

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 per company. There shall be a total of two companies. Members of the fire department shall be appointed by the mayor and confirmed by the city council. (Code 1996)
- 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. (Code 1996)
- 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 1996)
- 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 1996)

- 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 1996)
- 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 1996)
- 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 1996)
- 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.
(Code 1996)
- 7-109. RESERVED. (Code 2016)
- 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 1996)
- 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 1996)

ARTICLE 2. FIRE PREVENTION

- 7-201. INCORPORATING INTERNATIONAL FIRE CODE. There is hereby incorporated by reference by the governing body of the City of Cheney, Kansas, for the purpose of prescribing regulations governing conditions potentially hazardous to life and property from fire or explosion, that certain code known as the International Fire Code, 2012 Edition, prepared and published in book form by the International Code Council, Inc., 3060 Saturn Street, Suite 100, Brea, California 92821, save and except such portions as hereinafter deleted, modified or amended by Section 7-203 and/or any other applicable provision of Chapter VII of the Code of the City of Cheney, Kansas. One copy of said International Fire Code, 2012 Edition, shall be marked "Official Copy as adopted by Ordinance No. 881," 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 ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. (Ord. 881; Code 2016)
- 7-202. SAME; ENFORCEMENT. The code hereby adopted shall be enforced by the chief of the fire department. (Code 1996)
- 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 Cheney.
(b) All sections of the Uniform Fire Code relating to fireworks are hereby deleted in their entirety. (Code 1996)
- 7-204. BURNING PROHIBITED. Except as specifically authorized in accordance with Section 7-201 of this article, it is unlawful to burn combustible residential trash, solid waste or tree limbs of any kind within the city limits.
(Ord. 881; Code 2016)
- 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 1996)
- 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 1996)
- 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 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 1996)
- 7-208. 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 1996)

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 1996)

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 1996)

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 1996)

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 1996)

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 1996)

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 1996)
- 7-302. PERMIT FOR SALE OF FIREWORKS REQUIRED; FEE. Except as hereinafter provided, it shall be unlawful for any person to sell, display, detonate, discharge, and/or ignite fireworks as defined by the regulations of the Fire Marshal of the State of Kansas, within the corporate limits of the City of Cheney, Kansas.
- (a) Permit Purpose. The purpose of issuing a permit for the sale of fireworks pursuant to this section is to permit a location for the sale of fireworks within the corporate limits of the City of Cheney, Kansas, while controlling the inconvenience, interference with pedestrian and vehicular traffic and danger to the public that could be caused by the unregulated placement of said location.
- (b) Permit Required. It shall be unlawful for any person to sell, display for sale, offer to sell or give away any type of fireworks within the City of Cheney, Kansas without first paying the appropriate permit fee per establishment or premises to the City Clerk and applying for and securing a permit therefore at least 10 days in advance of the date sales are to commence
- (c) Permit Fee. The permit fee is based upon the total square footage of the tent, shed or other structure where fireworks are to be sold or displayed for sale. The permit fee for a tent, shed or other structure with a total square footage of up to 2500 square feet shall be \$2,000. The permit fee for a tent, shed or other structure with a total square footage in excess of 2500 square feet shall be a sum equal to \$1 per square foot. The permit fee shall only be refundable upon failure of the Permittee to qualify for the permit. (Ord. 828; Code 2016)
- 7-303. SAME; LOCATION; INSPECTION; SAFETY; DISPLAY.
- (a) Permit Location. A permit shall be only issued for vacant lots within the City of Cheney, Kansas. No permit shall be issued for any location where retail sales are not permitted under the zoning laws. Additionally, based upon inconvenience, interference with pedestrian and vehicular traffic and danger to the public, it has been determined that only three establishments or premises may be located within the City Limits of the City of Cheney, Kansas where retail sales are permitted.
- (b) Location Inspection. Prior to the issuance of a permit, an inspection will be made of the applicant's facility for compliance with this section and other pertinent laws, and no permit shall be issued for any premises not in compliance with such laws. Each location where fireworks are to be sold or displayed for sale shall be inspected by and subject to the standards imposed by the Cheney Fire Chief. The City Clerk may only issue a permit pursuant to this section upon proof that the premises have passed the required inspection by the Cheney Fire Chief or his/her designee.

(c) Location Safety. Approval of all safety precautions and equipment at the sales location shall be by the City Administrator or his/her designee, in conjunction with the Cheney Fire Chief or his/her designee.

(1) Safety precautions and equipment shall include fire extinguishers and such other equipment as required by applicable state and city laws and regulations.

(2) Fireworks shall not be stored or sold within 50 feet of any source of flame, sparks, or flammable or volatile liquids in excess of one gallon.

(3) If housed in a tent, the tent shall be constructed of a flame retardant material, with a certificate of such flame retardant attached. Any electrical cords shall be appropriately protected from damage by weather, the public and automobiles.

