

## **CHAPTER VII. FIRE**

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### **ARTICLE 1. FIRE DEPARTMENT**

- 7-101. CITY FIRE DEPARTMENT ESTABLISHED. The fire department of the city is hereby established and the department shall be organized to consist of a fire chief, an assistant fire chief and not less than 10 nor more than 15 firefighters in the city company, together with not less than 10 nor more than 15 firefighters in the rural company. Members of the fire department shall be appointed by the fire chief. (Ord. 786, Sec. 1; Code 1998)
- 7-102. MEMBERSHIP; FIRE DRILL. Members of the fire department shall all be volunteers. They shall meet at least once each month for practice and drill. The chief of the fire department shall keep a record of attendance of such meetings. Any member who shall fail to attend three consecutive meetings shall automatically become expelled from membership. (Ord. 786, Sec. 2; Code 1988)
- 7-103. SUPERVISION OF DEPARTMENT. The chief of the fire department shall be under the supervision of the mayor and shall have immediate superintendency and control over and be responsible for the care and condition of the fire apparatus and equipment. It shall be the chief's duty to see that all such apparatus and equipment is ready at all times for immediate use. It shall also be the chief's duty to submit a written report as to the condition of all fire apparatus and equipment to the governing body at their first meeting in October of each year. (Code 2015)
- 7-104. FIRE CHIEF; POWERS. (a) The fire chief shall be responsible for the discipline of members and is hereby given the authority to suspend or expel any member for the refusal to obey orders, or for misconduct or failure to do his or her duty at a fire. The chief shall also have the right to summon any and all adult persons present to aid in extinguishing a fire, or to aid in removing personal property from any building on fire or in danger thereof, and in guarding the same, except that the chief shall no authority to require a person who is not a member of the fire department to enter into a building that is on fire or in danger of collapse.
- (b) The fire chief shall have full power, control and command over all persons whomsoever present at fires, and he or she shall direct the use of all fire apparatus and equipment, and command all firefighters in the discharge of their duties. He or she shall take such measures as he or she may deem necessary in the preservation and protection of property and the extinguishing of fires.
- (c) The fire chief 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.

(d) It shall be the duty of the fire chief to adopt all prudent measures for the prevention of fires and for this purpose he or she may, upon request or whenever he or she has reason to believe that the safety of life and property demands it, and as often as he or she may deem necessary, enter any building, yard or premises in the city during reasonable hours for the purpose of inspection, and where dangerous, unsafe or hazardous conditions are found to exist he or she shall give such directions for the alteration, change or removal or better care or management of the same as he or she may deem proper, and such directions shall be obeyed and complied with by the person directed in that regard and at their expense. (Ord. 726, Sec. 3:7; Code 1988)

7-105. RESERVED.

7-106. ASSISTANT CHIEF. In the absence of the chief, the assistant fire chief and the captains shall perform all the duties and have all the authority and responsibility of the chief, in accordance with their ranks in the chain of command, as conferred by this chapter. (Ord. 726, Sec. 8; Code 1988)

7-107. PRIVATE USE OF FIRE EQUIPMENT. It shall be unlawful for any person or persons to take away or use any fire apparatus or equipment for any private purpose or for any person willfully and without proper authority to remove, take away, keep or conceal any tool, appliance, equipment or other article used in any way by the fire department. (Ord. 726, Sec. 13; Code 1988)

7-108. 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. (Ord. 726, Sec. 9; Code 2015)

7-109. RESERVED.

7-110. 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. (Ord. 726, Sec. 11; Code 1988)

7-111. 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 2015)

7-112. PENALTY. Any person violating any of the provisions of this article or refusing or neglecting to comply with any of the requirements thereof, shall, upon conviction, be deemed guilty of a violation of this code and fined not less than \$100.00 nor more than \$1000.00.  
(Ord. 726. Sec. 14; Code 1988)

## 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 Standards, and the National Fire Codes of the National Fire Protection Association (NFPA) 2003 and amendments hereafter, Fire Protection Association (NFPA) 2003 and amendments hereafter, published by the Western Fire Chiefs Association and the International Conference of Building Officials, one copy shall be filed in the office of the clerk of the City of Galena, 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 2015)
- 7-202. SAME; ENFORCEMENT. The code hereby adopted shall be enforced by the chief of the fire department. (Code 1988)
- 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 Galena.  
(b) All sections of the Uniform Fire Code relating to fireworks are hereby deleted in their entirety. (Code 1988)
- 7-204. 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 2015)
- 7-205. 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 2015)
- 7-206. KEEPING OF PACKING MATERIALS. It shall be unlawful to keep excelsior or other packing material in any other than metal or wood metal lined boxes or bins having self-closing or automatic covers. All refuse and trash from rooms where packing or unpacking is done shall be removed daily. (Code 2015)
- 7-207. STORAGE OF ASHES. It shall be unlawful to store ashes inside of any non-fireproof 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 2015)
- 7-208. 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 2015)

- 7-209. 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 2015)
- 7-210. 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 2015)
- 7-211. 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 2015)
- 7-212. 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 2015)

### **ARTICLE 3. INTERLOCAL COOPERATION**

- 7-301. INTER LOCAL COOPERATION. The City of Galena, Kansas is hereby authorized and empowered to contract with the cities of Carthage, Neosho, Webb City, Duenweg, Carl Junction, Carterville, Seneca, and Joplin, all in the State of Missouri, and the cities of Baxter Springs, Columbus, and Pittsburg, in the State of Kansas, subject to the acceptance provisions contained in such contract for the operation and interchange of firefighting services of the respective fire departments in the cities in case of major conflagration or disaster.  
(Ord. 83-24; Code 1988)

