

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 30 firefighters. The fire chief and assistant fire chief shall be appointed by the mayor and confirmed by the city council. (Code 2012)
- 7-102. MEMBERSHIP; FIRE DRILL. Members of the fire department shall all be volunteers. Members shall be appointed by the fire chief. The membership shall meet at least once each month for practice and drill. The fire chief shall keep a record of attendance of such meetings. Members are required to attend six consecutive meetings, unless excused by the Fire Chief of Assistant Fire Chief. (Code 2012)
- 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 2012)
- 7-104. FIRE CHIEF; POWERS. (a) The fire chief shall be responsible for the discipline of the members and is hereby given authority to suspend or expel any member for refusal to obey orders or for misconduct or failure to do his or her duty at a fire.
- (b) The chief shall also have the right to summon any and all 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.
- (c) At fires the chief shall have full power, control and command of all persons present and shall direct the use of the fire apparatus and equipment, and command the fire fighters in the discharge of their duties. He or she shall take such measures as he or she shall deem proper and necessary in the preservation and protection of property and extinguishing of fires. (Code 2012)

- 7-105. SAME; 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 2012)
- 7-106. ASSISTANT CHIEF. In the absence of the chief, the assistant fire chief shall perform all the duties and have all the authority and responsibility of the chief as conferred by this chapter. (Code 2012)
- 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. (Code 2012)
- 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 en route 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 2012)
- 7-109. DRIVING OVER FIRE HOSE PROHIBITED. It shall be unlawful for any person to drive any automobile, truck or other vehicle over or upon any fire hose laid in any street, avenue, alley or bridge. This section shall not apply to any apparatus or vehicle belonging to the fire department.
(Ord. 326; Code 1984, 7-103; Code 2012)
- 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. (Code 2012)
- 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 2012)

ARTICLE 2. FIRE PREVENTION

- 7-201. FIRE PREVENTION CODE INCORPORATED. There is hereby adopted and incorporated by reference, The *National Fire Protection Association NFPA 1 Fire Code*, 1992 edition, which has been prepared and published in book form by the National Fire Protection Association. One copy of said *National Fire Protection Association NFPA 1 Fire Code* shall be marked or stamped "Official Copy as Incorporated by the Code of the City of McLouth, Kansas," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this section, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. (Ord. 2010-12; Code 2012)
- 7-202. LIFE SAFETY CODE ADOPTED. There is hereby adopted and incorporated by reference, the National Fire Protection Association NFPA 101 Life Safety Code, 2000 edition, which has been prepared and published in book form by the National Fire Protection Association. One copy of said National Fire Protection Association NFPA 101 Life Safety Code, shall be marked or stamped "Official Copy as Incorporated by the Code of the City of McLouth, Kansas," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this provision, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. (Ord. 2010-13; Code 2012)
- 7-203. SAME; ENFORCEMENT. The code hereby adopted shall be enforced by the chief of the fire department. (Code 2012)
- 7-204. SAME; AMENDMENTS. Wherever the word municipality is used in the code hereby adopted, it shall be held to mean the City of McLouth. (Code 2012)
- 7-205. OPEN BURNING, REGULATIONS AND PROCEDURES. (a) Open burning within the City Limits shall be permitted only under the following conditions:
1. A permit must first be obtained from the City Clerk during normal business hours, and from the Fire Chief or Assistant Fire Chief at all other times.
 2. Issuance of a permit shall be at the discretion of the City Clerk or Fire Chief or Assistant Fire Chief, and based upon the Fire Danger Index for the day requested. The Fire Danger Index is based upon current temperature, wind speed and humidity conditions.
 3. Permits shall be valid for one calendar year.
 4. Burning shall be permitted only during daylight hours.
 5. Burning shall be limited to brush, tree limbs, lumber, leaves. Paper and cardboard materials may be burned only in an enclosed container covered by a wire mesh or similar, non-combustible material.
- (b) This section shall apply to all residential and commercial persons and entities.
- (c) Violation of this section shall be enforced by any member of the Police

Department, Fire Department, or city building inspector, irrespective of how reported or discovered. Violators shall be issued a Notice To Appear in Municipal Court.

