

CHAPTER VII. FIRE

- Article 1. Fire Department
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ARTICLE 1. FIRE DEPARTMENT

- 7-101. FIRE DEPARTMENT. There is hereby established a fire department in the city to consist of a chief, an assistant chief and not less than 10 nor more than 15 men per company. There shall be a total of two companies as follows: one city company and one rural company. (Code 1971, 8-101)
- 7-102. MEMBERSHIP, APPOINTMENT. The mayor shall appoint with the consent of the council, the chief, assistant chief and firefighters of the fire department. (Code 1971, 8-102)
- 7-103. CHIEF; DUTIES AND POWERS; EQUIPMENT. The chief of the fire department shall be under the supervision of the mayor and shall have 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 shall be at all times ready for immediate use and shall submit a written report as to its condition to the mayor and council at their first meeting in October. (Code 1971, 8-103)
- 7-104. SAME; AT FIRES. The chief of the fire department shall have full power, control and command over all persons present at fires. The chief shall direct the use of all fire apparatus and equipment and command all firefighters in the discharge of their duties. The chief shall take such measures as may deem necessary in the preservation and protection of property and the extinguishing of fires. (Code 1971, 8-105)
- 7-105. SAME; FIREFIGHTERS. The chief of the fire department shall be responsible for the discipline of members and may 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 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. (Code 1971, 8-104)
- 7-106. 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, insurance on building and contents, members responding to the alarm and any other information deemed advisable and make all reports required by law of the chief of the fire department. (Code 1971, 8-106)

- 7-107. ASSISTANT CHIEF; POWERS AND DUTIES. In the absence of the chief, the assistant chief shall perform all the duties and have all the authority and responsibility of the chief as conferred by this article. (Code 1971, 6-107)
- 7-108. 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 of any such hydrant. (Code 1971, 8-108)
- 7-109. PRIVATE USE OF 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. (Code 1971, 8-109)
- 7-110. DUTIES OF FIREFIGHTERS. My subordinate officer or firefighter who refuses or neglects to attend any fire or practice drill without submitting an excuse which is satisfactory to the chief or neglects or refuses to do his or her duty or to obey the orders of the chief or his or her proper commanding officer or who leaves his or her post of duty while at a fire, without the permission of the chief or commanding officer shall be fined the amount paid for responding to each fire alarm and be subject to expulsion from the fire department. If three consecutive meetings are missed, he or she will be automatically dismissed. (Code 1971, 8-110)
- 7-111. PRACTICE DRILLS. It shall be the duty of the chief of the fire department, after due notice, to hold a practice drill or meeting of not less than two hours at least once every month. It shall be the duty of each member of the fire department to attend the practice drill the same as all fire alarms. (Code 1971, 8-111)
- 7-112. PROHIBITED ACTS. It shall be unlawful for any person to park any vehicle, except those operated by fire officials, within the block in which a fire occurs during the fire. It shall be unlawful for any person to drive any vehicle over a fire hose. (Code 1971, 8-112)

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 International Fire Code, edition of 2012, including all the Appendix chapters, published by the International Code Council, one copy shall be filed in the office of the clerk of the City of Phillipsburg, 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. (Ord. 1351; Code 2013)
- 7-202. SAME; ENFORCEMENT. The code hereby adopted shall be enforced by the chief of the fire department. (Code 2010)
- 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 Phillipsburg.
(b) All sections of the Uniform Fire Code relating to fireworks are hereby deleted in their entirety.
(Code 2010)
- 7-204. WAIVER OF STRICT APPLICATION. The chief of the fire department is empowered to modify any of the provisions of the code upon application in writing by the owner, lessee, or duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code. Provided, however, the spirit of the code shall be observed, public safety secured and substantial justice done.
The particulars of such modification, when granted or allowed and the decisions of the fire chief thereon, shall be entered upon the records of the fire department and a signed copy shall be furnished the applicant.
(Code 1971, 8-202)
- 7-205. APPEALS. Whenever the chief of the fire department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the fire chief to the fire department committee of the city council within 30 days from the date of the decision appealed. (Code 1971, 8-203)
- 7-206. OPEN BURNING. (Reserved)
- 7-207. 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 2010)
- 7-208. KEEPING OF PACKING MATERIALS. It shall be unlawful to keep excelsior or other packing material in any other than metal or wood metal line boxes or bins having self-closing or automatic covers. All refuse and trash from rooms where packing or unpacking is done shall be removed daily. (Code 2010)

