

CHAPTER VII. FIRE

- Article 1. Fire Department
- Article 2. Fire Prevention
- Article 3. Fireworks
- Article 4. Adoption of 2012 International Fire Code

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, any paid firefighters as deemed necessary by the governing body and volunteers. Members of the fire department shall be approved by the mayor. (Code 2004)
- 7-102 **MEMBERSHIP; FIRE DRILL.** Members of the fire department shall all be volunteers with the exception of the fire chief, and any paid firefighters as deemed necessary by the governing body. 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 50% of the meetings and respond to 12 calls per year shall be subject to expulsion from membership.
- 7-103 **SUPERVISION OF DEPARTMENT.** The chief of the fire department shall be under the supervision of the mayor and governing body 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. (Code 2004)
- 7-104 **FIRE CHIEF; POWERS.** (a) The fire chief shall hereby be given authority to suspend 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 2004)

- 7-105 SAME; RECORDS. The chief of the fire department or his/her designee shall keep in convenient form a complete record of all alarms as specified by the NFIRS and KFIRS reporting systems. Such information shall include the time and location, construction of building, owner, occupancy, how extinguished, value 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 2004)
- 7-106 ASSISTANT CHIEF. In the temporary 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. In the event the chief's position is vacant for reasons of dismissal, resignation or death, the assistant fire chief shall perform all the duties but relinquish all authority to the mayor and governing body as conferred by this chapter. In the absence of the assistant chief, the paid captain or lieutenant shall perform these duties. (Code 2004)
- 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 2004)
- 7-108 FIRE EQUIPMENT; EMERGENCY RIGHT-OF-WAY AND USE.
(a) All fire apparatus and equipment is hereby 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 provision of the state law shall be liable for disciplinary actions. (Code 2004)
- 7-109 SAME; FIRE HOSE. It shall be unlawful for any person or persons to drive any vehicle over any fire hose laid on any street, alley or lot. This section shall not apply to any apparatus or vehicle being driven by members of the fire department. (Code 2004)
- 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 2004)

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 2004)

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 regulation, governing conditions hazardous to life and property from fire or explosion, that certain code and standards known as the International Fire Code, 2012 Edition as amended including all the Appendix chapters, and the thereof and the whole thereof, save and except such portions as hereinafter deleted, modified or amended by section 7-203 of this article one (1) copy which Code and Standards have been and are now filed in the office of the clerk of the City of Colwich, Kansas, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city. (Code 2004)

7-202 SAME; ENFORCEMENT. The code hereby adopted shall be enforced by the chief of the fire department or his/her designee. (Code 2004)

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 Colwich.
(b) All sections of the Uniform Fire Code relating to fireworks are hereby deleted in their entirety. (Code 2004)

7-204 OPEN BURNING. It shall be unlawful for any person to start a fire to any pile of papers, shavings, weeds, brush, leaves, grass or other combustible material on any of the streets, alleys, gutters, parkways, or upon any other public or private grounds in the city; provided however, a fire may be built in any outdoor stove, oven, fireplace barbecue pit, or a portable burner for the purpose of cooking food; provided that any such fire so started shall be extinguished and made safe before the persons starting or maintaining the same shall leave the place where the fire was started; and provided further, that businesses, industries and charities which must, in the conduct of their operation, start fire to combustible material or make fire of any description in the open air, may make application to the chief of the fire department for special permission to start fire to combustible material or to make fire in the open air. (Ord. 387, Sec. 1; Code 2004)

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 2004)

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 2004)

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 line boxes or bins having selfclosing or automatic covers. All refuse and trash from rooms where packing or unpacking is done shall be removed daily. (Code 2004)

7-208 **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 (5) 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 2004)

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 2004)

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. Any grassy vegetation shall not exceed the height of 12 inches. 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 2004)

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, officials

of the Kansas State Fire Marshals office 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 2004)

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 any condition which is contrary to this chapter and/or the currently adopted version of the International Fire Code the fire chief or his/her designee 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 within the municipal court. (Code 2004)

7-213

SAME; SERVICE OF NOTICE OF ORDER; RECORDS.

(a) The Fire Chief or his/her designee shall give written notice of the Order made under section 7-212 to the owner, occupant or agent of such property by certified mail, return receipt requested, or by personal service to abate the fire hazard or danger from the fire forthwith; provided, however, that if the property is unoccupied and the owner is a nonresident, such notice shall be sent by certified, return receipt requested, to the last known address of the owner. Such notice shall only be given once in connection with any violation.

