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CHAPTER 94: FIRE PREVENTION*

**ARTICLE I
GENERAL PROVISIONS**

94.01 Municipal Fire Marshal

- (A) The position currently designated in the Fayetteville Fire Department as "fire marshal" is hereby declared to be the office or position of fire marshal created by this section.
- (B) In order to exercise the authority set forth in A.C.A. §14-53-112, the person serving as fire marshal in and for the city shall be required to meet all requirements and prerequisites set forth in A.C.A. §14-53-112 as well as complying with all rules and regulations promulgated by the Fayetteville Fire Department.
- (C) Nothing in this section shall confer any additional benefit to, impose any additional duty upon or otherwise affect the current position of fire marshal in the Fayetteville Fire Department, it being the sole purpose of the City Council to allow the person holding such position to exercise the authority of A.C.A. §14-53-112.

(Ord. No. 4007, §1--3, 12-3-96; Code 1991, §94.00)

State law reference(s)--Fire marshal may be armed, A.C.A. §14-53-112.

94.02 Fire Marshal Authorized To Issue Citations

The fire marshal shall be authorized to issue a citation to any person violating any provision of the state fire code or any fire protection ordinance of the city.

(Code 1965, §13-13; Ord. No. 2828, 7-6-82; Code 1991, §94.01)

94.03 Unlawful Setting Or Spreading Of Fire; Responsibility For Damages

- (A) The following acts shall be misdemeanors and shall be punished as set forth in §94.99.
 - (1) Setting on fire or causing or procuring to be set on fire any forest, brush or other inflammable vegetation on lands of another.
 - (2) Allowing fire to escape from the control of the person building or having charge of the fire, or to spread to the lands of any person other than the builder of the fire.

- (3) Burning any brush, stumps, logs, rubbish, fallen timber, grass, stubble, scrap materials, junk or debris of any sort, whether on one's own land or that of another, without taking necessary precaution both before lighting the fire and at all times thereafter to prevent the escape thereof. The escape of such fire to adjoining timber, brush, or grass lands shall be prima facie evidence that necessary precautions were not taken.
- (4) Building a camp fire upon another person's land without express permission of the owner. If permission is granted by the owner, a person building a campfire must clear the ground immediately around it free from material which will carry fire, and must continuously tend the campfire to prevent it from spreading.
- (5) Throwing away a lighted cigar, match or cigarette, or, by the use of firearms or in any other manner, starting a fire in forest material not one's own and leaving the same unextinguished.
- (6) Defacing or destroying fire warning notices.

(B) When one of the above described offenses is committed by an agent or employee, with the consent or by the command of the employer or principal, such employer or principal shall be liable in the same manner and to the same extent as if the act had been committed by himself.

(C) Persons starting or being responsible for fires that occasion damage to any other person shall make satisfaction in double damage to the party injured. The conviction for a violation of subsections (A) and (B) of this section shall be prima facie evidence of responsibility in civil action to recover damages or suppression costs.

(Code 1965, §§9-10, 9-14; Ord. No. 1379, 12-9-63; Code 1991, §94.02)

Cross reference(s)--Penalty, §94.99.

94.04 Fire On Forest Lands, Grass Lands, Etc

Any fire on any forest lands, cut-over, brush lands or grass lands burning uncontrolled is declared a public nuisance by reason of its menace to life or property. Any person responsible for either the starting or the existence of such fire is required to control or extinguish

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it immediately, and if such person shall refuse, neglect or fail to do so, any organized fire suppression force may summarily abate the nuisance thus constituted by controlling or extinguishing the fire, and the cost thereof may be recovered from such person by civil action. (Code 1965, §9-13; Ord. No. 1379, 12-9-63; Code 1991, §94.03)

Cross reference(s)--Penalty, §94.99.

94.05 Use Of Fireworks

(A) *Consumer fireworks.* Fireworks which are not prohibited under state or federal law and which are considered consumer fireworks as defined by federal law and regulations may lawfully be discharged within Fayetteville only as prescribed below:

- (1) Fireworks may only be discharged upon private property with the consent of the property owner and between the hours of 10:00 a.m. until 10:00 p.m. on July 1st, 2nd, and 3rd and from 10:00 a.m. until 11:00 p.m. on July 4th and at no other time or date.
- (2) If any person less than the age of 16 years is present, an adult (at least 21 years of age) must supervise the discharge of all fireworks.
- (3) No skyrockets or aerial fireworks attached to a stick may be discharged.