## ARTICLE 4. FIREWORKS

- 7-401. 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. (Code 2015)
- 7-402. FIREWORKS PROHIBITED. (a) Except as provided in sections 7-403:406; 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 2015)
- 7-403. SAME: EXCEPTIONS; DISCHARGES. (a) On any date, except the 1st through the 4th of July annually, except when the 4th of July falls on a Sunday and the 5th day of July is declared a national holiday. Discharge shall be allowed between the hours of 9:00 a.m. and 10:30 p.m. on the 1st, 2nd and 3rd and from 9:00 a.m. to 12:00 midnight on the 4th or 5th if such is a national holiday.
- (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. (Ord. 00-4; Code 2015)
- 7-404. SAME: EXCEPTION; SALE OF FIREWORKS. Any person who has first obtained a valid permit to sell fireworks within the city may so sell between the hours of 9:00 a.m. and 10:30 p.m. on July 1st through July 3rd of each year and between the hours of 9:00 a.m. to midnight on July 4th of each year and on July 5th when July 4th is on a Sunday and July 5th was therefore declared a national holiday. (Code 2015)
- 7-405. 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 \$200 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 2015)

7-406. 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 \$150,000, 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 2015)

7-407. 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 2015)

7-408. 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.

(Code 2015)

7-409. 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 2015)

7-410. 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 2015)

7-411. 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 2015)

7-412. 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. (Code 2015)

7-413. 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 2015)

7-414. AUTHORITY OF FIRE CHIEF. The chief of the fire department 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 2015)

7-415. BANNING FIREWORKS. The Fire Chief or Assistant Fire Chief shall have the authority and discretion to ban the discharge of all fireworks within the corporate limits of the City of Galena if the weather conditions make discharge of fireworks in the City hazardous to persons or property. (Code 2015)

## ARTICLE 5. OPEN BURNING

7-501. DEFINITIONS. For the purposes of this article, the following words and phrases shall have the following meanings:

(a) Air contaminant - Any particulate matter, gas or vapor (exclusive of water vapor), including but not limited to smoke, charred paper, dust, soot, grime, carbon or any other particulate matter or irritating odorous matter, fumes or gases, or any combination thereof.

(b) Air contaminate source - Any source of emission of an air contaminate whether privately or publicly owned or operated.

(c) Air pollution - The presence in the ambient air of one or more air contaminants in quantities, of characteristics and of a duration which directly or proximately cause or contribute to injury to human, animal or plant life, health or property, or which unreasonably interferes with the enjoyment of life or use of property.

(d) Ambient air - All space outside of buildings, stacks or exterior ducts.

(e) Open burning - The burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion takes place, only such apertures, ducts, stacks, flues or chimneys are open as are necessary to provide combustion air and to permit the escape of exhaust gases. A fifty-five gallon metal drum or wire trash burner or similar vehicle does not qualify as a proper combustion chamber.

(f) Refuse - Garbage, rubbish, trade wastes, leaves, salvageable material, agricultural wastes or other wastes.

(g) Trade wastes - Solid, liquid or gaseous material resulting from construction, the conduct of any business trade of industry or any demolition operation including but not limited to plastics, cardboard cartons, grease, oil or chemicals. (Code 1988)

7-502. OPEN BURNING PROHIBITED. (a) It shall be unlawful for any person to dispose of refuse by open burning or to cause, allow or permit open burning within the city.

(b) A citation may be issued by a member of the police department or firefighter in any situation where such official observes an illegal fire, whether or not a complaint has been received.

(Code 1988)

7-503. EXCEPTION; PERMIT. Exceptions to section 7-502, as provided in this section, shall be made by permit only.

(a) Open burning shall be permitted only when it can be shown that such open burning is the only feasible method of disposal and that disposal by burning is in the public interest. Any person intending to engage in such open burning shall file a request in writing, in duplicate, and obtain the written approval of the fire chief. The application shall state the following:

(1) The name, address and telephone number of the person submitting the application.

(2) The type of business or activity involved.

(3) A description of the proposed equipment and operating practices, the type, quantity and composition and amount of air contaminants to be released to the atmosphere, where known.

(4) The schedule of burning operations.

(5) The exact location where the open burning will occur.

(6) Reasons why open burning is the only feasible method of disposal and why disposal is in the public interest.

(b) Upon approval of the application by the fire chief, the person may proceed with the operation without being in violation of this article, but such approval shall not exempt the applicant from the provisions of any other law, ordinance or regulations.

(c) Approved burning will only be performed under constant supervision of the applicant or his or her agent.

(Code 1988)

7-504. LICENSED DISPOSAL AREAS. The open burning of tree trunks, tree limbs, vegetation, untreated waste timber or other waste material shall not be a violation of this article when such burning takes place at the site of a disposal area licensed for that purpose pursuant to the laws of the county, and located outside of the city limits. (Code 1988)

7-505. EXEMPTIONS. This article shall not apply to:

(a) Fires set in connection with agricultural operations related to the commercial growing or harvesting of crops or for the purpose of clearing brush or trees for agricultural purposes from areas zoned for agriculture.

(b) Fires set for the purpose of instruction and training of city firefighters in the methods of fighting fires.

(c) Fires used for noncommercial preparation of food, such as barbecuing.

(d) Campfires in approved camping areas.

(Code 1988)