(b) The notice to be given hereunder shall state:

(1) that the owner, occupant or agent in charge of the property is in violation of this Chapter of the Code of the City of Colwich;

(2) that the owner, occupant or agent in control of the property is ordered to abate the fire hazard or danger from the fire within 5 days of the receipt of the notice;

(3) that the owner, occupant or agent in control of the property may request a hearing before the governing body or its designated representative within five (5) days of the receipt of the notice or, if the owner is unknown or a nonresident, and there is no resident agent, 5 days after notice has been published by the city clerk in the official city newspaper;

(4) that if the owner, occupant or agent in control of the property does not abate the fire hazard or danger from the fire forthwith, or fails to request a hearing within the allowed time the city or its authorized agent will abate the fire hazard or danger from the fire

and assess the cost of the abatement, including a reasonable administrative fee, against the owner, occupant or agent in charge of the property;

(5) that the owner, occupant or agent in control of the property will be given an opportunity to pay the assessment, and if it is not paid within 30 days of such notice, it will be added to the property tax as a special assessment;

(6) that no further notice will be given to cure this nuisance fire danger; and,

(7) that the Fire Chief or his/her designee should be contacted if there are questions regarding the order.

(c) If there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this subsection, the city may not recover any costs or levy an assessment for the costs incurred by the abatement upon such property unless the new record owner of title to such property is provided notice as required by this article, unless the fire danger becomes an immediate hazard and is abated pursuant to that section of this Chapter.

(d) The fire chief or his/her designee 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 2004)

7-214

ABATEMENT; NOTICE OF ABATEMENT AND ASSESSMENT OF COSTS. (a) If the owner, occupant or agent in charge of the property has neither alleviated the conditions causing the alleged violation nor requested a hearing within the time periods specified, the Fire Chief or his/her designee shall abate or remove the conditions causing the violation.

(b) If the city abates or removes the nuisance pursuant to this section, the city shall give notice to the owner or his or her agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the city. The notice shall also state that the payment is due within 30 days following receipt of the notice. The city also may recover the cost of providing notice, including any postage, required by this section.

(c) The notice shall also state that if the cost of the removal or abatement is not paid within a 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the city clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and applicable interest has been paid in full.

7-215 VIOLATIONS AND PENALTIES. In addition to any administrative action involving abatement, any person who shall violate the provision of this code or shall fail to comply with any of the requirements thereof, or who shall act in violation of the directive of an official or of a permit or certificate issued under the provisions of this code shall be subject to prosecution in the municipal court of the City. Each day of violation shall be a separate violation. Furthermore, such person may be required to repair or correct any violation and pay all costs associated therewith.

7-216 SUMMONS AND COMPLAINTS. Every summons and complaint charging a violation or violations of this article shall state the name of the defendant, the code section number or numbers alleged to have been violated, the general type of the offense to which each section or ordinance relates, the date and place of each alleged violation and that the defendant is required to appear to answer the charges on a date and at a time and place designated in the complaint or summons. The complaint or summons shall be signed by the Fire Chief.

7-217 PENALTY CLAUSE NOT EXCLUSIVE.
The imposition of the penalties herein prescribed shall not preclude the City from instituting an appropriate civil action to restrain, correct, or abate a violation of this ordinance, and specific authority for such is hereby granted to take any action or imposing any penalty allowed by State law, the Code of this City, or this Article.

7-218 IMMEDIATE HAZARD. When in the opinion of the Fire Chief any fire hazard constitutes an immediate hazard requiring immediate action to protect the public, the Fire Chief or his/her designee, with the assistance of the Police Chief or his/her designee, may direct the property to be made safe, including directing the public works director to erect barricades, or cause the property to be vacated, chemicals or combustibles removed, intentional fires extinguished, or otherwise made safe without delay. Such action may be taken without prior notice to or hearing of the owners, agents, lienholders and occupants. The cost of any action under this section shall be assessed against the property as provided in Chapter 4-211.

ARTICLE 3. FIREWORKS

7-301 FIREWORKS PROHIBITED. Except as hereinafter provided, it shall be unlawful for any person to sell or discharge fireworks.