(B) *Public display of fireworks.* Public displays of fireworks may be allowed upon the application and granting of a public fireworks display permit by the Mayor or his designee subject to the following conditions:

- (1) An applicant must possess a valid state fireworks permit and comply with all applicable state and federal laws and regulations and requirements of NFPA 1123 to apply for a Fayetteville public fireworks display permit.
- (2) Public fireworks display permits may be issued for the dates allowed pursuant to subsections (D), (E), and (F) below, and for the hours of 10:00 a.m. through 11:00 p.m. on July 1st, 2nd, 3rd, and 4th.
- (3) Public fireworks display permits may be issued as a part of any special event permit issued by the City.

(C) The fire chief or mayor shall be authorized to declare an emergency and prohibit all use of fireworks upon a determination that such use would create a fire hazard due to dry conditions.

(D) The fire chief or mayor shall be authorized to approve an alternate date for any lawful public display which is canceled due to adverse weather conditions or pursuant to §94.04(E).

(E) It shall also be lawful for the University of Arkansas to conduct the annual "Fireworks Night" to celebrate and congratulate the Razorback Baseball Team at its last home game of the year in or near Baum Baseball Stadium. Said fireworks display shall comply with all applicable regulations and laws of the State of Arkansas.

(F) It shall be lawful for Creative Economy Action Group, Inc. d/b/a Last Night Fayetteville to conduct an annual public fireworks display to celebrate New Year's if approved by the Fayetteville Fire Marshall and if in full compliance with all applicable regulations and laws of the State of Arkansas.

(Code 1965, §9-9.1; Ord. No. 1705, 10-6-69; Ord. No. 1807, 8-2-71; Ord. No. 2156, 10-21-75; Ord. No. 3359, 6-7-88; Ord. No. 3553, 6-18-91; Ord. No. 3706, §1, 6-1-93, Ord. No. 4195, 10-19-99; Ord. No. 4308, 4-17-01; Code 1991, §94.04; Ord. 5096, 12-27-07; Ord. 5320, 5-18-10; Ord. 5329, 6-1-10; Ord. 5463, 12-6-11)

Cross reference(s)--Penalty, §94.99.

State law reference(s)--Public displays excepted, A.C.A. §20-22-702; Power of municipalities unaffected, A.C.A. §20-22-704; Violation of subchapter, A.C.A. §20-22-705; Possession, sale and use unlawful-Exceptions, A.C.A. §20-22-708.

94.06 Flammable And Combustible Liquids; Liquefied Petroleum Gases

(A) *Adoption of NFPA 30 and NFPA 30A.*

(1) The requirements contained in this section shall be applicable to all aboveground tanks used for the outside storage and dispensing of flammable and Class II combustible liquids within the city. Such installations shall comply with the applicable requirements of National Fire Association Protection Standard (NFPA) 30-1993 and NFPA 30A-1993, except as modified herein. Refineries that comply with NFPA 30 and the applicable sections of the *Standard Fire Prevention Code* adopted by the city shall be exempt from this section.

(B) *Definitions.*

(1) In addition to the definitions contained in NFPA 30 and NFPA 30A, the following definition shall apply:

Premises: A parcel of land, which may include one

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or more contiguous platted lots, occupied or intended for occupancy for a particular use or set of uses, including buildings together with accessory buildings, the yard area, and parking spaces.

(C) *Outside aboveground flammable and combustible liquid tanks.*

(1) All aboveground tanks used for the outside storage of flammable and Class II combustible liquids in quantities in excess of 200 gallons shall comply with the following:

(a) Such tanks shall be fire resistant tanks as defined in NFPA 30A and shall comply with all the requirements for fire resistant tanks in NFPA 30A in addition to any applicable requirements specified herein, or

(b) Such tanks shall be installed in vaults that meet all the applicable requirements of NFPA 30A.

(2) The fire official may impose additional requirements to reduce the level of hazard for a proposed installation where, in his judgment, the circumstances warrant such action.

(3) Aboveground tanks having an individual capacity of 200 gallons or less shall be allowed on the same premises as fire resistant tanks or tanks in vaults provided the total cumulative capacity of such aboveground tanks on the same premises does not exceed 40,000 gallons.

(D) *Fire resistant tanks.*

(1) All fire resistant tanks shall be tested and labeled as protected aboveground tanks in accordance with Uniform Fire Code Standard A-II-F-1 or Southwest Research Institute Test Standard 93-01 by a nationally recognized testing laboratory having follow up inspection service. Such tanks shall also be tested for bullet resistance and vehicle impact resistance as specified in those standards.