(4) No sales of fireworks shall occur at any location, building, structure, tent or other similarly describable enclosure in conjunction with the retail sales of non-fireworks related items except as allowed by the City Administrator of the City of Cheney, Kansas, at the written request of the Permittee. Any items sold under this exception must be approved by the City Administrator prior to any sale taking place.

(d) Permit Display. Upon qualifying for the permit, the Permittee shall conspicuously post, and prominently display, the permit along with the Cheney Fire Chief inspection receipt at the establishment or premises where fireworks are to be sold or displayed for sale. (Ord. 828; Code 2016)

7-304.

SAME; APPLICATION; PROCESS. (a) Applications for permits to sell fireworks shall not be accepted before the first business day of January of the year for which the permit is to be issued. A preference will be extended to an application with proceeds supporting a not for profit organization within the City of Cheney, Kansas or an activity sponsored by the City of Cheney, Kansas. To exercise this preference, the applicant must apply for a permit before the last business day of May of the year for which the permit is to be issued. Thereafter, applications will be accepted on a first come first serve basis for a permit that remains un-issued.

(b) All applications shall be on a form determined by, and include the information requested by, the City Clerk. The appropriate permit fee, in certified funds, must accompany each application.

(c) The City Clerk shall present all applications received to the Fire Chief or his/her designee.

(d) Subject to a determination by the Fire Chief or his/her designee that said applicant has met all the requirements set forth herein, including a determination as to the appropriateness of the proposed site and the availability of a permit, a permit shall be issued.

(e) The City Clerk shall notify each applicant by first-class United States Mail whether said applicant was successful in obtaining a permit within 10 business days of the determination by the Fire Chief or his/her designee. The permit fee submitted by all unsuccessful applicants shall be returned with the notice that said applicant was not successful in obtaining a permit. (Ord. 828; Code 2016)

7-305.

SAME; INSURANCE; INDEMNIFICATION. (a) Each permittee shall obtain a policy of general comprehensive liability insurance for a minimum coverage of \$500,000 per occurrence, with the City of Cheney, Kansas named as an additional insured, and shall provide the city with a copy of the certificate of such insurance.

Such policy or policies shall not be cancelable by the permittee upon less than thirty days' notice.

(b) Each permittee shall also obtain a policy of product liability insurance for a minimum coverage of \$500,000 per occurrence for products sold and/or stored within the city by the vendor, and shall provide the city with a copy of the certificate of such insurance. Such policy or policies shall not be cancelable by the permittee upon less than thirty days' notice.

(c) Each permittee shall at all times indemnify the City of Cheney, Kansas, its officials, representatives, designees and employees, and shall defend, save and hold them harmless, from and against any and all claims, actions, damages, liability and expense, including but not limited to attorneys and other professional fees, in connection with loss of life, personal injury and/or damage to property arising from or out of the storage, sale, discharge and/or transportation of fireworks by such permittee and permittee's customers, representatives, employees, contractors and designees. (Ord. 828; Code 2016)

7-306. SAME; PERMIT REVOCATION; DISQUALIFICATION. (a) Any permit holder violating any provisions of this section shall, upon the first violation of this section, be issued a warning by the Cheney Police Department. On any second or subsequent violation of this section, the Cheney Police Department shall revoke the permit for sale and terminate the sale of fireworks by the violator.

(b) Any permit holder whose permit is revoked hereunder may appeal to the City Administrator by notice served upon the City Clerk and a hearing shall be called and held not less than 24 hours from the date of the filing of such notice of appeal. The determination of the City Administrator shall be final.

(c) No permit shall be issued or renewed to a holder who has been revoked hereunder in a prior year or who has failed to demonstrate financial responsibility. In this regard, and by way of illustration, evidence that the holder of a permit has failed to pay the cost of merchandise when due, failed to pay costs associated with leased land or facilities when due, or failed to pay wages of employees when due in connection with sales of fireworks in prior years, may constitute sufficient grounds for the rejection of an application for a permit. (Ord. 828; Code 2016)

7-307. SALE TIMES. Fireworks permitted under this section shall be sold only between the hours of 8:00 a.m. and 10:00 p.m. from June 27th through July 4th. (Ord. 828; Code 2016)

7-308. 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 \$1,000,000, 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 1996)

7-309. **DETONATION AND DISCHARGE OF FIREWORKS**

(a) Fireworks, which may be displayed, detonated, discharged, and/or ignited within the corporate limits of the City of Cheney, Kansas, shall only be those devices commonly known as consumer Class C 1.4G fireworks as defined by the regulations of the Fire Marshal of the State of Kansas.

(b) Individuals who are at least 14 years old and under the age of 14 years old with adult supervision may detonate fireworks permitted under this section on July 1st through July 3rd between the hours often 10:00 a.m. and 10:00 p.m. and 10:00 a.m. through midnight on July 4th at a private residence, with the permission of an adult living at that residence, or within the authorized shooting area as described by a Resolution of the Governing Body of the City of Cheney, Kansas. However, no firework may be displayed, detonated, discharged, and/or ignited in a manner that may cause personal injury or property damage. When, on occasion, the discharge dates fall on a Sunday, detonation of fireworks shall be delayed until 12:00 noon.