7-302 FIREWORKS DEFINED.
a) For purposes of this Code the term "fireworks", when used in this article, shall mean and include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers,

torpedoes, skyrocketes, Roman candles, Daygo bombs, sparkler or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets, or other device containing any explosive substance. Nothing in this article shall be construed as applying to toy paper caps containing not more than .25 of a grain of explosive composition per cap, and to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, nor applying to the military or navy forces of the United States or of the State of Kansas, or police officers, nor as prohibiting the sale or use of blank cartridges for ceremonial or theatrical or athletic events.

(b) In addition to the restrictions upon all fireworks set forth within this Article, Bottlerockets 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 at any time.

7-303

VENDOR LOTTERY LIMITED TO CHARITABLE ORGANIZATIONS.

(a) Applications to sell fireworks within the City of Colwich may only be submitted by, or on behalf of, charitable and/or not-for-profit organizations (hereinafter "charitable organizations"). The charitable organization shall be the recognized vendor and responsible for complying with this Article, regardless of which fireworks wholesaler is supplying the charitable organization with fireworks to sell. Due to the size of the City of Colwich, and the limited safe areas available to store/sell fireworks, only four (4) fireworks vendors will be permitted annually, and each will be permitted to operate one (1) fireworks vending stand.

(b) All applications for a permit to sell fireworks shall be submitted to the City Clerk on or before March 1st. If more than three (3) applications are received a lottery will be held on the First Monday in April, to which a representative of each applicant will be invited, but not required, to be present. Three (3) of the applicants will be selected from all valid applications to be given a Right to Obtain a Permit. The lottery shall be conducted in a manner that is random and provides all valid applicants an equal chance of being selected. Permits will be issued during the month of April upon the selected vendor's submission of the permit fee. Failure to have the permit fee and mandatory proof of insurance as set forth within this Article to the City Clerk by the end of business on the last business day in February shall be deemed a waiver of the Right to Obtain a Permit.

(c) A valid applicant is an applicant who has submitted a completed application prior to the application deadline. An incomplete application, including failure to complete acknowledgement of nuisance provisions, permit fees, and insurance requirements, shall be deemed an invalid application.

7-304

PERMITTED DATES OF SITE SET-UP, AND SITE CLEAN-UP.

(a) Permits to sell fireworks shall only be effective from June 27th of the year in which fireworks will be sold pursuant to such permit, to July 4th of that same year.

(b) Fireworks stands may be erected beginning June 24th, and must be dismantled and removed by July 7th. Removal includes removal of all trash associated with fireworks and their sale from the site and its immediate

environment. Failure to dismantle and clean-up the site within the time provided by this section shall be grounds for prosecution under 10-409 below, and the municipal court judge may prohibit the vendor from sale of fireworks within the city for one (1) year from the date of conviction.

7-305

APPLICATION. Applications to sell fireworks within the City of Colwich may only be submitted by, or on behalf of, a charitable organization. Applications for permits shall require the following information, as well as any other information deemed necessary by the City Clerk or Fire Chief:

(a) The application for the permit shall be upon a form provided by the City Clerk's office, which shall be completed and notarized by the applicant, and include the name and address of the organization that is seeking the permit, the location of the vending structure, information about anticipated date of set-up and removal of vending structure, date and time of meeting with City Fire Chief, or designee, regarding location, and any additional information deemed necessary by the City.

(b) The application shall include the tax i.d. or federal i.d. number of the charitable organization. Youth groups without their own federal or tax i.d. number may use the charitable organization identification number associated with its parent organization (Church, School, etc.).

(c) A description of each location referred to herein shall be provided to and approved by the Fire Chief of the City or his/her designee prior to the completion of the application to sell fireworks. Fireworks stands shall not be located on City owned property. A letter from the property owner agreeing to allow a fireworks vending stand to be located on private property shall accompany the application. Corrections in the location of the stand may be made in writing up to the date of issuance of the permit, with the approval of the Fire Chief.

(d) Each applicant shall sign an acknowledgement of the nuisance provisions of this Article and a waiver of any further notice regarding such provisions. The acknowledgement shall contain a requirement that the owner of the fireworks vending structure also be notified of the nuisance provisions of this Article by the vendor utilizing such structure, and that by setting up the fireworks vending structure within the city, all parties with an interest in the fireworks vending structure have waived any further notice of the nuisance provisions of this Article.

