

Chapter 225

FIRE PREVENTION

Cross Reference — Fire department provisions, see §§200.050 et seq.

ARTICLE I

International Fire Code

Section 225.010. International Fire Code. [CC 1985 §5-601; Ord. No. 938, 1-20-1992; Ord. No. 1048 §§1 — 3, 10-5-1998; Ord. No. 1158 §§1 — 3, 10-21-2002; Ord. No. 1256 §§1 — 3, 3-5-2007; Ord. No. 1455 § 1, 7-20-2015]

- A. A certain document, two (2) copies of which are on file in the office of the City Clerk of the City, being marked and designated as the International Fire Code, 2012 Edition, as published by the International Code Council, be and is hereby adopted as the Fire Code of the City, in the State of Kansas regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of the City Clerk are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in Subsection (B) of this Section.
- B. The following Sections are hereby revised:
1. Section 101. Insert: City of Mulvane.
 2. Section 109.4. Insert: five hundred dollars (\$500.00) and thirty (30) days.
 3. Section 111.4. Insert: fifty dollars (\$50.00) and five hundred dollars (\$500.00).
 4. Section 5704.2.9.6.1 Insert: The storage of Class I and Class II liquids in above-ground tanks, inside and outside of buildings is prohibited within the City limits of Mulvane on residential use property, and within one hundred (100) feet of any residential structure if located on other than property used for residential purposes.
 5. Section 5706.2.4.4 Insert: The storage of Class I and Class II liquids in above-ground tanks, inside and outside of buildings is prohibited within the City limits of Mulvane on residential use property, and within one hundred (100) feet of any residential structure if located on other than property used for residential purposes.
 6. Section 5806.2 Insert: No cryogenic fluids in stationary containers are allowed on

properties used for residential purposes or within one hundred (100) feet of any residential dwelling.

7. Section 6104.2 Insert: Within the City limits of Mulvane, the adopting ordinance restricts the storage of liquefied petroleum gas for the protection of populated or congested areas; the aggregate capacity of storage of liquefied petroleum on property used for residential purposes shall not exceed a water capacity of twenty five (25) gallons. Liquefied petroleum shall not be used to fuel any permanent building heating appliance within the City limits of Mulvane.

- C. The geographic limits referred to in certain Sections of the 2012 International Fire Code are hereby established as follows: Within the City limits of the City.

Section 225.020. Penalties. [CC 1985 §5-602; Ord. No. 714, 4-4-1983]

Any person, firm or corporation violating any of the provisions of this Article shall, upon conviction thereof, be fined a sum not to exceed five hundred dollars (\$500.00) or imprisonment for not to exceed sixty (60) days, or be both fined and imprisoned.

ARTICLE II
Fireworks¹

Section 225.030. Definitions. [Ord. No. 1341 §1, 2-15-2010]

As used in this Article, the following words and phrases shall have the meanings as set out herein:

FIREWORKS — Includes both permitted fireworks and prohibited fireworks.

PERMITTED FIREWORKS — Includes any combustible or deflagrating composition, article or device suitable for the use of the public for the purpose of producing a visible or audible effect by combustion, deflagration or by detonation and previously approved by the State of Kansas Fire Marshall's office and by the Mulvane Director of Public Safety.

PROHIBITED FIREWORKS — Includes any combustible or deflagration device not approved for sale to the general public within the State of Kansas by the State of Kansas Fire Marshal's office or by the Mulvane Director of Public Safety.

Section 225.040. Designated Areas for Discharge of Fireworks. [Ord. No. 1341 §1, 2-15-2010]

- A. Except as otherwise set forth in this Article, it shall be unlawful for any person, at any time, to discharge fireworks within the City of Mulvane, Kansas.
- B. The Mulvane Director of Public Safety may designate, upon his/her determination of such area to be safe and controllable for such purposes, the City-owned sports complex or other appropriate area as a "designated area" upon which permitted fireworks may be discharged

1. Cross Reference — Bottlerockets, see §210.415. Editor's Note — Ord. no. 1341 §1, adopted February 15, 2010, repealed sections 225.030 — 225.110 and enacted new provision set out herein. Former sections 225.030 — 225.110 derived from CC 1985 §§6-401 — 6-403, 6-405 — 6-406, 6-408, 6-410 — 6-412; ord. no. 862, 5-15-1989; ord. no. 1011, 8-19-1996; ord. no. 1059 §§225.040(C), 225.085, 5-3-1999; ord. no. 1076 §225.090, 12-20-1999; ord. no. 1127, 8-5-2002; ord. no. 1149 §6, 8-19-2002; ord. no. 1221, 9-19-2005.

during the authorized discharge times. The Director of Public Safety may authorize firefighters to supervise the detonation of fireworks and/or other explosive devices in such designated areas as deemed necessary.