(2) All fire resistant tanks shall be placed on a reinforced concrete pad adequate to support the loading of a full tank and in accordance with the manufacturer's recommendations.

(3) A spill container having a capacity of not less than five gallons shall be provided for each fill connection. For tanks with a top fill connection, spill containers shall be noncombustible and shall be fixed to the tank

and equipped with a manual drain valve which drains into the primary tank. For tanks with a remote fill connection, a portable spill container shall be provided.

(4) All fire resistant tanks shall have automatic leak detection devices installed and operational at all times.

(5) A chain link fence shall not be required to enclose fire resistant tanks as specified in NFPA 30A.

(E) *Tanks in vaults.*

(1) All aboveground tanks installed in vaults shall comply with all applicable requirements of NFPA 30A and this section.

(F) *Temporary aboveground tanks.*

(1) Temporary aboveground tanks with a cumulative capacity of not more than 500 gallons of Class II combustible liquids for use at a construction site may be granted a temporary permit for not more than 90 days by the fire official if, in the opinion of the fire official, no unusual danger to life or property is presented. Aboveground tanks used at temporary construction sites shall be exempt from the requirement of this section provided they comply with all applicable requirements of NFPA 30 and NFPA 30A.

(G) *Dispensing.*

(1) Dispensing from aboveground tanks and dispensing systems shall comply with NFPA 30 and NFPA 30A.

(2) Dispensing devices shall be located no closer than 10 feet to a premises line or building.

(H) *General fire safety.*

(1) All electrical devices used with or located within 20 feet of the aboveground tank storage area shall conform to NFPA 70 for hazardous locations.

(2) Smoking is prohibited within 50 feet of all storage and dispensing devices. Signs which prohibit smoking shall be conspicuously posted.

(3) A fire hydrant meeting all requirements of the City of Fayetteville, and having an available flow of not less than 1,500 gallons per minute at a pressure of not less than 20 PSI shall be

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located not more than 300 feet road travel distance away from any permanent aboveground storage tank covered under this section.

- (4) Portable fire extinguishers shall be provided for the extinguishment of fire in accordance with NFPA 10 for high hazard occupancies. Additional fire control equipment may be required where, in the opinion of the fire official, an unusual exposure hazard exists.
- (5) Labeling of all tanks shall be in accordance with NFPA 704.
- (6) Fire department vehicle access shall be provided within 150 feet of any tank.
- (I) *Location.*
 - (1) All aboveground tanks used for the outside storage of flammable and Class II combustible liquids shall be located in the rear yard of the facility which they are intended to serve unless an exemption from this requirement is both recommended by the fire chief and granted by the Planning Commission.
- (J) *Review process.*
 - (1) All proposals for the installation of permanent aboveground storage tanks for flammable and Class II combustible liquids shall go through the large scale development process of the City of Fayetteville.
- (K) *Adoption of standards by reference.*
 - (1) National Fire Protection Association Standard (NFPA) No. 30, NFPA 30A, Uniform Fire Code Standard A-II-1, Southwest Research Institute Test Standard 93-01, NFPA 70, and NFPA 10 and NFPA 704 are hereby adopted by the City Council, by reference thereto, save and except such that may be deleted, modified, or amended; and are hereby adopted and incorporated as fully as if set out in length herein, and the provisions thereof shall be controlling within the corporate limits of the city.
 - (2) Copies of the above standards incorporated by reference shall be available for examination and review in the office of the city clerk.
- (L) The storage of liquified petroleum gases in aboveground tanks is prohibited in any of the designated fire districts of the city. However, this prohibition shall not apply to tanks existing on May

3, 1989, which are installed in compliance with requirements of the *Arkansas Fire Prevention Code* and the Arkansas Code, Liquified Petroleum Gas Container and Equipment.

- (M) Nothing in this section shall prohibit the use of Class II liquids in outside aboveground tanks having capacities of between 60 and 600 gallons for farm use.

(Code 1965, §9-7; Ord. No. 1435, 2-15-65; Ord. No. 3424, 5-2-89; Ord. No. 3853, §1, 12-20-94; Code 1991, §94.05)

Cross reference(s)--Penalty, §94.99.

Note--Ord. No. 3853, §1, adopted Dec. 20, 1994, amended §94.05(A) to read as set out in §94.05(A)-(K); hence, former §94.05(B), (C) has been redesignated as §94.05(L), (M) by the editor.