- 7-209. 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 2010)
- 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 2010)
- 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 2010)
- 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 2010)
- 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 2010)

7-214. SAME; SERVICE OF ORDER; RECORDS. Any order made under section 7-214 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 2010)

ARTICLE 3. FLAMMABLE AND HAZARDOUS SUBSTANCES

- 7-301. TANK TRUCKS IN FIRE LIMITS. (a) Tank trucks as used in this article shall mean any motor propelled or drawn vehicle used for the transportation of flammable liquids or liquefied petroleum gases and which for such purpose is provided with a tank or tanks mounted on the frame or chassis of such vehicle.
- (b) It shall be unlawful for any person to park, stand or store any tank truck, whether loaded or empty, within the fire limits of the city except while actually engaged in the expeditious loading, unloading or delivery of flammable liquids or liquefied petroleum gases at a service station or other permanent receiving installation. Such vehicle may be stored or parked in a garage or repair shop within the fire limits for the purpose of repairing the vehicle. (Code 1971, 8-208)
- 7-302. STORAGE OF INFLAMMABLE LIQUIDS. (a) It shall be unlawful for any person to keep or permit to be kept in any building or upon any premises within the city limits, more than five gallons of gasoline, fuel oil, coal oil or motor spirits, in any one container and not to exceed two containers on such premises.
- (b) Any person desiring to store a larger quantity shall provide an underground storage tank, the top of which shall be at least two feet below the surface of the ground and below the level of the lowest pipe in the building to be supplied. The tank shall be set on a firm foundation surrounded by soft earth or sand well tamped in place or encased in concrete.
- (c) Underground tank yards shall be kept securely fenced and with at least six inches of gravel, chat, cinders or other large aggregate over the area occupied by the tanks and in a clean, orderly manner free from rubbish, weeds, trash or other inflammable substances.
- (d) The city governing body by motion or resolution may exempt any person and/or persons or entity from the provisions of this section and allow the above ground storage of oil and/or fuel products on property within the city limits which has been primarily and continually used for oil and/or fuel storage since on or before the year 1975.
- (e) It shall be unlawful for any person to store any of the above mentioned liquids in violation of state law. (Ord. 1207, Sec. 1; Code 1992)
- 7-303. STORAGE OF FLAMMABLE LIQUIDS. (a) When the Kansas Department of Health and Environment has determined that the public interest will best be served by the removal of flammable hydrocarbons from the underground water aquifer within the city limits, then with the approval of the chief of the fire department, aboveground flammable or combustible liquid tanks may be installed, provided that all applicable sections of the Uniform Fire Code are complied with.
- (b) It shall be unlawful for a contractor of the Kansas Department of Health and Environment or any other contractor to commence removal of flammable hydrocarbons from the underground water aquifer within the city limits, unless proof of comprehensive public liability insurance is first secured from a responsible insurance company, licensed to do business in the State of Kansas and satisfactory to the city, properly protecting and indemnifying the city and all persons within in an amount of not less than \$500,000 for injury to or death of any person per occurrence, and not less than \$500,000 for property damage per occurrence. Contractor shall furnish the city clerk with a certificate or certificates of insurance. (Ord. 1224, Sec. 1:2)

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 2010)
- 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 2010)
- 7-403. SAME: EXCEPTION; SALE OF FIREWORKS. Any person who has first obtained a valid permit to sell fireworks within the city may do so between the hours of 8:00 a.m. and 12:00 midnight commencing June 27th and through July 5th of each year. (Ord. 1375; Code 2013)
- 7-404. 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, as set by policy of the governing body, 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 2010)
- 7-405. 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 2010)

7-406. 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 2010)

7-407. DISCHARGE ON STREETS AND PUBLIC PROPERTY PROHIBITED. (a) 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.

(b) DISCHARGE ON PRIVATE PROPERTY REGULATION. It shall be unlawful for any person to discharge, ignite or fire any fireworks upon any private property within the city from 10:00 p.m. to 8:00 a.m.

Any person violating any provision of this section shall be punished as provided in section 1-116 of this code.

(Ord. 1367; Code 2013)

7-408. 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 2010)

7-409. 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 2010)

- 7-410. 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 2010)
- 7-411. 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 2010)
- 7-412. 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 2010)
- 7-413. 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 2010)
- 7-414. BANNING FIREWORKS. The Mayor in consultation with the Fire Chief shall have the authority and discretion to ban the discharge of all fireworks within the corporate limits of the City of Phillipsburg if the weather conditions make discharge of fireworks in the City hazardous to persons or property. (Code 2013)