liability insurance policy in the minimum amount of \$100,000 for one person and \$500,000 for injury to or death of more than one person, and \$100,000 coverage for damage to property. The certificate of insurance shall name the city as an additional named insured.
 - (12) Sales of any bottle rocket, as defined in K.S.A. 31-155, is prohibited at any time.
 - (13) No sales shall be allowed to children who are 8 years of age or younger unless they are accompanied by someone who is at least 18 years of age. (Ord. 862, 2009; Ord. 853, 2009; Ord. 837, 2008; Ord. 487, 1980)

7-304. 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 and paying an application fee in the amount of \$100, which shall be refunded in the event the application is denied. Approval of the permit shall be by the governing body. No permit shall be approved unless the applicant shows proof that they hold a valid Display Operator's License from the Kansas State Fire Marshal and furnishes a certificate of public liability insurance for the display in a minimum amount of \$1 million, written by an insurance carrier licensed to do business in Kansas, conditioned as being non-cancelable 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. (Ord. 862, 2009; Ord. 853, 2009; Ord. 837, 2008; Ord. 487, 1980)

- 7-305. **PUBLIC EXHIBITIONS; CONDUCT OF PUBLIC DISPLAY.** (a) A public display of fireworks shall be permitted only when the actual point at which the fireworks are to be fired is at least 200 feet from the nearest permanent building, public street, or railroad or other means of travel, or 50 feet from the nearest above-ground telephone or telegraph pole, tree, or other overhead obstruction.
- (b) No fireworks shall be discharged, ignited or exploded at any point in the city within 1,000 feet of any health care facility.
 - (c) The audience at a public display of fireworks shall be restrained behind lines at least 100 feet from the point at which the fireworks are discharged, and only persons in active charge of the display shall be allowed inside these lines.
 - (d) All fireworks that fire a projectile shall be so set up that the projectile will go into the air as nearly as possible at an angle of not more than 15 degrees from vertical and directed away from the spectators; provided, that where such fireworks are to be fired beside a lake or other large body of water they may be directed in such a manner that the falling residue from the deflagration will fall into such body of water.
 - (e) Any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way safe as directed by the fire chief for the particular type of fireworks remaining.
 - (f) No fireworks display shall be held during any windstorm in which the wind reaches a velocity of more than 20 miles per hour. In such cases, the city clerk may authorize the display at a future date suitable to the group holding the display. The person in actual charge of the firing of fireworks in a public display shall hold a valid license from the Kansas State Fire Marshal for conducting the display, and shall be able-bodied and of at least 21 years of age and competent for the task. There shall be at all times at least two operators of the display constantly on duty during the discharge. (Ord. 862, 2009; Ord. 853, 2009; Ord. 837, 2008)

- 7-306. **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 or public place within the city. (Ord. 862, 2009; Ord. 853, 2009; Ord. 837, 2008)

- 7-307. **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. (Ord. 862, 2009; Ord. 853, 2009; Ord. 837, 2008)

- 7-308. **SALE OF FIREWORKS; WHERE PROHIBITED.** 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. (Ord. 862, 2009; Ord. 853, 2009; Ord. 837, 2008)
- 7-309. **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. (Ord. 862, 2009; Ord. 853, 2009; Ord. 837, 2008)
- 7-310. **FIRE EXTINGUISHERS REQUIRED.** (a) Two functioning and approved fire extinguishers 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.
- (c) At a public display of fireworks, at least two fire extinguishers of a type approved by the State Fire Marshal shall be at as widely separated points as possible within the actual area in which the discharging is being done. (Ord. 862, 2009; Ord. 853, 2009; Ord. 837, 2008)
- 7-311. **PENALTIES.** Any person that violates any provision of this Article, or any adult permitting a minor to violate any provision of this Article, may be prosecuted in municipal court and shall be subject to a fine not to exceed \$500 or imprisonment for a period not to exceed 30 days or a combination of such fine and imprisonment for each separate violation of this Article. In addition to such fines and imprisonment, any permit issued pursuant to this Article may be immediately revoked by the Governing Body. (Ord. 862, 2009; Ord. 853, 2009; Ord. 837, 2008; Ord. 487, 1980)