94.07 Exterior Labeling Of Emergency Exit Doors

- (A) When a door in a building accessible to the general public is required by the *State of Arkansas Fire Prevention Code* to be designated and maintained as an emergency exit door, the fire inspector may order the owner and/or lessee of the building to label the exterior of said door if the fire inspector determines that such labeling is necessary to ensure a clear and unobstructed means of egress. Exterior emergency exit door labeling ordered by the fire inspector shall read as follows:

FIRE EXIT

NO PARKING IN FRONT OF

FIRE EXIT AT ANY TIME

- (B) Emergency exit door labeling ordered by the fire inspector shall be in plainly legible letters not less than three inches high with the principal strokes of each letter not less than three-eighths inch wide. Lettering and corresponding background shall be of contrasting colors.
- (C) It shall be unlawful for any person to refuse or fail to label an emergency exit door in accordance with this section when ordered to do so by the fire inspector; and it shall be unlawful for any person to park a motor vehicle in front of an emergency exit door labeled in accordance with this section.

(Code 1965, §9-27.1; Ord. No. 2985, 3-6-84; Code 1991, §94.06)

Cross reference(s)--Penalty, §94.99.

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94.08 Open Burning

All acts of open burning shall be in compliance with the following regulations:

- (A) Arkansas Code Annotated §8-6-1701 et seq., Open burning of residential yard waste.
- (B) Open burning within the city limits shall require permission from the Fayetteville Fire Department.
 - (1) Permission may be obtained free of charge and via telephone or other verbal means from any Fayetteville Fire Department authorized personnel.
 - (2) That said permission will only be valid on the date it is given, and all burning on any other dates will require renewed permission.
 - (3) Permission for open burning may be withdrawn if an offense is caused to neighbors or an unexpected hazard or risk results from the burning such as a fire spread hazard, unexpected wind speed increase, smoke blowing across a highway or road, or other threat to the welfare of personnel.
- (C) All burning of any allowed material cannot be located closer than fifty feet from any structure or combustible appurtenance.
- (D) All burning must be attended by a responsible person at all times as long as the fire is burning.
- (E) The fire department is authorized to issue city wide burn bans during any time deemed to be unusually hazardous for burning due to atmospheric conditions or local circumstance.

(Ord. No. 4216, 1-18-00)

94.09 Sale Of Fireworks

- (A) No person shall sell or distribute any firecrackers, sky rockets, bottle rockets, sparklers, roman candles, or any other explosive used for amusement purposes, or any other device or composition used to obtain visible or audible pyrotechnic display, all commonly known as fireworks, except as specifically set out herein.
- (B) Fireworks which are not prohibited under state or federal law and which are considered consumer fireworks as defined under federal law and regulations (27 C.F.R. § 555.11) may be sold between June 28th and July 5th of each year, subject to the provisions set out herein. Any person desiring to sell fireworks must obtain a

permit. The fee for each permit shall be \$500.00 per location. One-half of the permit fee (\$250.00) shall be placed in a revenue account of the Fayetteville Fire Department to cover the cost of fire inspections of locations where fireworks are sold. Before a permit to sell fireworks is issued, the person applying for the permit must show proof that such location will be insured by a licensed insurance company for \$1,000,000.00 premises liability. A vendor must contact the Fayetteville Fire Department and arrange for an inspection to ensure compliance with this Code and any other applicable fire code requirements, prior to the sale of fireworks.

- (C) No fireworks shall be sold or stored within a permanent structure. Furthermore, no fireworks stand shall be located at any place other than one in full compliance with all provisions of law.
- (D) Fireworks stands shall not be located within 250 feet of a fuel dispensing facility and must be set back at least 50 feet from the nearest portion of the street or highway.
- (E) Fireworks shall not be sold to a person less than sixteen (16) years of age.

(Ord. 5320, 5-18-10)

94.10-94.98 Reserved

94.99 Penalty

- (A) Whoever violates any provision of this chapter for which no specific penalty is otherwise provided shall be punished by a fine of not more than \$50.00 or double that sum for each repetition of such offense, or violation; provided, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state. If the violation of this chapter is, in its nature, continuous in respect to time, the penalty for allowing the continuation thereof shall not exceed \$250.00 for each day that the same is unlawfully continued.
- (B) Whoever violates any provision of §94.02 shall be punished by a fine of not less than \$10.00 nor more than \$100.00.

(Code 1965, §§1-5, 9-10; Ord. No. 1379, 12-9-63; Ord. No. 2128, 7-15-75; Code 1991, §94.99)