(e) Each applicant shall acknowledge in writing the permit fee associated with selection to vend fireworks within the City, and shall acknowledge in writing the insurance requirements contained within this Article.

7-306

SAFETY REQUIREMENTS ASSOCIATED WITH LOCATION OF FIREWORKS VENDING STAND. (a) The Fire Chief of the City, and/or his designee, must approve the location upon which fireworks are to be stored and/or sold within the City. The following requirements may be made more restrictive in reference to a specific site if the Fire Chief of the City, or his designee, deems a special hazard exists in that location, and the health, safety, and welfare of the city requires more restrictive requirements.

(b) No location to sell fireworks within the City shall be within one-hundred fifty (150) feet of another permit location, measured structure to structure. If a tent is used for the construction of the fireworks stand, the material must be of a flame-retardant type.

(c) Each location upon which fireworks are to be sold shall provide for the public not less than one (1) off-street parking stall per one-hundred (100) square feet of sales structure floor area and adequate ingress and egress aisles. Fireworks shall 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, except in stores where cleaners, paints, and oils are handled in sealed containers only. Each vendor shall furnish without cost to the City such flag person and attendants as are necessary to insure the orderly parking of vehicles around each sale site, and shall in no way interfere with the normal flow of traffic on public roads. No vendor shall allow parking on public right-of-way around any sale site.

(d) Prior to issuance of the permit, an inspection will be made of the applicant's facility to determine the square footage of the stand/tent/building and other pertinent laws and no permit shall be issued for any premises not in compliance with such laws. The sale 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 written request of the vendor and approved in writing by the Chief of Police prior to any sale taking place.

(e) All safety precautions and equipment at each sales site shall be approved by the Fire Chief or his/her designee; such precautions to include fire extinguishers and such other equipment as required by applicable state and City laws and regulations are required.

(f) A permit may be immediately revoked with no refund of any portion of the permit fee if the city's Chief of Police and Fire Chief determine that the vendor/permit holder has violated this section regarding safety precautions.

7-307

DESIGNATED TIMES FOR SALE AND DETONATION.

(a) Fireworks permitted under this article shall be sold only between the hours of 8:00 a.m. to 10:00 p.m., and only from June 27th through July 4th.

(b) The detonation of fireworks within the City shall be permitted only between 8:00 a.m. and 11:00 p.m., and only from June 27th through July 4th.

7-308

LIMITATIONS ON MANNER OF DETONATION OF FIREWORKS.

(a) Fireworks, which may be displayed, detonated, discharged, and/or ignited within the City limits shall only be those devices permitted to be sold within the City.

(b) Residents of the City and their guests may detonate fireworks permitted under this article on their private property during authorized shooting hours as set forth in this article. 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.

(c) Fireworks may not be thrown. Lighting and throwing a firework at, in the path of, or upon an animal, a person or property in which another

person has a legal interest shall be prima facie evidence of intent to cause harm and may be prosecuted under the appropriate section of the uniform public offense code.

7-309

DISCHARGE OF FIREWORKS: EMERGENCY CONDITIONS. Upon the determination of the mayor and based upon recommendations of the Fire Chief and/or Chief of Police, 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 City Hall and anywhere else practicable. 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.

7-310

FIREWORKS SALES PERMITS.

(a) Permit fees shall be collected for each sale location based on square feet of the structure. The square footage shall be determined by the interior dimension measurements of the physical structure of the stand/tent/building. Each permit so issued shall be valid until midnight on July 4th of the year issued and then shall expire.

(b) There shall be collected for each location within the city for which a fireworks sales permit has been issued pursuant to this Article, permit fees based upon the square footage of the structure from which fireworks are to be sold:

- | | |
|-----------------------------------------------------------------------------------------|------------|
| (1) For structures not exceeding 400 square feet | \$1,500.00 |
| (2) For structures having square footage of 401,
but not exceeding 800 square feet | \$2,000.00 |
| (3) For structures greater than 800 square feet,
But not exceeding 1,500 square feet | \$2,500.00 |
| (4) For structures exceeding 1,500 square feet | \$5,000.00 |

For the purposes of this section, square footage shall be determined by the interior dimension measurement of the structure.

(c) For those vendor soliciting the assistance of one (1) or more 501c3 organizations servicing the citizens of the City of Colwich the fee submitted for the sale of fireworks will be returned to the charitable organization the first accounts payable cycle in July of each year.