(d) Violation of this section shall constitute a code violation, with the maximum penalty to be a determinate jail term of not more than 30 days, and/or a fine not to exceed \$500. Each separate date of a violation shall constitute a distinct and separate offense, punishable as a separate violation. (Ord. 2001-04; Code 2012)

7-206. 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. (Ord. 145; Code 1984, 7-106; Code 2012)

7-207. 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. (Ord. 145; Code 1984, 7-106; Code 2012)

7-208. STORAGE OF PACKING MATERIALS. Packing material shall be kept in metal or wood metal-lined bins having self-closing automatic covers. Refuse from businesses or other facilities where packing or unpacking is performed shall be removed on a daily basis. (Ord. 145; Code 1984, 7-107; Code 2012)

7-209. 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. (Ord. 145; Code 1984, 7-106; Code 2012)

7-210. 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 2012)

7-211. 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 2012)

7-212. 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 2012)

7-213. 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 2012)

7-214. 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 2012)

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. (Code 1984, 7-104; Code 2012)
- 7-302. FIREWORKS PROHIBITED. (a) Except as provided in sections 7-303:306; 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 2012)
- 7-303. SAME: EXCEPTIONS; DISCHARGES. (a) It shall be unlawful for any person to discharge, burn, or explode any fireworks within the city limits, except between the hours of 9:00 a.m. and 10:00 p.m. on each day from June 29 to July 5 annually, except on July 4 from 9:00 a.m. to midnight, and as authorized by the fire chief in accordance with state law.
- (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. 2011-05; Code 2012)
- 7-304. SAME: EXCEPTION; SALE OF FIREWORKS. (a) 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 midnight commencing June 29 to July 5 of each year.

(b) Any person convicted of violating any portion of section 7-303(a) or section 7-304(a) shall be fined in an amount not less than \$100, but not more than \$250. (Ord. 2011-05; Code 2012)

7-305. PERMIT FOR SALE OF FIREWORKS REQUIRED; FEE; ISSUANCE. (a) Fireworks which may legally be sold in the State of Kansas may be sold within the corporate city limits of McLouth, Kansas only after the vendor has obtained a permit allowing sales of fireworks.

(b) Permits are to be obtained from the City Clerk.

(c) Deadline to obtain a permit to sell fireworks is June 20 of each year. If June 20 shall fall on a Saturday or Sunday, the deadline shall be extended until the close of business the first Monday immediately following June 20.

(d) Cost of the permit shall be \$200, payable to the City of McLouth.

(e) Any sign located within the corporate city limits of McLouth, Kansas which advertises the sale of fireworks must be removed no later than 12:00 midnight, July 6 of any applicable year.

(f) Violation of this section shall constitute an ordinance violation, punishable by imprisonment up to 30 days, and a minimum fine of \$200, with a maximum fine of \$500. Each day this provision is violated shall constitute a separate offense.

(Ord. 01-03; Code 2012)

7-306. 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 \$500,000, 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 2012)

7-307. 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.

(c) Any firework or device that produces an open flame and which becomes airborne and burns for 10 seconds or greater, and travels a distance greater than 6 feet in any direction, including but not limited to illuminated travelling lanterns. A person convicted of violating this subsection shall be fined in an amount not less than \$100, but not more than \$250.
(Ord. 2011-05; Code 2012)

7-308. **THROWING PROHIBITED.** (a) 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.

(b) It shall be unlawful for any person to throw any firework from a moving vehicle at any time. Any person convicted of violating this subsection shall be fined in an amount of not less than \$250, but not more than \$500.
(Ord. 2011-05; Code 2012)

7-309. **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 2012)

7-310. **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 2012)

7-311. **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 2012)

- 7-312. **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 2012)
- 7-313. **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 2012)
- 7-314. **BANNING FIREWORKS.** The chief of the fire department shall have the authority and discretion to ban the discharge of all fireworks within the corporate limits of the City of McLouth if the weather conditions make discharge of fireworks in the City hazardous to persons or property. (Code 2012)

ARTICLE 4. FLAMMABLE LIQUIDS

- 7-401. ABOVE GROUND TANKS PROHIBITED. No person or entity shall hereafter erect, construct, or place any above ground tank for the storage of flammable liquids. (Ord. 2012-10; Code 2012)
- 7-402. STORAGE GREATER THAN 30 GALLONS PROHIBITED. It shall be unlawful for any person or entity to store an aggregate of greater than 30 gallons of flammable liquids on any property within the city limits that is zoned for residential use. (Ord. 2012-10; Code 2012)
- 7-403. STORAGE IN APPROVED CONTAINERS ONLY. Any flammable liquid stored within the city limits shall be stored only in containers designed and approved for the storage of flammable liquids. Storage in glass containers of any kind is strictly prohibited. (Ord. 2012-10; Code 2012)
- 7-404. STORAGE ON COMMERCIAL PROPERTY. Any person or entity storing flammable liquids within the city limits on property zoned for commercial or industrial use shall comply with the rules and regulations promulgated by the Kansas State Fire Marshall set forth in Article 7 of the Kansas Administrative Regulations. (Ord. 2012-10; Code 2012)
- 7-405. PENALTY. Any person found in violation of this article shall be fined in an amount not less than \$100 and not more than \$1,000. (Ord. 2012-10; Code 2012)