- C. Individuals may discharge permitted fireworks during the authorized discharge times at any private residence, with the permission of an adult living at that residence, or within a designated area.
- D. *Authorized Discharge Times.* The following are the authorized discharge times:

Designated areas: July 3 and 4 — 8:00 A.M. to Midnight

Private residential land: June 27 through July 2 — 8:00 A.M. to 10:00 P.M., except on Friday or Saturday during such period, on which days discharge shall be allowed until Midnight.

8:00 A.M. to Midnight on July 3 and 4.

8:00 A.M. to 10:00 P.M. on July 5, when July 4 falls on Sunday.

Section 225.050. Permits to Sell Permitted Fireworks — Location — Fees. [Ord. No. 1341 §1, 2-15-2010]

- A. Except as otherwise set forth in this Article, 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 Mulvane, Kansas.
- B. Any person may sell, display for sale or offer for sale permitted fireworks upon receipt of a "fireworks permit" approved by the Zoning Administrator and the Mulvane Director of Public Safety (together with such other fire official as may from time to time be designated by the Director of Public Safety). Applications for fireworks permits must be submitted each year by June seventeenth (17th).
- C. A fireworks permit shall authorize only one (1) location for the sale of permitted fireworks (an "authorized location") which authorized location may only be property which is zoned to permit retail sales. Each authorized location shall have a minimum setback of fifty (50) feet from existing structures and access cannot be solely limited to a residential street. Each authorized location shall provide at least three (3) off-street parking spaces and one (1) additional off-street parking space for each three hundred (300) square feet of sales floor area in excess of nine hundred (900) square feet.
- D. Each applicant must include with his or her application for a fireworks permit a site plan for the proposed location including a diagram showing the location dimensions, size of the property, size of any structures (including tents), distance from existing structures, number of parking spaces available, parking area and access to streets. Prior to the approval of a fireworks permit, the Zoning Administrator, the Mulvane Director of Public Safety and/or such other official of the City of Mulvane, Kansas, as the Director of Public Safety shall designate, shall inspect the proposed location for compliance with City Zoning Codes, the

International Fire Code, this Article and other pertinent laws and no fireworks permit shall be issued for any premises not in compliance with such laws.

- E. Each applicant must submit with his or her application for a fireworks permit, the fireworks permit fee and the cleanup deposit set forth in Section 100.240.
- F. Each applicant must submit with his or her application for a fireworks permit certificates of insurance evidencing all insurance required under this Article.

Section 225.060. Times for Sales. [Ord. No. 1341 §1, 2-15-2010]

A holder of a fireworks permit may sell, display for sale and offer to sell permitted fireworks at an authorized location from June twenty-seventh (27th) until July fourth (4th) during the hours of 8:00 A.M. until Midnight. If July fourth (4th) falls on a Sunday, such sales activity may continue on July fifth (5th) during the hours of 8:00 A.M. until 10:00 P.M. After such time, all fireworks permits shall automatically expire.

Section 225.070. Location Safety — Insurance Required. [Ord. No. 1341 §1, 2-15-2010]

- A. Each authorized location shall have on its premises fire extinguishers and such other safety equipment as required by the Mulvane Director of Public Safety and any applicable State and City laws and regulations.
- B. Fireworks may not be stored or sold within fifty (50) feet of any source of flame, sparks or flammable or volatile liquids in excess of one (1) gallon.
- C. If a tent is located on the authorized location, such tent shall be constructed of a flame retardant material. Any electrical cords shall be appropriately protected from damage by weather, the public and automobiles.
- D. No authorized location may sell any non-fireworks related items.
- E. Each authorized location must display its fireworks permit at all times when it is open to the public and/or engaged in the selling or displaying of permitted fireworks.
- F. Each authorized location shall be kept clear of litter, waste, debris and other such refuse. Within thirty (30) business days of the earlier of termination of selling activities or termination/expiration of the fireworks permit pursuant to this Article, each authorized location must be properly cleared of all fireworks, litter, waste, debris and all temporary structures (including tents) and an inspection requested of the Zoning Administrator. After such thirty (30) day period the cleanup deposit shall be deemed forfeited and the City may use all means for cleaning and clearing of the authorized location. The cleanup deposit will be returned to the holder of the fireworks permit upon suitable inspection of the authorized location, if properly cleared within the thirty (30) day period.
- G. All holders of a fireworks permit shall maintain a policy of general comprehensive liability insurance or otherwise post a bond for a minimum coverage of not less than the then current maximum liability for the City pursuant to the Kansas Tort Claims Act (currently five hundred thousand dollars (\$500,000.00) per occurrence), with the City of Mulvane, Kansas named as an insured. The general comprehensive liability shall not be cancelable upon less than thirty (30) days' notice.