7-311

PROCEEDS FROM FIREWORKS PERMIT SALES. Proceeds from the sale of fireworks permits shall be made part of the General Fund and shall be used as determined by the Governing Body.

7-312

INSURANCE REQUIREMENTS FOR VENDORS.

(a) Each vendor shall 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 vendor upon less than thirty (30) days notice.

(b) Each vendor shall obtain a policy of general comprehensive liability insurance for a minimum coverage of \$500,000 per occurrence, with the City of Colwich 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 vendor upon less than thirty (30) days notice, and shall show that it is effective from June 24th until the fireworks stand and its contents are removed from the City.

(c) Each vendor shall at all times indemnify the City of Colwich, 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 our out of the storage, sale, discharge and/or transportation of fireworks by such vendor and vendor's customers, representatives, employees, contractors and designees.

7-313 PENALTY CONNECTED WITH THE SALE OF FIREWORKS. The violation of any provision of this Article related to the Sale of fireworks, including 7-302 through 7-307, shall be prosecuted within the municipal court of the City and punishable by a fine of not more than \$2,500.00 per offense and/or imprisonment for not more than one (1) year and/or revocation of any permit to sell fireworks. Any permit holder violating any provisions shall first be issued a warning by the police department shall revoke the permit for sale and terminate the sale of fireworks by the violator. Any action deemed extremely negligent or reckless by the Chief of Police may result in immediate revocation of the permit to sale fireworks. Any permit holder whose permit is revoked hereunder may appeal to the Governing Body by notice served upon the City Clerk, and a hearing shall be called and held not less than twenty-four (24) hours from the date of the filing of such notice of appeal.

7-314 EACH DAY OF VIOLATION OF ANY PROVISION OF THIS ARTICLE SHALL BE DEEMED SEPARATE OFFENSE. Each day that any violation of this article continues shall constitute a separate offense and shall be punishable hereunder as a separate violation.

7-315 FAILURE TO DISMANTLE THE VENDING STRUCTURE SHALL BE DEEMED A NUISANCE. All vendors are hereby notified that failure to remove a fireworks vending structure from the City on or before July 7th is hereby deemed a nuisance. As stated on the application for permit, Fireworks Vendors waive any further notice and acknowledge that the City will remove any fireworks vending structures still standing on July 8th. The City will not be liable for any damage to such structure, and will not return such structure to the vendor or its fireworks supplier, or any other interested party, until the costs associated with removing and storing such structure have been paid to the City in full. If such costs have not been paid to the city within fourteen days following dismantle of such vending structure, the City

will consider such structure abandoned property and will dispose of it in any manner the Mayor determines to be appropriate without further action by the Governing Body necessary.

Additionally, the applicant signing the application for permit, or the owner of the structure if a different party, may be prosecuted in the municipal court for violation of the nuisance ordinance.

7-316 **PENALTY FOR UNLAWFUL DETONATION OF FIREWORKS.** The violation of any provision of this article associated with improper detonation of fireworks shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00) per offense and forfeiture of any and all fireworks that were then in the possession of the alleged offender.

7-317 **PERMIT FOR PUBLIC FIREWORKS DISPLAY REQUIRED.**

(a) It shall be unlawful for any person to give or provide a fireworks display 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.

(b) No permit shall be approved unless the applicant furnishes a Certificate of Insurance evidencing coverage in the amount of \$500,000.00 combined single limit per occurrence for bodily injury, personal injury, and property damage, and shall name the city of Colwich as an additional loss payee thereunder. Said Certificate shall be submitted to the City Clerk. Said Certificate shall also contain a clause granting a minimum of ten (10) calendar days prior notice to City before any material change or cancellation of insurance is effective. In the event of cancellation of the insurance prior to the display, the permit shall automatically be revoked and void.

(c) The application for the permit shall be upon a form provided by the City Clerk's office, which shall be completed and notarized by the applicant, including the name of the permit applicant, the organization for which the display is planned, whether the display is to be public or privately attended, the location of the display, the date and time of the display, the nature of the fireworks, the organization discharging the fireworks, anticipated need for police, fire or other municipal services, and any additional information deemed necessary by the City.