(c) If inclement weather prevented the use and discharge of fireworks on July 4th, the Mayor, in his/her discretion, may notify members of the public that the dates set forth shall be extended to July 5th between the hours of 10:00 a.m. and midnight.

(d) The adult granting permission to detonate fireworks at a private residence shall clear the front yard of that private residence and all adjacent public right-of-way of all debris from the detonation of the fireworks before 10:00 p.m. July 5th. (Ord. 828; Code 2016)

7-310. **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 or within the fire zone of the city. (Ord. 828; Code 2016)

7-311. **EMERGENCY CONDITIONS.** (a) Upon the determination of the Mayor and based upon recommendations of the city staff, the discharge of fireworks may be limited, suspended or prohibited within the city limits of the city even during those times generally permitted by this article. Such determination shall be made if it appears to the Mayor that the discharge of fireworks constitutes an immediate hazard to the safety of property or persons within the city. Such limitation, suspension or prohibition shall be by emergency proclamation, signed by the Mayor, which shall be publicized and posted at the Cheney City Hall.

(b) If thereafter, circumstances occur which minimize or eliminate the hazardous condition resulting in such proclamation, the proclamation may be rescinded or modified by subsequent proclamation with similar posting. In the

absence of the mayor, the then serving President of the Council shall be empowered to issue such proclamation. (Ord. 828; Code 2016)

7-312. PENALTY. Any person, whether acting on his or her own behalf or that of any group or organization, who violates any section of this section shall be deemed to be guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not more than \$500 or imprisonment of not more than 30 days, or by both such fine and imprisonment. Additionally, fireworks illegally displayed, detonated, discharged, and/or ignited pursuant to the provisions of this article may be confiscated by an officer of the Cheney Police Department. (Ord. 828; Code 2016)

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 2016)

ARTICLE 4. EMERGENCY SERVICES

- 7-401. **EMERGENCY SERVICES.** Services which provide for the effective and coordinated emergency care of individuals, and would include, but not be limited to, the performance of authorized emergency care by emergency technicians and those trained in basic first aid care. The Cheney fire department is not required to, but is authorized to provide paid services. (Code 1976)
- 7-402. **ESTABLISHED.** The city establishes and makes an emergency service as provided in this article. All medical technicians as defined under K.S.A. 65-4301 et seq. shall be required to fully complete the course or classes necessary to be so qualified. All members of the fire department rendering first aid shall be qualified and trained through the American Red Cross. Copies of the credentials of medical technicians and those trained in first aid shall be submitted to the city, and shall be certified as being sufficient and proper by the fire chief prior to their engaging in any emergency services. The technicians and those authorized to render first aid shall at all times remain qualified and shall in all respects comply with the Act when applicable and any rules or regulations relating thereto. (Code 1976)
- 7-403. **MEMBERSHIP.** Certain members of the Cheney fire department who are properly trained and experienced in the activities may engage in rendering emergency services. (Code 1976)

ARTICLE 5. UNMANNED AERIAL LUMINARIES

- 7-501. **PROHIBITED.** It shall be unlawful for any person to sell, ignite or otherwise use unmanned aerial luminaries within the corporate limits of the City of Cheney, Kansas. (Ord. 862; Code 2016)
- 7-502. **DEFINITION.** As used in this Article, the term "unmanned aerial luminary" means a device constructed of lightweight material which is capable of traveling significant distances through the air when powered by fire or a fuel cell until such fire or fuel cell deteriorates causing such device to fall to the ground at an unknown location. The term "unmanned aerial luminary" includes but is not limited to devices known as sky lanterns, flying luminaries, Kongming or Chinese lanterns, sky candles or fire balloons. (Ord. 862; Code 2016)
- 7-503. **PENALTY.** (a) Any person eighteen years of age or older violating the provisions of Section 7-501 shall be subject to a fine of not more than \$1,000 for each occurrence.
- (b) Any police officer finding a minor under the age of eighteen years violating the provisions of Section 7-501 shall warn the minor to desist from such violation and immediately return home and shall cause a written notice to be served upon the parent, guardian or person in charge of such minor, setting forth the manner in which the provisions of Section 7-501 have been violated. For the purposes of this section, notice shall be deemed properly served upon such parent, guardian or person in charge of a minor if a copy thereof is served upon him or her personally or if a copy thereof is sent by certified mail, return receipt requested, to his or her last known address.
- (c) Any parent, guardian or person having the care and custody of a minor who shall permit, or by insufficient control allows, such minor to violate the provisions of Section 7-501 after receiving written notice that such minor has previously violated such provisions shall be subject to a fine of not more than \$1,000 for each occurrence. (Ord. 862; Code 2016)