Section 225.075. Permits for Commercial Fireworks Displays — Fees. [Ord. No. 1406 §2, 12-17-2012]

- A. An application for the discharge and display of commercial fireworks for entertainment or viewing by the public shall be considered for approval by the City Council upon timely request made throughout the calendar year on a case-by-case basis. Except as set forth in this Article, it shall be unlawful for any person or entity to discharge commercial fireworks for the entertainment and viewing of others within the City of Mulvane, Kansas.
- B. The application for the discharge and display of commercial fireworks for entertainment or viewing by the public must include a site plan for the proposed discharge location and fallout areas, including a diagram showing the location dimensions, size of the property, size of any structures and distance from existing structures. The application shall be made to the Director of Public Safety upon such forms and shall be subject to such further restrictions and other requirements (including insurance certificates) as from time to time established by the Director of Public Safety with the consent and approval of the City Council. The application shall be placed on the City Council agenda for consideration only if approved by the Director of Public Safety.
- C. A fireworks permit for the discharge and display of commercial fireworks for entertainment or viewing by the public shall authorize only one (1) location. The location and intended display must comply in all respects with the State Fire Code, this Article and all other pertinent laws. No fireworks permit shall be issued for any premises or intended display not in compliance with such laws.
- D. Each application for a fireworks permit for the discharge and display of commercial fireworks for entertainment or viewing by the public must be accompanied by the appropriate fireworks permit fee set forth in Section 100.240.

Section 225.080. Fireworks Permit Revocation. [Ord. No. 1341 §1, 2-15-2010; Ord. No. 1406 §1, 12-17-2012]

- A. Upon any violation of this Article, the Mulvane Police Department may revoke any and all fireworks permits held by such holder and immediately terminate the sale of permitted fireworks or the commercial display of fireworks under any fireworks permit.
- B. Any holder of a fireworks permit whose fireworks permit is revoked hereunder may appeal to the City Administrator of the City by notice served upon the City Clerk of the City and a hearing shall be called and held not less than one (1) business day from the date of the filing of such notice of appeal. The determination of the City Administrator shall be final.
- C. No fireworks permit shall be issued to a holder who has had a fireworks permit revoked hereunder in a prior year.

Section 225.090. Exception to Article. [Ord. No. 1341 §1, 2-15-2010]

Nothing in this Article shall be construed to prohibit the use of fireworks by railroads or other public transportation companies or agencies for signal or illumination purposes. The sale or use of blank gun cartridges for a bona fide show or theater, road flares for signal purposes or blank gun cartridges for ceremonial purposes in athletic or sports contests or for use by military or law

enforcement agencies shall not be considered a violation of this Article.

Section 225.100. Emergency Circumstances. [Ord. No. 1341 §1, 2-15-2010]

- A. Under special circumstances including, but not limited to, a Statewide ban on burning and/or fireworks detonation, the time, place and manner of sale and discharge of fireworks may be changed in response to conditions which may impair the public health or safety.
- B. Whenever it appears to the Director of Public Safety that it is reasonably necessary to limit or alter the provisions of this Article due to the likelihood of a fire hazard beyond that normally contemplated by this Article, he or she shall so declare in writing and shall duly notify the Mayor and City Council of such declaration of emergency and shall recommend the manner in which this Article shall be modified. Upon approval of the Governing Body, the recommended modifications shall be enforced to the extent permitted by law.

Section 225.110. Violations. [Ord. No. 1341 §1, 2-15-2010]

- A. Any person, whether acting on his or her own behalf or that of any group or organization, who violates any Section of this Article shall be deemed to be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment of not more than thirty (30) days, or by both such fine and imprisonment.
- B. The Mulvane Police Department shall seize, take, remove or cause to be removed at the expense of the holder of the fireworks permit or the violator any prohibited fireworks or permitted fireworks which are sold, offered for sale, used, discharged, possessed or transported in violation of this Article.

Section 225.115. Severability. [Ord. No. 1341 §1, 2-15-2010]

In the event any part of this Article is invalidated by any court of competent jurisdiction, the remainder shall be considered as severed and shall survive in full force and effect as though that part of this Article found invalid was never a part hereof.