(d) Permits for events charging a fee to the general public to attend, or for private events, shall be \$2,500.00 per event. This fee shall be waived if the display is part of an event which is free of charge to the community as a whole. (Ord. No. 618; 8-17-09)

ARTICLE 4. ADOPTION OF 2012 INTERNATIONAL FIRE CODE

7-401 **INCORPORATION OF 2012 INTERNATIONAL FIRE CODE.** There is hereby incorporated by reference for the purpose of regulating and preventing fires within the corporate limits of the City of Colwich, Kansas, that certain code known as the "2012 International Fire Code," prepared and published by the International Code Counsel, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified, or changed.

One (1) copy of said 2012 International Fire Code shall be marked or stamped "Official Copy as incorporated by the Code of the City of Colwich, Kansas," with all sections or portions there of 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 file with the City Clerk to be open to inspection and available to the public at all reasonable hours.

7-402

AMENDMENTS: (a) Section 307.1.1 is amended to read "Open burning, except as given an exception by the fire code official, shall be prohibited in the Colwich city limits.

(b) Section 2804.4 is amended to read, "Facility may have an approved standpipe and hose system in lieu of an automated sprinkler system."

(c) Section 5601.2.4 is amended to read, "the applicant shall file with the jurisdiction proof of a public liability insurance policy of \$1,000,000.00"

7-403

PROCEDURE FOR GRANTING A VARIANCE FROM THE 2012 INTERNATIONAL FIRE CODE.

(a) An application for a variance from the 2012 International Fire Code ("IFC") shall be made in writing to the fire code official. The application for a variance shall be evaluated by the fire code official to ensure the proposed design, use, or operation satisfactorily complies with the intent of the IFC as adopted by the City. Additionally, the alternative means, method, or operation that is being proposed will be evaluated to determine whether it is equivalent to that prescribed in the IFC in quality, strength, effectiveness, fire resistance, durability and safety. The property owner or property owner's representative making the request for variance shall have the burden of proving such equivalency. Upon the consideration of each application, the fire code official shall make a recommendation to the City Council stating whether the application should be approved or denied.

(b) Submittal Requirements. All applications for a variance from a requirement in the IFC shall contain the following information:

(1) The application shall be made in writing, with complete and adequate copies of the appropriate plans & documents necessary to clearly evaluate the project:

A. Identify relevant project information:

- 1) The project name, project number, contact person and phone number;
- 2) The relevant persons' names and phone numbers.

- 3) Other specific information identifying the project will be required (e.g., specific location, floor number, room number, plan page with gridlines, copies of applicable drawings and construction documents, copies of inspection reports, etc.)
 - B. Identify the code section numbers or reference the specific requirement for which the modification or installation is requested.
 - C. Provide a background statement to identify, explain or otherwise detail the situation causing the request for a variance.
 - D. Detail the alternative measures as part of the variance proposal and how they establish equivalency to those prescribed in the code.

(2) Engineering Evaluation. If the fire code official determines that an engineering evaluation is necessary, it shall be performed and reported by a licensed professional fire protection engineer certifying that the variance requested from the IFC constitutes an alternative or modification from IFC standards that is equivalent to that prescribed in the IFC in quality, strength, effectiveness, fire resistance, durability and safety. All submittals prepared by a professional engineer shall be stamped, signed and shall include their appropriate license number(s).

(c) Evaluation of Application. Each application for a variance will be evaluated by the City Council, upon the recommendation of the fire code official, together with any other application materials. All such requests are evaluated on a case by case basis. Approval of the request is based upon several factors, including, but not limited to:

(1) The level of equivalency achieved, that is, whether granting the requested variance will result in an increased risk of fire, additional threats to public safety, extraordinary public expense, or create nuisances.

(2) The effect of the variance and other related conditions or issues that will be beneficial or not beneficial in the best interests of the City.

(3) All evaluations will be performed in the context of the specific project being reviewed.

If the variance proposal provides an equivalent level of protection considering all related conditions and issues pertaining to the project, the City Council will issue a response letter granting approval. Such approval may be conditional

upon implementation of additional requirements listed in the variance response letter that were not part of the original variance proposal. Approval is granted only for the specific project under review and the conditions for approval shall not be construed as applicable to any other project nor should any approval be considered to establish any precedent for future variance approvals.

(d) Costs and Expenses of Application. The applicant is responsible for all costs and expenses associated with the preparation and submittal of the variance application and any evaluation, research or other outside consultation, whether requested by the applicant or the city.