ARTICLE III

Recovery of Expenses — Hazardous Materials

Section 225.120. Definitions. [CC 1985 §6-701; Ord. No. 907, 12-3-1990]

- A. *Definitions.* As used in this Article, the following words and phrases shall have the meanings as set out herein:

EMERGENCY ACTION — Emergency action shall mean all exigent activities conducted in order to prevent or mitigate harm to the public health and safety and the environment from a release or threatened release of any material into or upon land, water or air.

PERSON — Includes any individual, corporation, association, partnership, firm, trustee, legal representative, or any combination thereof.

RECOVERABLE EXPENSES — Recoverable expenses shall include those expenses of the City and/or any rural Fire Districts with which the City has an agreement for the rendition of

emergency services that are reasonable, necessary and allocable to an emergency action. Recoverable expenses shall not include normal budgeted expenditures that are incurred in the course of providing what are traditionally City services and responsibilities, such as routine firefighting protection. Expenses allowable for recovery may include, but are not limited to:

1. Disposable materials and supplies consumed and expended specifically for the purpose of the emergency action.
2. Compensation of employees for the time and efforts devoted specifically to the emergency action.
3. Rental or leasing of equipment used specifically for the emergency action (e.g. protective equipment or clothing, scientific and technical equipment).
4. Replacement costs for equipment owned by the City that is contaminated beyond reuse or repair, if the equipment was a total loss and the loss occurred during the emergency action (e.g., self-contained breathing apparatus irretrievably contaminated during the response).
5. Decontamination of equipment contaminated during the response.
6. Special technical services specifically required for the response (e.g., costs associated with the time and efforts of technical experts or specialists not otherwise provided for by the City).
7. Other special services specifically required for the emergency action.
8. Laboratory costs of analyzing samples taken during the emergency action.
9. Any costs of cleanup, storage, or disposal of the released material.
10. Costs associated with the services, supplies and equipment procured for a specific evacuation of persons or property.
11. Medical expenses incurred as a result of response activities.
12. Legal expenses that may be incurred as a result of the emergency action, including efforts to recover expenses pursuant to this Article.

RELEASE — Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into or upon land, water or air, of any material which the City determines may be harmful to the public health and welfare or to the environment.

RESPONSE — Any activity by the City subsequent to a release, threatened release or other activity of the City intended in whole or in part as a direct or indirect countermeasure to a release or threatened release.

THREATENED RELEASE — Any imminent or impending event potentially causing but not resulting in a release, but causing the City to undertake an emergency action.

- B. For purposes of liability hereunder it is not necessary that the City prove the release or threatened release was the cause of a specific activity of a person subject to this Article.

The City need only show the response was the result of a release or threatened release as defined herein.

Section 225.130. Strict Liability. [CC 1985 §6-702; Ord. No. 907, 12-3-1990]

Any person causing or responsible for a release or threatened release resulting in an emergency action shall be strictly liable to the City for the recoverable expenses resulting from the emergency action. There shall be a rebuttable presumption that any person owning or controlling property causing a release or threatened release is responsible for such release or threatened release.

Section 225.140. Recovery of Expenses. [CC 1985 §6-703; Ord. No. 907, 12-3-1990]

- A. *Itemization Of Recoverable Expenses.* City personnel and departments involved in an emergency action shall keep an itemized record of recoverable expenses resulting from an emergency action. Promptly after completion of an emergency action, the appropriate City department shall certify those expenses to the City Clerk.
- B. *Submission Of Claim.* The City shall submit a written itemized claim for the total expenses incurred by the City for the emergency action to the responsible person and a written notice that unless the amounts are paid in full within thirty (30) days after the date of the mailing of the claim and notice, the City may file a civil action seeking recovery for the stated amount.
- C. *Lien On Property — Certification — Recoverable Expenses On Tax Rolls.* The City may cause a lien in the amount of the recoverable expenses to be placed on any real or personal property found within the City owned by the person causing or responsible for the emergency action. The City Clerk shall certify to the County Clerk that portion of the recoverable expenses remaining unpaid after the expiration of thirty (30) days from the date on which the claim therefore was submitted to the responsible person, and the County Clerk shall extend such unpaid recoverable expenses on the tax rolls of the County against any real or personal property found within the City owned by the person causing or responsible for the emergency action.
- D. *Civil Suit.* The City may bring a civil action for recovery of the recoverable expenses against any and all persons responsible for the emergency action under this Article and/or under any applicable State or Federal Laws.
- E. Nothing in this Article shall be construed to conflict with State or Federal laws requiring persons responsible for releases or threatened releases from engaging in remedial activities and/or paying the costs thereof.